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>> Mayor Reed: Good morning. Going to get the city council meeting started. This is the labor update. We will then adjourn into closed session and be back into open session for the rest of the agenda at 1:30. Alex Gurza.

>> Alex Gurza: Good morning Alex Gurza, deputy City Manager. Very brief presentation this morning. Just so that I know the council is aware, but so that any of you that will be listening, that they're aware of the process we are engaged in now in our bargaining units, we are in mediation with all 11 of our bargaining units over retirement reform. And we are doing the mediation in three groups. One is police and Fire, and then separate mediation with those bargaining units that are affiliated with IFPTE local 21, which is AEA, AMSP and CAMP. And then the third group that we are in mediation with are the remaining six bargaining units, ABMEI, ALP, CEO, IBEW, MEF and OE3. And we have had several mediation sessions and have several more scheduled. And hopefully, if we reach an agreement, we will be presenting that here in open session. So that's the end of our presentation this morning.

>> Mayor Reed: All right, we're going to adjourn into closed session and be back here at 1:30.

>> Mayor Reed: (gavel strike) Good afternoon. Like to call the San José city council meeting to order for January 24th. We will start our meeting with invocation. Councilmember Constant will introduce the invocator.

>> Councilmember Constant: Thank you mayor. It is my pleasure to have pastor PT Mammen with us today, he is the pastor of the international Christian center in District 1. Pastor Mammen has been doing pastoral work for quite a while. He spent six years in Turlock and 30 years in San Francisco. He is the chairman of the federation of Indian Americans, he served as the president the San Francisco association of Evangelicals, and serves on the bishops and judiciary executives forums. He came here to San José to the central church of the Nazarene in 2003. The church has gained a fresh start and changed their name to the international Christian center. They offer services in English, Spanish and Korean. The church has really become a hub of activity within the District 1 area. They offer their space to the community regardless of their affiliation. Many neighborhood associations and business associations have used their facilities to have meetings. They've hosted meetings in relation to parks and schools and they also do things like allow the Boy Scouts and other community groups to use their rooms, always, at no charge. And it's a great, great asset that we have in the community. So it's my honor to have you here today pastor PT if you would come up and give us the invocation. Also I want to acknowledge pastor Chris out here also to provide backup.

>> Thank you, mayor and Pete and other members. Let us pray. Eternal God, our heavenly father, we thank you for the opportunity to come together. We thank you for decision make processes that you have established. We pray and ask for wisdom, direction and guidance upon those in authority. Above all we pray that your favor will abound upon them, that they will have grace to deal with the many issues confronting them every day. We ask that, as a city, we will know that you are sovereign God. We pray this, in the name of the one who died for us amen.

>> Mayor Reed: Thank you, pastor Mammen. We will now have the pledge of allegiance. Please stand. [pledge of allegiance]

>> Mayor Reed: Our first item of business are the orders of the day. I have a change to the printed agenda. Item 2.3A, B and D, council committee reports, we will defer for one week to January 31st. Any other changes to the printed agenda? Nope, do I have a motion? Motion to approve orders of the day as amended. All in favor, opposed, none opposed, those are approved. Please note that we'll be adjourning this meeting in the memory of Eileen Dorset to honor her. She passed away on January 17th. Eileen worked at the Redevelopment Agency from 1988 to 2009. Many of you may remember her as she managed the facade improvement program, small business loan program, business retention programs in the Alum Rock NBD, East Santa Clara NBD and the Monterey corridor redevelopment area. She was highly respected by her colleagues and the community she served. We thank you Eileen for her outstanding contributions to San José and offer our deep sympathy to her family. We acknowledge that many Redevelopment Agency employees will miss her and some of them are here with us today. Thank you for joining us.

>> Councilmember Rocha: Mayor, if I may.

>> Mayor Reed: Yes.

>> Councilmember Rocha: Having been a colleague of Eileen, it was a very sad day when I heard about this, and I appreciate your staff informing me. This was a difficult moment. I sat not just five yards away from her during some of my time there, and she was an absolute joy to work with. Some folks you recognize right away their commitment to public service, and you can see it's true and honest. And I caught Eileen at the end of her tenure or at least career so I can imagine what she brought to the job in those early years in term of her energy and commitment and there's not a person in that office that didn't appreciate the work that she did and the time that they spent with her. And my condolences go out to her family and I do appreciate the Redevelopment Agency staff for attending. Thank you.

>> Mayor Reed: Our next item is the closed session report. City Attorney.

>> City Attorney Doyle: Mayor, the council did meet in closed session this morning. There is no report.

>> Mayor Reed: We'll take up ceremonial items now. Like to invite Councilmember Herrera and the Evergreen church of Hindu Swayamsevak sangh to join me at the podium. Today we're recognizing January 24th as health for humanity day in the City of San José. Recognizing Evergreen Chapter of Hindu -- okay, I'm going to get the name from the church before I mispronounce it again -- for organizing their sixth annual health for humanity yogathon. Councilmember Herrera has some of the details.

>> Councilmember Herrera: Thank you, mayor. I would like to introduce at this time and thank the representatives from the Evergreen chapter of Hindu Swayamsevak sangh. Vanda, and are joining us today and I'm honored to proclaim health for humanity today for the City of San José. And to recognize the Evergreen chapter of HSS for organizing the sixth annual health for humanity yogathon in Evergreen. This organization is a nonprofit cultural organization that aims to organize the greater community to preserve, practice and promote Hindu ideas and values. And I had the opportunity to come on Saturday and participate with them. And it's very inspiring. They have -- they do their weekly yoga on Saturdays at the library. I think it's open to everyone and I think many people in the community in this community know and have heard about the benefits of yoga to health. And to keep us healthy and in fact, many doctors and mainstream medicine now are recommending yoga as a way to improve health from everything to reducing high blood pressure to helping people lose weight and reduce stress. So this organization launched the annual health for humanity yogathon in 2007, and the Evergreen chapter of HSS joins fitness enthusiasts from all across the nation to participate in this two-week event to create awareness about yoga and its advantages in achieving a health body, mind and spirit. It works together to bring San José residents for the yogathon held January 14th through January 29th. This yogathon celebrates the change of season in Hindu astrology known as the Makar Sangh Ranti. This year nearly 12,000 participants from 88 different locations in 27 states are participating in the health for humanity yogathon. And together they are going to accomplish 1 million sudanamascars which is the sense salutation. These repetitions provide the right wholesome exercise to reduce stresses. In our diverse community, to share beneficial exercises from their culture and share them with everyone. I also want to say that this organization has also helped out in many different ways in the community including during Hurricane Katrina. They've donated. So this is an organization that reaches out

across the country to support. At this time I'd like Mayor Reed to present the proclamation and then Susanta dash is going to have a few words to say. [applause]

>> Good afternoon, mayor. Chuck Reed and councilmember Rose Herrera and other councilmembers and friends. We thank for the proclamation of the mayor for our activity and councilmember Rose Herrera mentioned we had and we are the chapter, there are other chapters in Bay Area and 140 such chapters all over U.S.A. And we are trying to accomplish this 1 million yoga postures by 12,000 members all over the U.S.A. And we can try to help out the community doing the blood donations, food drives and during disasters trying to help out our fellow members. And we are trying to basically explain this yoga in our community, in the high schools in Quimby middle schools, and elementary school and we thank all the support shown to us by the city and we to our concluding program which wear doing together with the yoga enthusiasts in San José in mayor of Milpitas has grace to attend the occasion and to request our mayor of San José and other councilmembers to join, stay fit, do some yoga and all the food and extracurricular activities and doing some exercise in general. Thank you.

>> Mayor Reed: Thank you for joining us.

>> Mayor Reed: Next item is the consent calendar. Do we have any public testimony on the consent calendar? Any items council would like to pull for discussion item 2.6 for the retirement board report. 2.10. Any others?

>> Councilmember Liccardo: That's my request, thank you mayor.

>> Mayor Reed: Motion and second to approve the remainder. All in favor? Opposed? None opposed, so that is approved. Item 2.6 Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. Wanted to give a brief update on the Federated employees retirement system meeting from last week. When I made my last report to the council, which I believe was two weeks ago, I mentioned that both boards had produced and finalized their CAFR, their final financial report. What

I failed to note was the financial auditors, staff shortages in both of the funds. So I just wanted to make sure I had that since I failed to mention that last time. But in relation to the Federated board meeting for last week the Federated board reviewed the OPEB actuarial valuation. OPEB stands for other post employment benefits, or as we know it employee health care. They made a fairly lengthy presentation. There are several issues of note I'd like to go through and then a couple of details behind that. First they noted that the significant reduction in active employees and payroll combined with an increase in the number of retiree results in higher OPEB liabilities and significantly higher contributions, as a percentage of payroll. Our memorandums.of understanding with our unions restrict the increase in contributions as a percentage of payroll and that's due to the phase-in approach that we approved a few years ago. Contribution rates for the next two years under the MOU structure are less than what the expected pay-as-you-go cost would be for the plan. Which I thought was really interesting, because we moved from a pay-go type program to a prefunding program. But in this particular case because of the rising cost we've dipped below that pay-as-you-go cost. The increase when we go to the full arc payments will be substantial, not only for the city but for the employees as well. So as of June 30th, 2011 the date of the valuation the unfunded actuarial liability for the retiree health care, just for the Federated employees, is one billion nine hundred million. So just over \$1 billion. Which equals about a 12% funded ratio.

>> Mayor Reed: I'm sorry, could you give me that number?

>> Councilmember Constant: Billion.

>> Mayor Reed: Okay, just a little over a billion?

>> Councilmember Constant: Just a little over a billion. It puts it at a 12% funded ratio. That means that the city's annual required contributions would increase significantly if we were paying the full annual required contribution it would be \$67 million per year. What this means in actual payroll amounts is that currently, the employees have 6.51% of their pay that goes towards the retiree health care. For next fiscal year, that will increase to 7.26%. So about a three quarters of a percent increase. But the following year, that number will double, to 15.5% of pay. On the City's side, we are currently paying 7.16% of pay, that will go up to 7.91% of pay for the next fiscal year and

will just slightly more than double the following year to 16.84% of pay. It goes up slightly after that. And will hit approximately 17% and hold steady for at least a decade and a half or two decades. It will be hovering in that range. So it's just important to know that the -- while we're funding and attacking the problem, we are going to see significant increases in the retiree health care costs both on the city side, and from the employees' perspective out of their paychecks. The Police and Fire board has not yet seen their valuation report, I believe that comes at the next Police and Fire meeting and I'll be sure to update you on the impacts of that as well.

>> Mayor Reed: Thanks for the sunshine report. Councilmember Herrera.

>> Councilmember Herrera: We can ask questions on this a little bit?

>> Mayor Reed: Sure.

>> Councilmember Herrera: So is this a reflection Pete of the cost of the medical plans going up? Is that what we're looking at here?

>> Councilmember Constant: It's a combination of a number of things. Really, to get the clear picture, you should review the entire valuation report, and I don't have that with me. But it is the assumption rates for returns, the blended rate, because we're not fully prefunding the expectation of future increases in cost, plus experience. It's all of that, kind of balled into one.

>> Mayor Reed: And that's all posted on the retirement board's Website?

>> Councilmember Constant: Yes, it is.

>> Councilmember Herrera: What percentage would be the plans? Do you have any idea what percentage of this would be the plan cost itself?

>> Councilmember Constant: I don't know that. All I can tell you is at a since we're talking about the unfunded actuarial liability, that's projections forward. I don't actually know what the numbers are right now. But the funded status of the plan is 12%.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. Pete, thank you for the update. Question, when we discovered this large unfunded liability in the retirement health program back in '07, I remember went through a lengthy and very challenging with our bargaining units, which everyone eventually got on board with a full prefunding approach. I would have expected, I think that was roughly '09 if I'm not mistaken. I would have expected that we would have seen steep upward increases in cost as soon as those deals were signed and we knew what our employment liability was and how we had to ramp up when we had to pay it. What I'm not understanding is why we are seeing steep increase now, three or four years later, rather than then.

>> Councilmember Constant: I can explain that. One of the reasons, or the primary reason, is we did not do a straight five-year phase-in. In other words we didn't say we'll take 20% this year, 20% the second year. We put a limit on how much the percentage of payroll could escalate in relation to. And we've hit that limit every time. So we haven't been fully funding in five equal steps.

>> Councilmember Liccardo: Right.

>> Councilmember Constant: So we have that where we're back-loading and then we have the changes in the assumption in the valuation and experience and all of that on top of it so it's two factors together.

>> Councilmember Liccardo: I'm guessing I wouldn't expect them to, did the actuaries look at anything relating to any proposals around health care benefit reductions and how we might be able to move those numbers to changes in the dials?

>> Councilmember Constant: The actuaries don't do that for purposes of this. Because they have to do with what we have in place.

>> Councilmember Liccardo: Right.

>> Councilmember Constant: But there's no doubt that plan design and how we implement going forward will have significant impacts. It's one of the major levers of the calculations.

>> Councilmember Liccardo: Thanks Pete.

>> Mayor Reed: Item 2.10. That's the application for designation of 13 envision San José 2040 general plan growth areas as regional priority development sites. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I pulled this item because I wanted to make sure my colleagues were aware what the significant of this is because I know an awful lot of what happens at the regional level is not something that is terribly consequential to us. Typically we are a very large city and we tend to, I mean, relative to our 101 neighbors here in the Bay Area. And so we tend not to pay too close attention to an awful lot of these organizations in terms of what they're doing. But the designation of these PD areas has enormous impacts on this city and particularly in terms of where we spend transportation dollars and the proposal currently sitting in front of the MTC and essentially I guess all the regional agencies with this one Bay Area plan is that we will be spending 70% of our CMO allocation, essentially the money that's allocated in this county for transportation dollars will be spent within these priority development areas, these PDAs. The other 30% will be spent anywhere else in the county. Given the way the politics works I think we can expect that most or all of that 30% will be spent in other jurisdictions because the PDA for Santa Clara County is almost entirely in the City of San José or largely within the City of San José. As a result where we draw these lines has big impacts for where we are going to be putting dollars for roads, transit, et cetera, at least from a regional source, through the MTC. There are other sources, but really, this is more or less the reliable big player in transportation funding. And a particular concern I had was where lines were drawn and where some communities may be left out. Primarily as I understand it, Laurel, you

know it far more than I do, because I know you've been working staff level with many of the folks up in Oakland over this, and primarily we are identifying areas where we expect significant amount of housing and other development. And the focus regionally has been to spend the transportation dollars where the development is going to happen. And you know as I looked at the map I had some concerns about areas that were not included. And I think about for instance, along the capitol corridor, I know that we included several urban villages, but you know I think about for instance Eastridge and that area, where you know maybe -- I know we're constrained given the airport, and its location there. But certainly we have ambitions around building out BRT and light rail I lines there and we want that to be a location where we spend regional dollars. I think about our ambitions to build East-West connectors over San Antonio in District 5 and my district to link the Eastside and downtown in a significant way. I'm thinking about streets like 13th street that might not have fixed rail transit but have significant amount of bus transit and a lot of development we just two years ago completed a large multifamily development there with I think two or 300 units. So I'm concerned about some of those areas not being included and the question really is, is there another bite at this Apple and what are the opportunities for the council to engage particularly since I'm concerned that maybe through my own fault haven't educated or informed folks about what's going on regionally but I realize everything's moving incredibly quickly here, you have the submission deadlines, and I was hoping you could at least tell us so we know exactly how we can intelligently weigh in.

>> Laurel Prevetti: Thank you, councilmember. Councilmember Liccardo is correct. This is a very important application. I know it sounds more bureaucratic that we're creating more priority areas to be recognized by the association of Bay Area governments, but as MTC, the Metropolitan Transportation Commission is figuring out how to distribute funds into the future, the goal so far of that agency is to allocate, as the councilmember mentioned, about 70% of the funds to the priority development areas. Now, the grant parameters for that distribution are still underway, and the final decision won't be made until May. But it is very clear that these priority development areas are more important than ever. The most recent guidelines for the distribution of the funds also identifies being able to spend the transportation dollars, not only in the PDAs but also in areas that would connect or serve adjoining PDAs so they seem to be loosening up some of their parameters but nonetheless staff put forward for your consideration today those urban villages within the general plan that was recently adopted that

we see as really early phases of our general plan implementation. Unfortunately, staff had very little time to prepare our application. We actually had to submit it before the holiday recess in December. So today, we're coming before you for the resolution that essentially completes our application to ABAG and that's due to them by Monday. So unfortunately, we don't have the opportunity to defer the item for this application. What I will do, however, is talk to my colleagues at the association of Bay Area governments and if it's the will of the council inform them that there may be additional geographies that we may like them to consider this spring so they would essentially give us another opportunity to come forward with some additional villages. Just looking at our village map on our general plan we have quite a number of our geographies identified but there are just looking at our city there may be some others that would be of interest to you. So my recommendation to you this afternoon is, let's move forward with these. And then to the extent we have another application opportunity we would bring forward another set of geography, as well. As I say the rules continue to evolve but it is important that we are actively participating in this program.

>> Mayor Reed: City Manager has something to add to this.

>> City Manager Figone: Laurel, you and I haven't had a chance to talk, and the answer may be in the report, with that in mind, what time period does this application end up covering in terms of the allocation of funds? Is it a one-year, five-year period? How long would we be locked in for you know, even if we're ability to add to the mix? First question. Could you just very briefly recap what staff's thinking was that went into the ones that you're advancing?

>> Laurel Prevetti: Certainly. It's unclear now how long this funding approach will be in place for MTC for our Metropolitan Transportation Commission. Their goal is to approve the funding guidelines in May. And then essentially call for projects in the summer. My expectation just talking to my colleagues is that most likely as this evolves, MTC will get more and more restrictive in terms of where moneys can be used within their funding program. So it's likely that over time, we may see additional changes. So I think this is kind of the view of where we're heading as a region because there is interest on the part of MTC and ABAG to put the money and reward cities like San José that are doing the right thing. So under the allocation, we appear to be doing better than we

may have under past allocations. But still we want to compete as successfully as possible. So again this is just the beginning and how long this lasts it's -- I cannot predict. Our think in terms of this combination of geography was based on the fact that we already have an existing priority development in San José that's rather large. It encompasses North San José from 237 all the way through Rincon South. A lot of our transit areas, the Berryessa BART station, the five wounds Bart station, all of our Specific Plan areas with the reception of Alviso and the Hitachi area. What we were trying to do was fill in the gaps with the new urban villages that are identified in the 2040 plan and we identified I believe approximately 13 other areas. And you have detailed maps as the third attachment to your staff report. And for the Eastridge area we didn't include the shopping center itself. But we did include the developable areas around it, the urban villages that we did identify nearby. So again, as we see other investment happening, and if MTC is true to their statement of being able to make investments that serve PDAs I think our Eastridge area should compete successfully.

>> Mayor Reed: Fully more, Councilmember Liccardo?

>> Councilmember Liccardo: Yeah, if I could just offer some more cone text. First of all Laurel is right that San José and Santa Clara County would do much better through the new plan than we had in the past. Our new allocation would be in excess of \$60 million a year which is roughly double what we were getting in past years. So I certainly wasn't going to complain in the board meetings in Oakland, where it appeared that after a lot of hard work from Laurel and other people, we have been collectively whining about not getting our fair share, it's clear that Santa Clara County is going to do much better. The other context I just wanted to offer though is there are cities out there I won't name a particular smaller city to our North that has a football team that recently played in the NFL playoffs they basically took the Lake woebegone approach, that our area is above average and is going to essentially be a PDA. So by doing that they opened up their entire city essentially to this investment. Now, clearly, we have been far more discriminating in our approach. And I don't know whether being more discriminating is going to reward us or in fact hinder us. It's hard for me to sort of read those leaves as we look ahead. Clearly looking at the next cycle which is a two year cycle it seems to me we ought to be as aggressive as we possibly can, expecting that they will tighten the screws a bit in future years.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I want to thank you for mentioning Eastridge and thank Councilmember Liccardo for raising the issues and thank Laurel and staff for mentioning this and making sure Santa Clara County is getting funding and San José is getting funding in all of this. I want to support the idea of expansion, making sure we are expanding to the potential areas that might -- and I understand that staff is looking at extensions beyond these initial villages into other areas. The areas that I see in our area near Eastridge are former SNI areas that are going to need a lot of attention and big parts of that are not included in this. I think we need to think about that. They are near the transit that's planned as has already been stated. I think Eastridge has the potential of becoming a village having different kinds of development there notwithstanding the idea that the airport is nearby, I think there is still a lot of potential there, and has already been mentioned, capitol expressway with improvements that are coming and hopefully, eventually our light rail system. We need to have this as part of this planned development.

>> Mayor Reed: I think that's it on the comments. Want to make a motion, Councilmember Liccardo?

>> Councilmember Liccardo: Yes, I move to approve with direction to staff to return with additional information about whether additional areas can be incorporated after discussion with MTC and ABAG staff.

>> Councilmember Herrera: Second.

>> Mayor Reed: And by return maybe back to transportation and environment committee?

>> Councilmember Liccardo: Might be the right location I'm guessing and I just want to thank Hans for his good work and Manuel pineda on their work.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion for approval. All in favor, opposed none opposed, that concludes the consent calendar. 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. I just returned from a very productive trip that I'd like to share a few comments about with the council. First, I participated in the semi annual large city executive forum in San Antonio, Texas, last week. This is an opportunity for city managers and similar leaders from major cities to discuss key issues share information and exchange ideas about our common challenges. It was very clear that San José's not alone. From budgets to pension reform, from staffing to economic development, the nation's big cities are all dealing with the same painful issues. It was also very clear to me that we've already taken many of the steps necessary here in San José to address these issues. It's been hard on our community, on you the city council, and our terrific staff. But by dealing with these issues early and head-on we've been able to make real progress towards stability. Other cities will be following our lead. And I was reminded again that we actually are very forfeit as a capital of Silicon Valley -- despite the decisions we've had to make for San José we have had the remarkable advantages of a much stronger economy in our unique region. I've come back with many creative ideas that we can explore here, and I'll be sharing them with staff. Second, I had the opportunity to attend the American library association conference in Dallas, Texas. I also had gone there with my purpose to begin recruitment for next library director. However, the conference was an eye-opener for me. We know of course that our libraries are essential for the quality of life of our cities for economic development for our cultural vitality. Seeing the issues facing librarians is sobering. They are on the cutting edges of technology, education and even crime prevention. Librarians are actively discussing the library of the 21st century. Its changing roles in our communities, the new skills that are needed by librarians. And the new models for services. Partners including volunteers, and resources. So it's exciting to watch. And for our library to be a part of. Although I made many good contacts that will be useful for the recruitment I also came away from this conference with a renewed and deep respect for library professionals. I also learned that we are very fortunately to have one of the best big city library systems in the country, everyone at the conference knows about San José. This was definitely encouraging and I think we're in a good position to recruit an outstanding successor to Jane Light. So in closing I will be keeping the council updated on the status of the recruitment process through information memos and our one on ones as the search process progresses. And that concludes my report.

>> Mayor Reed: We'll now take up item 3.3, the California disclosure act. I don't think there's a staff presentation but we have a memorandum from some councilmembers on this or is there a staff presentation? City Attorney?

>> City Attorney Doyle: Just to note that we did provide a memo jointly signed by myself and the City Manager. The Rules Committee had asked specifically what -- how this proposed bill would impact the City's regulations, and we've addressed that. While the city has some regulations over governing electioneering communications, this goes over specifically with regard to ballot measures and disclosure on slate mailers. And with that we're here to answer any questions.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I want to thank Councilmember Chu who joined me on the original memo as well as councilmembers Liccardo and Rocha joining me in today's recommendation that I put forward along with my colleagues and I also want to thank Rules Committee for very quickly having this heard because of the timeliness of this issue given the fact that the AB 1148 the California disclosure act is right now before the assembly, I guess they had one week, it did make it through committee, there is one week before the two-year term of that bill is up. I guess it is in the two-year session, January 31st is the last date. This is very timely for the City of San José to join the City of Los Angeles, Berkeley, and many elected officials to join the league of women voters as well as California common cause, and in basically making a statement in terms of sunshine and disclosure regarding political campaigns. Now, the citizens United case very well documented has really opened up the flood gates in terms of money coming into the political system. We see it right now during the Republican primary from all sides and I think you've heard a lot of Republican candidates right now in the primary really discussing that issue a lot. Because it is really caused I think somewhat of turmoil so far in the primary process there and I think that's just one example of what we're going to see continue to happen moving to the -- into the future regardless of party. The bottom line is, I think it takes more and more of democracy away from the average ordinary citizen and puts it in the hands of the few that have a lot of wealth. Now the California disclosure -- and that includes corporate interest and union interests. The California disclose act doesn't overturn citizens

United. All it is doing is pulling the curtains up so if there are campaigns being run we know who the major funders of those campaigns are. We have seen in the recent past that with a lot of the propositions that come on to the ballot here in California, a lot of out-of-state influence and a lot of wealthy interests that try to influence the voters of California. And I think that we have the right to know as voters who is putting up the money behind these campaigns. That's what the California disclosure act does. And so what I would ask of the -- my council colleagues is to support AB 1148. I believe from the information I've gotten from the clean money campaign, I believe eight of us up here, independent of each other not in consult, eight of us up here at least on the Website, endorsed AB 1148. So I hope we have that same sense of consensus now in regards to supporting AB 1148. And I would make the motion at this time, to accept the staff analysis and to have the council prepare or have the staff prepare resolution already a sample in there, it's pretty standard, a resolution indicating City of San José support for the California disclose act.

>> Second.

>> Mayor Reed: We have a motion on the floor. Councilmember Chu.

>> Councilmember Chu: Thank you very much. I would be happy to second the motion. And again, this 1148 is to ensure the transparency in the crucial first step in the direction of assisting voter to make informed decision. I believe every voter deserve to know who's paying for those political advertisements. Where there's been many discussions in the county of Santa Clara regarding to this California disclosure act, the San José, City of San José would be the first city to take a formal stance. So in the spirit of having an honest and open government, the California disclosure act promote transparency, assets and accountability. Therefore I respectfully ask my colleagues to support the motion. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I want to thank my colleagues for bringing this forward, and bringing forward the memo. And I am happy to support this. I think that more disclosure is better. And San José has been taking a lead in transparency and open government and I think it's significant and right that we take the lead in supporting this.

>> Mayor Reed: I have one -- I'm going to support the motion but I want to make sure that we draft the resolution that we draft it a little broader than the sample resolution. The sample resolution speaks to anonymous corporate spending. The memorandum from Councilmember Kalra and Chu speaks to other special correction a lot of this money is coming from PACs which are not corporations and LLCs and individuals. I want to make sure the resolution is broad enough that we don't focus on corporations and miss those others. But I certainly will support the motion. Any other comments on the motion? I have some requests from the public to speak. We'll take that now. Mr. Wall, followed by Betsy Wolf-Graves. And Spencer Graves and Craig Duncoli.

>> Are you ready? I would like to thank the leadership of Councilmember Kalra and Councilmember Chu. And the straggler seeking a little glory at the other end of the bench. There is an issue about the major contributors that I think should have a modification. I think the modification if it's applicable to San José or to modify 1148 in toto is to include all contributors. I think that that's a significant weak link and it's rife for variations of corruption by organizing or disseminating a large corporation into little tiny bits. That are not traceable under the current language, but act in concert as a major contributor. Thank you.

>> Mayor Reed: Betsy Wolf-graves.

>> My name is Betsy Wolf-Graves. I'm a voter. I'm from the sixth district. And I want to thank councilpersons Kalra, Chu and Herrera for their positive information about AB 1148. The California disclosure act. This is an effort to treat -- create more transparency in government, which the City of San José has been a leader in. And it also, it will be at the federal level, if Ann Aschew and a few of our local representatives have their say it will be at the state level. If we support it and encourage passage at the state level, and I'm hopeful that it will happen at the city level. Because under Mayor Reed, this has been one of our focus, foci, in creating more transparency in

government. And if the council approves this California disclosure act, the city will be among the first if not the first to announce that we won't be passive consumers of self-ads.

>> Mayor Reed: Spencer Graves and then Craig Duncoli.

>> Thank you very much. I'm Spencer Graves, I'm a professional engineer with a Ph.D. in statistics and president of a startup in San José. The average income in the United States has doubled over the past 40 years, but most of the gains have gone to those better off. Checking the statistics, governmental statistics I find this translates into roughly \$3,000 per family per year in lost income. This \$3,000 per family per year disappears into welfare for the wealthy, hidden in thousands of decisions by legislators and other government officials that provide wealthy campaign contributors with returns estimated at roughly \$1,000 for every \$1 contributed to political campaigns. The California disclose act will not solve all these problems but it will make it slightly more difficult for the ultrawealthy to make the problems even worse than they already are. And I want to thank you all for the expressions of support that I heard leading up to this and I have copies of my statement that I will give to the clerk. Thank you very much.

>> Mayor Reed: Craig dunkerly.

>> I want to thank the coil for taking this up in such a timely manner. In particular, councilmembers Chu and Kalra for bringing forth this resolution. As many of you know, the citizens United case not only permits corporations to many of the same free speech rights as we enjoy as natural persons, and it made unconstitutional the limiting of their spending on elections but unfortunately what it also does is permits them to do all that spending anonymously. So it's probably going to take a longer term solution like a constitutional amendment to fix the whether or not they can spend as natural persons but in the meantime we can bring some transparency to the whole process so voters know who's paying for the ads and who's trying to influence their vote. The word superPAC unfortunately has become a new part of our lexicon because of this. The court interestingly enough in that same decision did stress that part of their rationale for allowing corporations to spend all this money was that disclosure of who's spending the money would provide voters with sufficient information so that they could judge

whether or not they wanted to pay attention to that spending or not. That's true. But we don't have such disclosure currently. So we tried to get this at the federal level. We'll undoubtedly try again. This California disclose act is patterned out of that federal disclose act that Nancy Pelosi and many of our local Congress people got passed. This resolution also is timely because the vote for yea or nay is next Tuesday, January 31st as Ash indicated, and it also has the virtue that, if we pass this today, we will beat the City of Los Angeles by one day because of the machinations of government they won't be voting on this tomorrow. The first city of California to pass this, we'll beat L.A. so thank you very much.

>> Mayor Reed: I any that concludes public testimony. Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor, thank you for your support, mayor, and I want to thank everyone for coming to speak out. And I just want to make one comment in regards what Dave Wall said travel, as I mentioned before, when Councilmember Chu and I filed this December 15th, eight of us had already signed the online petition. So -- but no one was watching. There was a lot of support for this already. I just want to thank my colleagues for doing the right thing. Thank you.

>> Mayor Reed: Thank you. We have a motion to approve the direction in the memo. Further discussion on the motion? All in favor, opposed, none opposed, that's approved. [applause] Now our next item is 3.4, recommendation to pull -- start the process to remove the council from Cal PERS. Councilmember Constant.

>> Councilmember Constant: Thank you mayor. First I'd like to make a motion to approve.

>> Mayor Reed: Right, we have a motion to approve the recommendation. Councilmember Constant.

>> Councilmember Constant: And then just a couple of brief comments. I know everyone's had the opportunity to read the various memos related to this. I just wanted to clarify what we're doing and what we're not doing today. What we're doing today is giving a notice of intention to CalPERS and what that will allow CalPERS to do is conduct a full valuation study and give us a bill of what it would cost if the council were to, in the future, make a

decision to terminate its contract. Obviously everyone knows that that's my preference but what this will do is give the information so that we can make an informed decision at a future council meeting.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Looking at the direction here the only report I have from staff is an info memo dated from December. And as we move along this process I guess my question is really to the City Manager, do we expect at some point we're going to have some staff analysis on in and direction and recommendation whether it's from our retirement services director or someone outside our very qualified Councilmember Constant?

>> City Manager Figone: Yes, I think that if we do receive this referral from the council through your recommendation today you would then expect that we would take the follow-up steps and provide any of the information that is necessary for to you make a final decision.

>> Councilmember Rocha: Well taking this action today though, trying to read enthuse all this, I'm expecting there are some circumstances that are going to start. And such as, we have a certain window a year. What does that refer to? Or maybe this question is better posed to Councilmember Constant.

>> Councilmember Constant: So, this gets the ball rolling. We can't do anything until CalPERS gives us the numbers but CalPERS won't take any action unless we give them a resolution. So what this does is, it's step 1, the valuation numbers will be valid for a certain period of time. And if we execute during that time, then that would be it. If we go beyond that, we would then have to seek another valuation. Is my understanding. Lisa Herrick could clarify if I got that wrong.

>> City Attorney Doyle: I think that's right. She's nodding her head. I want to add though it is my understanding that this is not irrevocable. This starts the process but even after CalPERS gets you the numbers you still have to

take a formal action to get yourself out of the system, terminate the system. So you still have -- this doesn't, by taking this action doesn't say that you are actually going to take the final action.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: What's the cost of getting this valuation if anything? How much is CalPERS going to charge us for this?

>> Councilmember Constant: Lisa did we get any information regarding that?

>> Councilmember Herrera: I'm guessing it's not free.

>> Lisa Herrick: I raced down to say that I don't know. It's not free. They didn't give me an exact amount. They said it would cost some fee but it was not -- I think that they had to determine really the breadth of the analysis before they could tell us how much they would charge.

>> Councilmember Herrera: I'd feel more comfortable if we had some -- not a blank check on this right now when we're voting. I don't know what the appropriate amount should be for it but I would feel better having some limit of how much we're spending on it or have some idea on it.

>> Mayor Reed: We could put a cap.

>> Councilmember Herrera: Could we put a cap, if we come back could we reconsider it? I don't know what a reasonable amount would be but maybe staff could offer some idea.

>> Councilmember Constant: I have no idea.

>> Mayor Reed: Let's say \$50,000.

>> Councilmember Herrera: I was thinking 50, that ballpark, okay. So I would like whoever makes a motion -- I guess we have a motion. Would you be willing to add that?

>> Councilmember Constant: I made that motion and I'll put that cap in.

>> Mayor Reed: Reconsider it.

>> Councilmember Herrera: How does this impact people who currently who have left council already, are we talking about current employees or just future councilmembers that would be under the plan, when we're taking action today?

>> Lisa Herrick: The termination would essentially terminate the plan as of whenever you adopt the ordinance that would terminate the contract. So that can't be any sooner than one year as of the date of the notice of termination or the date that CalPERS receives the resolution of the intent to terminate. At that point, there would be no more contributions to CalPERS and then no more accumulation of retirement rights from that time forward. So it would include the people on the council today, but for example, someone elected after the time that the contract is terminated, they would never be, assuming they never joined CalPERS, they would be -- I should say if a future councilmember came in after the termination time of the contract they would never be part of CalPERS.

>> Councilmember Herrera: Okay so I'm a little bit confused. People that are currently under CalPERS now, they would be terminated and taken off of CalPERS, or they would still be part of it, it would only affect future folks, is that what you are saying?

>> Laurel Prevetti: You would still be part of CalPERS. Those in CalPERS would be part of CalPERS until that date. And what I'm trying to say is there would be no further contributions or pension rights from that time forward. Everyone who's in CalPERS would still have what they've accumulated before. I'm trying to give a spectrum here.

>> Councilmember Herrera: It's forward-going?

>> Lisa Herrick: Right.

>> Councilmember Herrera: There wouldn't be any new contributions then they would I guess they would revert to a 457 plan or some other --

>> Lisa Herrick: Whatever the city had that was available, right now we have the PTC 457 plan.

>> Councilmember Herrera: Okay.

>> Mayor Reed: City Manager wants to add to that. Deb Figone I think though that as part of our research if we are given this assignment today, would have to include understanding the vesting period for councilmembers. Because anybody in less than five years if this was an employee plan, you wouldn't vest. And so whether there's a return of contributions or just what the status is, I don't know. But I would think, Lisa, that would have to be part of our research.

>> Lisa Herrick: We could certainly do research of all of these sorts of questions. My understanding is that the 456 -- the PTC 457 plan, you're vested immediately upon making contributions. Any councilmember part of the 457 --

>> City Manager Figone: I mean the Perez. Those currently in Perez but less than five years we'd need to know their status in Perez if they do not vest, if the vesting period is indeed five years as it would be for an employee.

>> Councilmember Herrera: So would you return the contributions, that is the question, would the contributions be returned?

>> City Manager Figone: That would be a part of our --

>> Councilmember Herrera: I believe that would be fair.

>> City Manager Figone: That is typically what would happen for an employee, but you know, these are some of the questions that we would need to get answered.

>> Lisa Herrick: Yes, I'm sorry I misunderstood that.

>> Mayor Reed: All right, are you done, Councilmember Pyle? If Councilmember Herrera was done, I'm not sure if she got all of her questions answered. Okay, councilmember Pyle.

>> Councilmember Pyle: Thank you mayor. I just wanted to say that -- to know more, I should say, about the 457 plan. PTC stands for part time employment contract?

>> Lisa Herrick: I think Part time contract.

>> Councilmember Pyle: Right. So we currently have CalPERS, and obviously we have the PTC 457, and we have two councilmembers that are under that plan now, according to the Mercury News. So what I don't know, and I don't think has been clear to all of us, what are the costs for the 457 plan, what are the -- compared with the costs for the CalPERS plan, what is the cost to withdraw? Because we have to spend half a million which was already put out there as a speculative number, it doesn't make sense to me. And it sends a double message to the public that well, it's okay to scrimp with things that pertains to you but when it comes to it money is not an issue. So I think we need to have a careful explanation of the advantages and the disadvantages of the CalPERS

benefit plans and 457. And so I will not be voting for this proposal. Because I don't think we're ready for a vote at this time. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you. I was going to make a motion to maybe postpone it for the few weeks until we can have all the questions answered. And Lisa, if I can ask another question that I think Councilmember Herrera asked, what is the impact to those councilmembers that already left office? If we terminate it?

>> Lisa Herrick: I'm sorry I missed a portion of your question. Councilmembers who already --

>> Councilmember Chu: Term out, left the office?

>> Lisa Herrick: Any contributions made by you or on a councilmember in CalPERS or on his or her behalf would remain in CalPERS. The termination just takes place from a perspective point of view. So there wouldn't be any future contributions by councilmembers in CalPERS or on their behalf and no, then, accumulation of rights that would be associated with the contract were still in effect.

>> Councilmember Chu: I see, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. So I would expect that part of the analysis would be a legal analysis, Rick I think we had talked about that as well just to get an opinion. We did get a legal analysis on our employee retirement plan. I would imagine that there would be some legal ramifications or hurdles that we would have to get over, would that be correct?

>> City Attorney Doyle: Well I think this decision is really one of do we start the process of looking into terminating from CalPERS and begin the resolution and getting the numbers from CalPERS. But there are questions, you know, the 457 plan is something -- the PTC457 plan is something the city has anyway. Because there are part time employees that aren't covered in the City's retirement plan that participate in the PTC457, because we don't pay Social Security, and that's their retirement plan. So there are -- what other options may be available to -- if the council wants a retirement plan, at one point it was recommended by the salary setting commission that the council go into the Federated, the Federated plan. But there were some questions there in terms of I think it was the politics of getting into the Federated plan than anything else. We can address these questions. A lot of these are numbers crunching. We're going to have to work closely with staff in terms of getting the numbers, getting the numbers from PERS. .retired councilmembers, do they lose their pension, or do they continue with their pension? It is our understanding that they continue with their pension under PERS. What about currently seated councilmembers? And what do you do with respect to if we eliminate prospectively, how does that impact your position? So I think we will get all of that back to you, as well. These are a lot of questions that need to be sort of I guess more completely answered.

>> Councilmember Campos: And then another question would be what does this do to your workload? I know that we have a priority setting session that is going to be coming up. And there are certainly a number of things that are affecting the million people that live in this city, that I would think should take more priority than, you know, what we're being asked to consider right now. And then, secondly, if Councilmember Chu's motion is still there, I would second it. Because I also don't feel comfortable just kind of throwing out, you know, well let's say let's not go over \$50,000 you know to study this. And to me it's \$50,000 to save \$150,000? I would really like to get all of the information, so at least at minimum, knowing how much it's going to cost to study this before we actually even vote on this.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. You know, I mean I think there's some points made in the memo that I certainly didn't come into this position, I don't think any of us are here as careers as far as doing it for the

retirement plan. We're not similarly situated with the city employees. They're here as a career, the incentives behind the defined benefit certainly is so they have some stability when they retire and they don't get Social Security and to reduce turnover. I think that not only do we have forced turnover that is appreciated by the citizenry that we move along and someone else comes along, I do think that it's a different -- we're talking about something very different than incentives for employees, retirement plans for employees. For me it's not a question of whether I feel we should have a retirement plan or not. That's not the issue. The issue has been raised by some and even Councilmember Constant to discuss it a little bit as far as we don't know what to expect in terms of the cost of getting out, and it could be so overwhelming that it's not worth it. So I think that we do need to analyze it, but I do have a similar concern. I don't think \$50,000 is an inconsequentially amount of money. And I don't how long would it take for us to at least find out how much it is going to cost before we make the decision to sign that check? We have nonprofits, seniors, many people coming here asking for \$5,000 grants, they're asking for small amounts of money and at this point, we all know that every dollar really counts. And so do we have any sense how long it will take to get an estimate based on what we are adding all these elements of what we're going to ask them to look at how much it is going to cost?

>> Mayor Reed: I think we have an estimates of cost, during the negotiations with our bargaining units, we made an inquiry to the CalPERS. Much more complicated questions than this.

>> Councilmember Kalra: I'm going to say it's probably a lot less. If that was the case it's probably a lot less to study just the couple dozen or so however many council folks or mayors are in this plan. I would imagine it would be less complicated but you know I would just say this: I would say at the very least an info memo prior to the writing of the check, so we know what the final amount is before we go forward with CalPERS because I think if it's \$10,000, \$8,000 I think that's worth it just so we know. If it gets to the 30, \$40,000 range, just so I understand, the motion allows it, if any number of folks would be uncomfortable with that we would at least have time to come back and say you know what that 40,000 does sound a little steep based on other information we have from the city attorney's office or from employee relations. That's my thought. I don't have a problem looking at it. My guess is it's going to be much more complicated than we would like it to be. But you know let's at least get the information.

>> Mayor Reed: Thank you. I'm going to be supporting the motion. I'm looking at the chart of cost that Councilmember Constant put in his memorandum showing the required employer contributions that came out of our, probably out of the CAFR or the office employee relations I guess. And it shows the contribution the City's employer contribution going to 16% of payroll, next year. And employees contribution rate is constant at 7%. I remember when I first started in the plan, the City's contribution was 10%. And so it's gone from 10% to 16% and is continuing to go up. And I'm concerned about that. And the size of the unfunded liabilities that we're generating every year so I'm going to support the motion to find out what it would cost to buy out of this. And if that is not exorbitant, that is CalPERS taking over the liability and we do have to pay up front. I do know that other cities have made the same kind of requests, and CalPERS probably has the algorithm, the spreadsheet what it would cost. I would be I guess not shocked, I would be surprised if it's more than \$10,000. It's not that hard of calculation because they know what the unfunded liability is. We've had the work that gets done annually which they've just finished. So it ought to be relatively simple for us to give us that answer. Then the more complicated question is, what do we do going forward? Not just for ourselves but for future councilmembers with this PTC 457, other alternative things. But if the price to get out of CalPERS is so high we are not going to do it we don't need to do that work. When we get the price tag back from CalPERS, and staff can assess, just bring that back to us and say we don't recommend it, or maybe they can do some work at that time. So I think this is the right thing to do for today's purposes. Councilmember Constant.

>> Councilmember Constant: So I'm not sure if there's actually a substitute motion on the floor. But was that a substitute motion? Okay. So what I'll --

>> Mayor Reed: Let me just clarify that. So Councilmember Chu was making a substitute motion. I did not hear a second at the time. Let's give you another chance on a substitute motion.

>> Councilmember Chu: Thank you, mayor. The substitute motion is to have the staff do the research and find out pretty much get all those questions answered but before we make the decision, should it be two weeks or three weeks, depends on the staff workload.

>> Mayor Reed: If the question is how much is it going to cost, I'm sure what questions that staff needs to answer before we move ahead. So let's figure that out and they can tell us how long it will take. So how long will it take to find out if they will give us a price tag in advance.

>> Lisa Herrick: And to answer the other questions, is that going to include what would happen to members of PERS who aren't vested before it's terminated and the advantages and disadvantages of CalPERS versus the 457 plan? Those are the two questions that I --

>> Councilmember Chu: Correct.

>> Lisa Herrick: -- was able to write down.

>> Councilmember Chu: Yes, questions raised by Councilmember Herrera and also manager Figone. And of course the dollar amount.

>> City Attorney Doyle: And I think the one question is, we would have to ask PERS for a price or a range. And you know it really depends on how fast they can get that to us. But we can shoot to come back as soon as possible. We have the February 7th meeting and then we have I think a week off and we come back the 20 -- we would shoot for the 7th at the latest.

>> Mayor Reed: Was there a second to the motion?

>> Councilmember Campos: For deferral? For purposes of discussion and voting I'll second that. I mean I think I got my answer in terms of you know it's not going to be -- we don't think it's going to be \$50,000. I mean that was alarming to me but if it's in that 10 to -- \$10,000 range that could be money well spent.

>> Mayor Reed: Although this may be a profit center for CalPERS for all we know. [Laughter]

>> Mayor Reed: Councilmember Constant so we have a substitute motion to defer now.

>> Councilmember Constant: So let me just say before we take the vote on the substitute motion, I understand the hesitation due to cost, and I'm confident it will be less. So if this motion fails, which I hope it does, I'll revise my motion to make it about \$15,000. And if it looks like it's going to be more, to come back to us for approval. And I just want to summarize what I think I heard Lisa say. That anything that is accrued will remain and future accruals will stop. And much like we have proposed for our voluntary election plan for employees that are going to the ballot measure. So it's very similar there. And then I'll leave everything else for later.

>> Mayor Reed: Okay. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. I'm not going to support the substitute motion. I think the initial motion made by Councilmember Constant is a good one. I think it's just the initial step. We're really not making any final decisions with regards to whether or not we're going to terminate the CalPERS contract. But I do have a question, and I think I'm jumping ahead of myself here, but you know, when staff bring this back, whether we're going to defer this, or whether Councilmember Constant's motion passes. I also wanted to know if a new council ten, 15 years from now want to reinstate CalPERS contract would they have the option to do that? I would like that to be part of the analysis when they come back.

>> Lisa Herrick: The answer is yes, there is some time frame there has to be -- I have read in the materials the answer is yes, there is some time frame, it is three years or five years gap before you can contract again with CalPERS but I will answer that question, as well.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. I just wanted -- first I was -- Pete took the words out of my mouth. I think we should just come back on the next motion, reduce the limit, that's fine. I'm under the impression that this

is not going to retroactively take away the pensions for councilmembers that have long since retired. This is simply saying from this day forward we're not going to be accruing anything more and I think it's important for us to be cognizant of the context in which this is occurring. Certainly the \$160,000 that is currently being contributed by the city to pay for this program, the half million dollar unfunded liability, currently these numbers dwarf whatever concerns we might have about the cost of this study, I think it's an important question to ask and then we can move forward. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I'm going to support the original motion if it gets reduced down to \$15,000. So I think that's a much more reasonable number.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Just wanted to comment, since we're talking about past councilmembers and pensions, and just so the public understands, we are talking about prior councilmembers that are since gone, about a \$10,000 a year pension, so I just want to make that clear.

>> Mayor Reed: We have a substitute motion to defer probably to February 7th based on what we heard from the staff and if that fails we'll come back to the main motion. On Councilmember Chu's motion substitute motion, on that motion all in favor, opposed, opposed not substitute motion, one two three for five six seven eight. So that fails with Councilmember Chu, Campos, voting in favor. So that motion fails. You want to restate your motion?

>> Councilmember Constant: I want to restate my motion to be to approve the recommendations and put a cap of \$15,000 for the valuation report. If it's believed that it will be more than that to bring it back to the council at the next available council meeting for approval or discuss.

>> Mayor Reed: Okay, so we have a revised base motion. I have one request to speak on the motion before we take the vote, Aurelia Sanchez.

>> I was watching capital television and they were talking about the sex abuse scandals. And the speaker was saying, as a Catholic, we have to remember that there are a lot more saints than there are sinners in our church. And that gave me hope. Unfortunately, the way our political system is now, it doesn't give me much hope. We have politicians who speak very badly about the people they're supposed to represent. They speak very badly about each other. We have charter schools versus public schools, which I don't understand, because, you know, it's all about the kids. And about trying to grow this country to be educated. We have politicians that pit private workers against government workers. Which I think is unfortunate. We also have the occupy movement, where thousands are being sent to jail. That we have the president of MF global who stole \$1 billion from the cash customers' bank and put in the investment bank. He is not in jail as others financial leaders, have done the same and are walking around and I won't get into that. It will take me too long. But my point is this: Is that if you want good honest people to run for political office, you have to offer them something. Not everyone is going to get married. Not everyone is married to a self-employed person. So you need incentives. Think carefully of what you do. And I'd like to give a good example of the Hispanic female. I am very proud of Blanca Alvarado. She has done a lot for the community. Would she have run for office if we have these type of rules that are being proposed?

>> Mayor Reed: Sorry your time is up.

>> I have a lot more to say, but thank you.

>> Mayor Reed: That concludes the public testimony on this item. We do have a revised motion by Councilmember Constant. Councilmember Rocha.

>> Councilmember Rocha: Thank you mayor. I'm going to be supporting this, but it's generally based on a lot of the discussion that we've had here and the commitment from the Manager's office and the city attorney's office to provide some analysis I guess on this issue. This I have to admit, I struggled with the item not the item itself but

the process, we've had many occasions when we've moved ahead of good staff analysis and policy analysis and we're left debating these on our own and get secondhand information, again not to suggest that Councilmember Constant's work is not thorough or accurate. But I really encourage us in the future to try to get staff analysis before we have to make a decision so we don't have to do this in front of the public. Thank you.

>> Mayor Reed: On the motion, all in favor, opposed, count none opposed, the motion is approved. That concludes that item. Taking us to item 6.1, meeting on maintenance district 24, on the Alameda. I think Dave Sykes is going to have some comments on this before we get into the discussion.

>> Mr. Mayor, David Sykes, director of Public Works. Just kind of want to let the council know where we're at in the formation of this maintenance district. District 2004, where the property owners will be voting to tax themselves to support the maintenance of enhanced improvements that are planned along the Alameda. This is a third step in a fourth step process. Today the purpose of today's meeting is just to collect any public testimony. We'll be back next month in February for the final hearing, and tabulate the ballots at that time.

>> Mayor Reed: Thank you. So this, we will officially open the public hearing on the matter. We won't take action today but if there's anybody here? We don't have any requests from the public to speak at this time. So we will -- I guess we don't close the public hearing. We'll continue it to a later date which will be February 28th.

>> That's correct.

>> Mayor Reed: Then there's no one here to speak. Anyone want to speak on the Alameda issue? No. Okay so we just need a motion to continual to the 28th.

>> Councilmember Oliverio: Motion to continue.

>> Second.

>> Mayor Reed: Motion is to continue the hearing to the 28th of February. On the motion, all in favor? Opposed? None opposed, that's approved. 6.2 is our next item that is cooperative agreement for the BART extension to Berryessa. Hans Larsen does have some comments. Hans Larsen hello, I'm Hans Larsen director of transportation and I'm very pleased to recommend approval of various actions that will facilitate the extension of BART to the Berryessa of San José. This is a very big year for the BART project and I thought I would take a moment with the council to highlight some of the projects -- progress and really celebrate the progress of the project. As we know, the BART system is the largest transit system in the Bay Area, most heavily used. It serves four of the five largest counties in the Bay Area but doesn't yet come to Santa Clara County. It serves three of the largest cities in the Bay Area but doesn't come to the largest, San José. But that's all about to change. The BART project is being developed in three distinct phases. As it extends from the current terminus in Fremont, there's a project under construction now to extend it six miles from the current Fremont station to Warm Springs. And that is under construction now and planned to be complete in year 2014. The next phase is the one that we're anticipating now is the extension from Warm Springs to Berryessa. This is a ten-mile extension which a value of \$2.1 billion. And that will be under construction later this year, through year 2016, and we anticipate to have our first passengers on that line in the year 2017. The full project, as we know, is to have it come to Downtown San José and then loop up towards the airport, Santa Clara area. That's another \$4 billion, and the next step is to work on financing that piece. I think it's significant to note that the first two pieces, the extension to Warm Springs and Berryessa, is producing a construction activity almost \$3 billion. So that is certainly a welcome amount of construction activity, and economic stimulus for the South Bay area. Wanted to highlight some of the travel perspectives. What is BART going to do for this area? And it's interesting to note that you'll be able to get to Berryessa area of San José from downtown San Francisco, downtown Oakland and Pleasanton, within 50 to 60 minutes. That provides a new level of accessibility and connectivity for the San José area to the rest of the Bay Area which is certainly a big help in terms of attracting jobs and talent to both of downtown and North San José areas. You can see the types of connections that will be available at the Milpitas and Berryessa stations. With connections to the Guadalupe and Tasman light rail line, the capitol line. There is planned to be a direct bus rapid transit connection from Berryessa to Downtown San José. The environmental document for the project envisions a direct airport shuttle to Mineta San José international airport. There will also be spots at the stations for employer shuttles like what Cisco and Google have at some of the other transit facilities, and of course, we will be

connecting with our bicycle network, and the Berryessa Station offers opportunities to connect with the planned coyote creek trail and the existing Penitencia creek trail. The actions we have before council are five cooperative agreements with the VTA. And these five agreements help formalize the very strong partnership that San José has had with the VTA in developing the project. These agreements cover specific elements of the scope, the ownership, and maintenance of city facilities that will be built with the project. As you see there Lundy place, trade zone boulevard and at the Berryessa station there will be a new street with traffic signals and street lines that's part of those agreements. The other element is a total of \$4.7 million of city staff support to work with the VTA as part of the team. And reviewing the design and construction of the project, particularly with the focus on city facilities. We have two staff people that, on a part time basis are co-located with the VTA's BART team, in order to provide timely input in terms of issues regarding city issues and city facilities. I want to just highlight that we anticipate having another agreement with the VTA and that concerns the public art plan for the Berryessa station. We're in discussions with the VTA on having the City's public art staff, led by Barbara Goldstein to be the lead on the public art program for the Berryessa station. Wanted to highlight just some of the keys milestones coming up. The VTA board has already awarded the design-build contract for the main track work for the extension to Berryessa. There will be other contracts for the Milpitas and the Berryessa stations coming up. We are eagerly anticipating the federal approval of a \$900 million grant agreement that covers the federal share of the project. That's been recommended to Congress. It's going through a required 60-day review, and we anticipate, in April, we'll have full federal funding for the project. This will then trigger celebrations about the project. Groundbreaking ceremony is anticipated in spring. The federal funding will also trigger the 1-8th cent sales tax that the voters approved in 2008. As I mentioned the construction duration is from 2012 to 2016. Passenger service starts in 2017. And importantly to note that the project isn't complete until we get it to downtown and up to the airport area and as soon as we get the work done, to secure the funding and start construction for Berryessa, it's our policy priority and staff priority to begin work on fully funding the complete project, and that's getting it into the downtown core and up to the airport. So there's a lot of kudos to share in terms of the progress we've made but I think we'll hold off on that for the groundbreaking ceremony. I'll conclude my remarks there. We have staff here from Public Works and Department of Transportation, if you have any questions about the project or the detail of the co-op agreements. That concludes my remarks and look forward to any questions or comments you have. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. I'll hold off on making a motion for my colleague Councilmember Chu, I know it's going to the heart of his district. I just wanted to thank D.O.T. staff for working collaboratively with VTA, I appreciate vote is picking up the tab. It helps keep our folks working and we know how important it is for the city. I know there will be time for kudos, I did want to offer one in particular because I'm not sure folks are aware I mean I think everyone's well aware that the leadership of SVRG and Carl Guardino Haase have offered for this project. Two ballot measures, three as I think about it, two of which I worked on in 2000 and 2008, and the extraordinary difficulty of getting two-thirds proorvel in this county or any county for that matter for tax itself for transportation improvement, to do it once let alone twice and you know I can think very clearly about 2008 as we're getting closer to election day and the economy was heading South very quickly around that time, Lehman brothers had just collapsed we were watching poll numbers hit the ground, and Carl and S.VRG were election day, and in fact I think we prevailed by about 3 votes. Or something pretty close to that. And in fact even after the election for many days and weeks in fact we believed it had not gotten over that hurdle. This was extraordinarily heavy lift and I'm juts grateful for their leadership, Carl and the rest of the SVRG team to make this happen.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, Sam for holding off the motion. I would be happy to make a motion for now, and looking forward to second your motion, when the cooperative agreement for BART extension to downtown or to airport come to this council.

>> Mayor Reed: All right. We have a motion on the floor to approve. Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just had a very quick question. I have been looking all over for it, it was right in front of me a minute ago but the cost for the first question for the first 6.1 mile was considerably less

than the one for the 2.1 miles. Can you tell me what that is? When we get downtown the costs escalate tremendously.

>> Hans Larsen: Councilmember Pyle you're referring to the downtown piece, the \$4 billion?

>> Councilmember Pyle: Yes versus the 2.

>> Hans Larsen: That's the more costly piece of it primarily there's five miles of tunneling in the Santa Clara street in the downtown core area.

>> Councilmember Pyle: Thanks for jogging my memory.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wanted to say congratulations and to commend our staff, Hans Larsen's staff i've been on the board for three years now of VTA and sitting here too and watching that relationship and I think it's great it helps VTA the way we can work together reduces the cost but it also supplements our city staff with funding. And so I think it's really great. And I look forward to riding that train in 2016.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And understanding I think and addressing the quarter, 8th cent sales tax, once the federal funding comes in that triggers it. We're really in the cusp of making this a reality. I certainly look forward to it. Coming to downtown, even to Berryessa, especially with the shuttles and the connectors that will exist there, not just -- I think oftentimes there's a sense of the importance of connection to Oakland and San Francisco but I think even more significantly or as significantly connecting with Pleasanton and Fremont and both residential and job centers as well as residential centers, that right now, you know people use 680 to get into Silicon Valley. They're going to be thrilled once they have an opportunity to use BART to get into

our valley, our valley and I just want to thank staff. Obviously there's still a lot more work to do. But this really is a tremendous hurdle getting this far and I just look forward to finally being able to board a BART train in San José.

>> Mayor Reed: City Manager.

>> City Manager Figone: Hans feel free to elaborate. It is my understanding based on what you told me that the VTA is managing the community outreach, is work well with Councilmember Chu's office, but if you could just comment on how we're going to be handling or at least tracking the neighborhood issues during the construction.

>> Hans Larsen: Yes, City Manager Figone. So the VTA is the lead on all aspects of the project, and they have a community outreach relations program that their performance has been very good. And now if Councilmember Chu wants to just confirm that. They have Website newsletters, they're out there in the communities, primarily our Berryessa community and in Milpitas. To make the public aware of various issues and progress of the project. And in my opinion, they're doing a very good job, and we worked very closely with them in terms of any local issues to make them aware of it, and they're following through very well.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to add on that we had a real good communication with staff and the D.O.T. as well as the VTA staff. We have been meeting regularly and jointly we have held at least three community meetings in the last year. So I think the residents are ready to board BART, just going North.

>> Hans Larsen: They're ready.

>> Mayor Reed: I think that's it. I'm going to get the last word which is to thank our staff and the VTA staff for working together. The first time I went to Washington to talk about the BART project they weren't very happy in Washington with what we were doing and how we were handling the situation in Santa Clara County. And it was clear they weren't going to be helpful to us in getting funding unless we began to operate differently. And so VTA

made some significant changes, but the cooperation that we've had between the city and VTA has made a lot of that possible. So that's a good thing. Of course, the voters played the key role with the two ballot measures, not one but two ballot measures approving tax measures for BART. It's been difficult, it's been long but that's what happens 100 years so I don't feel so bad about spending a couple of decades getting rolling on something that's going to last for 100 years. So we're excited about getting it to Berryessa and on to downtown and we can all be proud of the work we've done even though there's a lot ahead of us. I think the fun part's ahead of us. It's always good when you can finally start construction and see thousands of people putting on the hard hats going to work and taking care of their families. So with that, we have a motion to approve. On the motion, all in favor, opposed, none opposed, that's approved. Congratulations. Our next item is 7.1, actions related to short term trash load reduction plan. Before we get started on this I want to disclose that my staff met with the California restaurant association, packaging, chemistry action and in preparation of this meeting Councilmember Liccardo .

>> Councilmember Liccardo: Thank you, mayor. I didn't want to get out in front of the staff presentation if there was a presentation. There is, great. I'll wait until the presentation, thank you.

>> Mayor Reed: All right, turn this over to staff, Kerrie Romanow.

>> Kerrie Romanow, acting director of environmental services, I'm joined by program manager. For background the storm water permit requires that the city demonstrate a 40% reduction in trash coming from the storm system by July 1st, 2014. We're required to submit our short term trash reduction program to the water board by February 1st, 2012. So we're asking for permission to submit our short term trash reduction program. Before we embarked on developing our program we came up with some guiding principles. The guiding principles are that whatever actions we might take must achieve demonstrable effectiveness improve quality of life, support other water quality and environmental objectives, and leverage resources and approaches with new and existing partners. With these guiding principles environmental services has with many other partners delivered this trash reduction program and our strategies are divided into three major components. One is prevention, keeping material from becoming litter. The second interception, removing litter before it reaches the creek such as our storm system and three, removing and these strategies address trash reduction at each stage of the process from different sources

of litter. Oh, that wasn't the right button. So where did we get our baseline trash load from? Well, the presence of trash depends on a lot of different factors throughout the city. Land use, population density and existing levels of service and the methodology was developed by a regional group. So all the cities are using the same Metcalf, a methodology which is being validate by the water board as this evaluation continues opted for also this baseline trash load also change. When we wrote the report, our baseline trash load was estimated at 879 cubic yards. It's now estimated 972 cubic yards. So this continues to be an evolving discussion. The baseline was established by sampling as well as literature review and it is sort of a best-guess of where we're as a city. The summary of credits, so these are the credits that we worked together collaboratively, as collaboratively as a region to establish a way to measure reduction. So certain actions we would take would be worth a certain amount of points or credits, rolling up to first the 40% target, then 70% in 2017, and then 100% in 2021. So these are also changing. When we wrote the report we estimated that our cumulative points were worth 57. They've now dropped to 54. However, in December, when we presented to T&E, we thought we were well below the 40 limited. So we had proposed more aggressive actions based on trying to meet this first milestone. We expect these numbers to continue to change as the water board continues to evaluate the -- the effectiveness of each of the categories. If we look ahead, we're on track to meet the 40% reduction goal. But we also believe that we need to take -- we need to start taking action to meet the 2017 goal of 70%. We want to pace that with what fits in San José in regards to our businesses, our residents and city operations, and we'd like to have time, since we have more points than we had expected, we'd like to have more time to move forward to that 70% goal. So in addition to the actions that already are in place that get us well beyond the 40 mark, we'd like to continue working on potentially expanding parking prohibitions and street sweeping, proactive enforcement of uncovered loads, insulation of partial capture devices and continuing to explore expanded polystyrene. On polystyrene litter again in December, we were -- we did -- we reported on an outreach program, the green to go program that we spent a lot of time outreaching to the community on. Because we thought that would be needed to reach the water board requirement of 40 points. That has again changed. But we did learn a lot from the community. We heard from restaurants that they were concerned with their impact on their already small profit margins, concerns about what the alternatives might be, and concern that it might nobody result in significant litter reduction. But we also did hear that there was general consensus that EPS did have a negative impact on the marine wildlife. So there was concern about how we might minimize that impact. So given the current assessment of our trash reduction credits

and the fact that we have additional time we would like to continue to look at EPS in regards to how we might be able to phase in different strategies and apply hardship exemption, any number of ways to address the concerns we heard from the business community and then still not only hit our 70% reduction target but also continue to do good work that protects the environment. So our recommendations are to authorize submittal of the short term trash reduction plan, direct staff to return in 2013 with an update to the transportation and environment committee and direct staff to take the following directions on polystyrene, support statewide legislation which would and return to T&E in 2013 with options to move the city towards the limits of eliminating polystyrene foam foodware if there is not already regional action taken at that time. So that concludes our presentation. If you have any questions .

>> Mayor Reed: We will have a few questions I think. I do have some requests from the public to speak. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor and want to thank both Elaine and Kerrie for their hard work. I know there's been an enormous amount of effort to try to figure out exactly what has been required much us by this permit. Any time we are dealing with other agencies there is a lack of clarity in that regard and I appreciate all the effort gone into this in that level of thinking I wanted to put a motion on the floor and before I do that I just want to refer my colleagues to the January 23rd memo and specifically that memo regarding the procurement guidelines, I think staff is headed in that way, I think they're coming forward with an EPS recommendation in a month. But the RWRC and I always get the acronym wrong but I know Councilmember Chu sits on that county wide board recommended a couple of months ago if I'm not mistaken several months ago that cities first move forward simply halting the purchase of EPS and the use of EPS on city facilities and city events. It seems like a pretty straightforward thing to do. In this particular context I think it's important for a couple of reasons around one is there is a lack of clarity around pricing information and there's a lot of concerns expressed understandably by small businesses small restaurants about how this might impact their bottom line and I think it would help for us to sort of have some skin in the game by being directly involved in looking for EPS alternatives. That will help us understand better what those prices are and we recognize that that pricing would change over time and it would be a good sense of what the pricing is by starting in our own home front and secondly I suggest it because right

now there are several cities around the county that are considering sort of this internal ban. First correct me if I'm wrong I think Milpitas Santa Clara, Mountain View are all considering within the next couple of weeks with staff recommendations and certainly the cities association has approved a resolution calling for all the cities to move forward in this way. And so this is certainly something we ought to be doing regional, San José has always taken a leadership role in this respect and I think we ought to be stepping forward today with this approach. So I'd move the recommendations that are outlined in that January 23rd memo along with staff recommendations.

>> Mayor Reed: All right we have a motion to approve with the recommendations in Councilmember Liccardo's being added to it. City Attorney.

>> City Attorney Doyle: I have a question. Was this recommendation made before yesterday?

>> Councilmember Liccardo: No.

>> City Attorney Doyle: Well I think we have a Brown Act issue. Because you're asking to amend city guidelines, procurement guidelines. You can certainly direct staff to bring that back but one day notice is going to raise a problem.

>> Councilmember Liccardo: That's raised specifically in the memorandum.

>> City Attorney Doyle: That's my question, was this raised first here or in a different memorandum? That's my question.

>> Councilmember Liccardo: I'd I know there's some reference to what the city is or is not doing and I think it's toward the end of the memo.

>> It's actually on page 15 of the memo we indicate that on the T&E work plan for February, what I think that's now in March, we will be reporting on the annual report for the environmental preferable procurement policy which will include the update to formalize the city purchasing practice for EPS.

>> City Attorney Doyle: I think the Brown Act is supposed to give notice to people at least 72 hours in advance of a potential council action. I don't think that notice has been given. I think I know where you're going councilmember but just to make sure we comport to the law, the fact that we made reference to it is one thing, the fact that the public may not be on notice that that type of action may be taken is something else.

>> Councilmember Liccardo: Let me understand this, Rick, we could vote today to ban EPS under the Brown Act, couldn't we do.

>> Councilmember Liccardo: You're saying we can only do this if the staff recommendation it? That can't be right.

>> City Attorney Doyle: What the proposes measured are are the recommendations set fort in the council agenda.

>> Councilmember Liccardo: But the Brown Act doesn't constrains us to the staff recommendations, it constrains it to the within the item.

>> City Attorney Doyle: The Brown Act requires you submit in summary form what the proposed action of the council will be and I think that's the issue. You're taking up the subject matter but it has to be within the confines of the subject matter and what the proposed action might be. My question is, is would a reasonable person, in the public, have notice that the council is going to take this action today based on what was on the council agenda? And I think that's the question. So I think you know I'm not -- I'm --

>> Councilmember Liccardo: Well here's what's on the registers the explicit recommendation on 3A for staff. Actively support a reasonable post styrene foam food service litter as recommended by Santa Clara County recycling Santa Clara County recycling waste reduction commission recommended explicitly was that city start by not using EPS, in known facilities in their own events. This is exactly what the RWRC has recommended. And that's explicitly contemplated within the staff recommendation.

>> City Attorney Doyle: But I think you know again, it is -- I'm looking at the council agenda. And it's -- from the council agenda, 7.1 C 1 I think is away you're rerching.

>> Councilmember Liccardo: C 1.

>> City Attorney Doyle: Which is actively procurement guidelines to halt purchases. You know, I don't want to you know, limit generally I'm trying to give you as much leeway to do things as upon but you know referencing a January 23rd memo, which is -- calls for specific action I think we need to bring it back. Can you go with the direction to have staff bring back that recommendation and we'll bring back that recommendation and we can bring it back as early as next week. But that's only my concern is --

>> Councilmember Liccardo: I'm fine if that will satisfy your concern. I just don't quite understand it. If it's explicitly on the face of the staff recommendation that we pursue a reasonable approach actively support one for county wide initiatives and one of those recommendations from the very commission that is identified there is in fact to do what I'm recommending.

>> City Attorney Doyle: And I just don't see that the public is on notice that the council was prepared to take action to change the City's procurement guidelines.

>> Councilmember Liccardo: Okay. You know I very much disagree. I'm happy to make the recommendation that we come back in a week to do exactly what we're contemplating doing now. And the rest of the items, paragraph 2 and 3 would go forward today.

>> Mayor Reed: Okay so we have a modified motion. I don't know who had the second. I lost track. Councilmember Chu. Secunder accepts the modification. Okay. So we have a motion on the floor. On that motion, Councilmember Pyle.

>> Councilmember Pyle: Well, can we talk about the motion? I just want to say that I think your decision is very, very wise. In Light of the fact that we just hit a very aggressive push towards getting rid of the plastic bags, et cetera, and charging 10 cents for paper bags. I think that's wonderful. And the fact that we -- people are still adjusting from that. It is a couple of reasons why I think it's especially did. And that is, that we'll have time to take a further look at the compostable materials that will be coming down. It's possible that with a little extra time, the chemical groups will be coming up with something that's een better and hopefully cheaper. If the average is 26 cents per item, to be added to a small business expense portfolio, for example, that can be -- make a significant difference with businesses. So I think the recommendation to defer to a future time is very wise, and I want to thank you for that.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I, too, want to concur and thank you for your work. Generally the work that I'm speaking about is between the last committee meeting and today. And you had some complicated direction from myself about what I was looking for to come to council as opposed to what was presented at the committee and I think you did a good job of capturing that and giving us a pretty good outlay. So in my opinion this is a good policy approach. Whether or not we get to these reels as they are laid out here we have a year to work on this as I understand it and it's up to us the industry and when I say industry I mean us as well as the city council to get more versed in this issue and make sure we're making the right decision long term what's in the best interests of San José. So thank you for your time on this.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. Just a couple of quick questions, and then a comment. So I understand at a this has kind of slowed the process down a little bit which I think is good. And I think that given the fact that we still have people trying to get out of this economic slump we find ourselves in I'm happy that we're not looking at putting something that's going to have an additional burden on small businesses, and Sam I thank you for your work, your memo encouraging the further investigation of the cost and the related issues because I think that's critically important. I've heard from a number of businesses. I met with everybody I think the mayor said so I'll ditto that disclosure. But also I received a lot of comments from individual small business owners in my district about the impacts. And they're looking at such slim margins in the restaurant business that literally every little penny counts. So I think that's important that we keep that in mind, especially in the down economy. We don't want to continue to die a death of a thousand cuts to the bottom line for our small businesses. When this does come back around, I just want to get some clarity. Will this ordinance as we need to craft an ordinance around this, will it go through the normal priority-setting session work that we do with all of our owners to get integrated or how is our procedure for getting that in the queue once we get to that point?

>> Mayor Reed: City Manager.

>> City Manager Figone: Councilmember if you could help me understand your question. Is it the 2013 work, or the purchasing work that you're asking that question about?

>> Councilmember Constant: More the ordinance for our businesses, where they would have to comply.

>> City Manager Figone: Oh, I see.

>> Councilmember Constant: You know we always have our ordinance priority setting sessions and then different things get inserted in different spots and sometimes usurp the process. I just want the assurance that when this comes around in however many months it's going to be that we have an opportunity to review it within all the ordinance changes so that we can assign it a level of priority.

>> Let me take a stab at that. If we need the ordinance to meet the water board requirements, then I would expect it would come as a regular part of our trash load reduction program for the next stage. But if it's not needed from a regulatory requirement then it probably would fit into the city priority setting process.

>> Councilmember Constant: Okay. I just think it's important that since we put a lot of effort into that priority-setting, and then it lasts for a month or two and a bunch of things come swirling in and get jumped in, then there are a bunch of important issues that we see languishing for a number of time .

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor, I think there was some significant movement from our committee meeting. So I thank you for that. I know it's not easy to get direction from four committee members. But you know I think you're on the right path. I just want to echo what some of my colleagues have said. You know, small businesses are the ones that, I mean, to be -- to be honest with you, those are the ones that I'm really thinking about. I've got Alum Rock and Story Road that are the longest business districts in the city and primarily they are made up of small restaurants. They are losing their shirts. Do you economy. They're competing with unlicensed vendors that are on the streets that have no overhead, that are probably going to use polystyrene anyway because they're not regulated. And you know that's killing them. So I'm glad that we've slowed down, and have taken a look at this. But again, my comments back at the committee meeting or committee hearing was that I think our intent, or our intent should be, to eliminate trash. And not to replace it with another form of trash that maybe is a little bit more biodegradable but not completely biodegradable. Because we're still going to see them you know at the end of Coyote creek or Guadalupe river or floating down to Alviso or caught in our storm drain. So I really think that has to be the focus, is to eliminate and reduce trash. And so you know, I'm glad that you included the industry. Because really, if you have an industry that is willing to help, and share ideas that they've done in other jurisdictions, then I think what we should do is listen and try to -- and try to figure out how other jurisdictions are doing it. So thank you. I will be supporting the motion. But again, you know, we really need to take a look at what we're doing, especially with our small businesses. Because I don't think anybody up here on the dais wants the end result putting small businesses out of business. That won't be good. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. And yes, thank you Kerrie and your team for continuing to work on this. It's been challenging. I do appreciate your sentiment that we have some breathing room and it's because of the progress that you and others have made on behalf of the city that we have that breathing room. I think we took a lot of time and effort and study in regards to the plastic bag ban. We should also take the time and the study I know the plastic bag ban there was definitely concern from all of us about the impact on small businesses, ultimately the grocers association was on board and what have you but there was still a lot of energy necessary and needed to reach out to the small business community and there's still the distinction between polystyrene and plastic bags, that we met -- I made mention of and I'll repeat here, that we can ban plastic bags and we're almost certainly going to remove almost 100% of it out of San José. But with styrofoam that's not the kyes. I've for three years now been doing the polystyrene recycling event with dart and allied again this year and there's a lot of styrofoam that we collect and get and we're not from food. It's from packaging. That's coming from all over the world and it's going to continue to come. So in addition to doing further study which I think we should do in terms of alternatives to polystyrene for the small businesses, what the real costs are, it's nothing we really need to have a good grasp for before we make the decision to ban or do some other kind of action that's going to have an impact on them, I think we should have some kind of plan or some kind of strategy at some point with what to do with the rest of polystyrene that's going to come into our city no matter much. It's larger and when it goes in the landfill it's going to have a much longer last aing impact. So the discussion we had about having dropoff sites, I know allied and hopefully others will have the opportunity to have some of the machinery to recycle. I know it might not make sense for them to go from thoam home to pick up the styrofoam judging I think that once people all know where to go to drop it off they will do that and they will be responsible rather than just throwing it in the garbage, not knowing where it's going to end up or you know as we're all concerned about putting it in the waste stream in other ways in the creeks and what have you. I think this is good, this gives us a chance to be thoughtful about how we move forward while still maintaining the goal of reducing EPS and reducing other forms of waste in our waste stream. I think ultimately that's ultimately that's the goalt is just kind of reduce the waste we collect we have no matter what form it takes. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. And thank you to staff and all the input. So recycling opportunities may come back to this council on styrofoam, is that correct?

>> On nonfood related.

>> Councilmember Oliverio: Okay but then I guess on some of the technology has the ability to you know wash and then form into different packaging for reusable products but that will have further look-at over this next period or is that taking that off the table altogether?

>> We're continuing to explore all options to reduce polystyrene related litter.

>> Councilmember Oliverio: Okay and then just a comment I'd like to make on this topic of polystyrene for a long time I was a proponent of just straight out ban, styrofoam is not a good thing but I think that has become complicated now. And that actually occurred actually in this council chambers, as we all may know I host a documentary films here at City Hall on different topics and one film we showed here at City Hall was called bag it and it referred to single use plastic bags and also talked about expanded plastics in society. Lo and behold your coffee cups you use are lined with plastic. It's not just paper and styrofoam, it's a more complicated topic. From what I understand the energy needed to produce that paper couple with the plastic lining paper was lined with plastic could very well be litter. So I think that's complicated thing. So I'd be interested to know what is actually the ability for that paper cup lined with plastic to biodegrade because I think that doesn't make it so obvious anymore to where it used to be. So those are some things I wanted to draw out. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I appreciate Councilmember Oliverio's comments. So I think you know styrofoam or however we want to call it EPS, it has a bad rap. I want to make sure that we make our decisions based on the facts. And I support the motion that's on the floor and I certainly support reducing trash and looking at any way we can to help our environment. I am concerned about the number of letters and e-mails I've gotten from small businesses in my community and my direct who would be negatively impacted if we banned it. I'm really happy we have a great person here running our environmental services Kerrie Romanow who her staff work and listen and try to come up with compromises and move things forward. You just -- you do a great job Kerrie and working to move this forward. But give us some time to move this forward. I just want to say, I'm concerned about small businesses, this is not a small cost that we're talking about, it is a significant cost for restaurant owners, many of them are minority owners and I'm very concerned about their abilities to compete in this tough environment and as already has been said, the type of product they're using provides the ability to maintain heat, heated foods, and actually is part of the safety of those products, when customers are using them. So I think we need to be very careful about recommending alternatives that might not provide that health and safety as well as what the implications are for trash, you know promoting trash after that. I think we need to make sure that alternatives we are suggesting will be provided the same kind of benefit and health and safety and also be able to be recycled or compostable. I look forward and hopefully can come in at a cost, something that is cost competitive. The other thing is the styrofoam that's used for packaging, it looks to me that that's built to a different standard. And to so from my perspective I've seen many times when you get a package and it has styrofoam where it's a paunched kind of thing it breaks into these small beads that people are concerned about, that do end up susceptible to that, to the kind of containers that you get at a restaurant. So I hope as we move forward that we're looking at the packaging and we have to find obviously there have to be alternatives because that styrofoam the way it is used now in parnlging pipelines and computers and -- comploinses and everything that can replace that. So I will be supporting the motion. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I just wanted to jump in. I know there's a lot of interest in recycling but I think we ought to be realistic and cognizant about the limitations of recycling with EPS foodware as opposed to other kinds

of expanded polystyrene. Certainly the polystyrene that surrounds a computer or a television is something we can and probably should recycle. The website talking about how economically infeasible it is to recycle food contaminated polystyrene. I think we need to be I think pretty up front about the fact that there is some kind of EPS you can recycle and some you can't and if it's going to be food contaminated the cost are really considerable and I.T. just not feasible. So we've got to find some alternatives and I hope that through our investigation over the next few months we can do that.

>> Mayor Reed: City Manager.

>> City Manager Figone: Yes, I just wanted to go back to why I sought the clarification from Councilmember Constant and, that is to the first item on Councilmember Liccardo's memo which we'll come back and receive formal direction on. It's -- I do not believe that that will require much additional work by staff, because of our current procurement policy. So we'll certainly be clearer about that when we come back. But right now I don't see that as much of a workload, is that correct Kerrie?

>> Yes, we're almost done, the language.

>> City Manager Figone: Thank you.

>> Mayor Reed: All right, let's take some public testimony. We have people here would want to speak. Now would be the time. I'll call your name. Please come down so you're close to the microphone. David Wall followed by Miriam Gordon and Allison Chan.

>> There are times when declaration by councilmembers giving accolades to staff surpasses my ability to understand it. This is probably some of the most incompetent work to date to protect our streams and storm drains that I have seen. Mr. Mayor, and the rest of you, notice is hereby given, you've been warned repeatedly of the problem with this plan. At the transportation and environment committee it is a joke how many deerferlings this had while the director of this program opted to bail out of San José for another jurisdiction. Under no

circumstances, Mr. Mayor, should you permit this baseline plan to go forward to the regional board. It should be deferred. And the baseline should be reevaluated with competent people making competent estimates as to the garbage that's going into our 30,000 unprotected storm drains that the T&E committee has just failed to take into account and failed to hold people accountable. I just don't get it, Mr. Mayor. You have close to \$400,000 of salaries off to my left responsible for protecting the storm drains. And you can cross the street and see garbage going into our storm drains. Now, if you want to give accolade for this, you should do it privately. And not publicly. Thank you.

>> Mayor Reed: Miriam Gordon followed by Allison Chan and Sandra Hayden.

>> Thank you, Mayor Reed and honorable councilmembers. I'm the California director of clean water action. These 238 letters from residents in Councilmember Oliverio's district income a consensus of opinion of most Bay Area residents and San José residents that are organizers talked to. They want and end to foam litter that degrades our neighborhoods an exposes them to styrene a carcinogen that leaches from containers in food beverages containers. This trash load reduction strategy you're considering represents hundreds of millions of dollars that will be spent in this city to control trash littler generated mostly by the take-out food industry approximately 67% according to a study we did last year with the City of San José. Now, even with all the street sweeping and expensive full-capture trash devices that will be installed according to this plan, small pieces of foam from food packaging, not transport packaging, continue continue to slip through the system, which is designed to capture pieces five millimeters and larger. So harm to wildlife and water quality will persist even after this is and focus on reducing the use of disposables in the food industry. I ask you to do four things today: Direct staff to take out food businesses in San José as soon as possible and not punt the problem to later on down the road. Encourage the regional approach at the same time, and pass a resolution today, or introduce one, to support a statewide ban SB 568, senator LowenThal's bill in Sacramento about voluntary actions with San José food businesses to reduce the use of disposable foodware .

>> Mayor Reed: Sorry, sorry, your time is up. Allison Chan San District 8 Hayden and Michael Wester field.

>> Hi gafn, my name is Allison Chan. I'm here council considering this important Bay Area issue and I appreciate the need for additional information and research into cost issues and so on but I'm really concerned about the time line about indefinitely 2013 coming back with information on this issue. So I'm urging you today to direct staff at the very least to come back with the requested additional information and a draft ordinance in fall of 202012 as originally suggested, and as suggested in Councilmember Liccardo's memo . Staff spent many months last year reaching out to the by 2013 and beyond, staff are likely to have to repeat that outreach that they spent over six months completing last year and that's really an unnecessary delay and an inefficient use of time. And while there's concern about San José going alone on this issue, we really don't believe that's the case. By moving forward with this policy you really are paving the way for other Santa Clara County jurisdiction is to follow. The city of sunl recently said they relied heavilly on same leadership on polystyrene to pass their own ordinance. As discussed in Councilmember Liccardo's memo the regional movement on this issue is real and growing. The Santa Clara County cities association now joins the RWRC and the Santa Clara Valley Water District in supporting EPS bans. And tonight Mountain View Santa Clara Milpitas and the -- and Milpitas are all discussing polystyrene and the county has directed staff to move forward. I've had a restaurant owner in Millbrae tell me that not only have his customers thanked him from removing EPS from his restaurant, but he is quoted as saying it has had no negative impact on his business. Achieve momentum going rather than delaying so I respectfully urge you to come back to ask staff to come back with this information and a draft ordinance.

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

>> I'm San District 8 Hayden a new member of the Sierra Club, San José cool cities team. I'm here to speak in favor staff's recommendations to move forward with eliminating polystyrene food containers. The Sierra Club's policy or the reducing waste is based on zero waste a principle that aims at reducing waste by design rather than managing it after the fact. The City's plan would be consistent with the Sierra Club's zero waste policy. Styrofoam never decomposes into the waterways and beaches. Often it ends up in the ocean to the detriment of sea life. The north Pacific gyre in the Pacific ocean has so much trash the litter outweighs plankton 6 to 1 oops waste also ends up in land fills disspoil the environment are the largest components of minimum solid waste stream estimated 32% in 2006. California senate bill 558 to require food service operators to phase out their use of

polystyrene containers is up for consideration this year but the Bay Area is not waiting for the California legislature. Several cities have already moved to ban polystyrene food containers. Restaurants in cities where polystyrene was eliminated encounter no problems in using biodegradable containers made from plant starch bamboo and plant fiber. These packages can match two-thirds of polystyrene is produced in text by the petrochemical industry. West Coast so support for a ban on polystyrene waste is support for local jobs. According to save our shores an organization that protects the Monterey bay national marine sanctuary they have found 50% less polystyrene along beaches --

>> Mayor Reed: Sorry, your time is up. (saying names) .

>> Thank you, in terms of healthy risk for styrofoam foam number 6 it is made with styrene, but styrene is completely different from foam. Styrene is naturally occurring, you find it in wheat, beer, strawberries, so if you are concerned with styrene you probably should be rks styrene exposure than foam does. In terms of litter the clean water action group did a presentation last year, it was on the 2011 study for litter, and it covered four cities including the City of San José and id found that 48% of all the litter is food service packaging. So you would think given all this attention on foam that foam would be probably number 1 at least in the top 5 for sure in the top 10. The reality is it's not. It was number 14 out of 18 different materials that they identified identified. In the San Francisco study that studies foam in the litter stream after they ban foam they found that there was a disproportionate increase in alternative materials because they don't work as well. If you think bit when you use a hot cup of coffee when you continue use foam you tend to use more than one cup or a cup and a Java jacket. that's what happened in San Francisco so this ban is really or any talk about elimination of foam or pursuing regional bans is really largely symbolic. It's not going to accomplish the goal. So we ask that you work with industry to address this problem, we'll address all litter not just foam. Thank you very much.

>> Mayor Reed: Jonathan Choy, Paul singerella, Tommy Kim.

>> Good evening, mayor councilmembers. Thank you for this opportunity. Jonathan choi with dart container corporation. We just appreciate the opportunity to address you and to realize this issue. The reality is there's a

perception issue related to our products. We're California based manufacturer so we're vested here in the State of California here in San José. And as a result, what we want to do is come to the table, and work request all of you guys on a public-private partnership to collaborate. And we've been very blessed that we've had some initial conversations with the ESD along with libels and we're hopeful that this two page document that gets to all litter and helps to step in the right direction to collaborate with the city the small business owners and the restaurant association and again looking at it more comprehensively. We've been fortunate to do this down in the county of Los Angeles, to bring that to bear' an to realize that we can do this in large jurisdiction. This is an important marketplace for us so we want to do this right, we're vested, we're here for the long haul, we're not going to walk in and walk out. We're hopeful that in this vein too that in prohibition of your products that you kind of put that on the sidelines and think about how we want to work together because we want to deal with this on the long haul and get you to the 2020 goal and it's a little bit frankly problematic when we want to go in with both feet and address the problem with you and encouraging prohibition throughout the county and the neighboring city so we just want you guys to think about that because we want to do this right and we want to be focused on the City of San José. Thank you.

>> Mayor Reed: Paul singerella, Tommy Kim, Amalio chimeora.

>> My name is Paul singerella from Latham and Watkins. I'm here today speaking on behalf of the industry. I want to make two simple points about the ban of polystyrene. One is the city is under no legal mandate from the water board federal law or elsewhere to ban foam. Short term trash reduction reform in front of you is perfectly legal without such a ban. The trash reduction plan as you know is required by the water board permit, the city is a permittee. As a permittee you are not required to ban foam. The permit does not even direct you to consider such a ban. The permit itself is issued under the federal clean water act. The clean water act does not require you to ban foam. Point number 2: There is some suggestion in some of the materials on credits that a foam ban will reduce trash up to 8%. That claim is without citation. We are aware of no study to back up that claim. The claim to us is contrary to experience and also logic. Please not be laboring under the misimpression that trash reduction. That's unlikely to be did case and it certainly has not proven to be the case. Thank you.

>> Mayor Reed: Tommy Kim, Amalia Chimorro,.

>> My name is Tommy Kim and I'm the director of Nepco, we are a recycling company in Chino California. We manufacture the styrofoam recycling machine, we buy the materials with the food size servicing styrofoam as well as packaging foam as well and we make it into a final product and I'm just here to let you guys know that there is a market for these food side dirty or clean styrofoam or packaging foam that there is a market for it and I'm the proven fact that there is a market for it. That I'm -- there is a market for it so letting you guys know that. Thank you very much.

>> Mayor Reed: Amaliar Chomorro.

>> We would like to express our support for the public private partnership that has been presented to you by the food packaging industry . And we urge the council to take this proposal into consideration in lieu of a ban. We are opposed to a polystyrene ban because this would force eating establishments to pay more for alternative products that would not meet their operational needs in terms of functionality and performance. Performance of a ban few cents more and this is arguable but the point is that this view self take into account the cumulative effect of rising cost of food labor and operations that food restaurants currently bear starting a new restaurant extremely challenging. furthermore many of our restaurant members have checked with our suppliers of food service wear and the alternatives cost on average 2 to three times more so it is an extreme cost. Ever penny counts in the restaurant business when you're only making a profit of 2 to 3% after taxes. Furthers more a ban on Polly styrene may not perform as well and cost significantly more. In closing we urge the council to work with the food packaging industry and the food service industry to achieve the proposed in the public private partnership. In lieu of a ban that will only result in an economic burden on businesses. Thank you.

>> Mayor Reed: Ron pents. Bill Wong, bob Laurine.

>> Hole, my name is Ron pents. I represent chick Fil A Inc. Long term strategic environmental goals at San José. The first one is that we are proud to have invested in San José's fired LEED restaurant and we really want

to pioneer the green movement here so we support your long term goals in that endeavor. I have zero waste. That's a quick service restaurant saying that and we realize that single use products are biggest enemies and we've taken measures to attack that issue and that leads me to the third and possible remedy for this situation. We have done recycling testing in Southern California with very favorable results. We use that -- the products that come from the recycle cups to actually put -- we purchased synthetic wood that actually goes back into our stores that we are building right here in San José. We don't have all the answers. But we really want to partner with San José with this issue. We realize it's a big issue. We have the same issue to face all over the country. And we'd like to start right here in San José to help with this ongoing product of trash. And with zero -- with a goal of having -- with a goal of doing the same thing you want to do, we'd like to partner with you in the future. We want to put more restaurants here and we want to be part of the remedy. Thank you.

>> Mayor Reed: Will Wong, Bob Lorene, José Romero.

>> My name is Will Wong. I'm proud to say that I will be the first small business owner of a chick Fil A how is it going to impact my personal and professional life? In 2011 I was part of a chick Fil A paper cup test and one of the major results we found was our guests were using more waste to wipe off the sweat off the cups to use them as insulation. In addition to that the paper cups were an additional 7 cents as opposed to our foam cups that we use right now. We use more than 20,000 cups a month so that would equal out \$1500 monthly additional cost you equal that to a year, that would be \$18,000 additional cost that I'll have to incur and budget out of. Not only will that fake my wife Karen, our three year old son Brandon, and our unborn bash girl on the way,' not benefit as well. Because I rather invest that \$18,000 in local communities, nonprofit organizations, sponsor them, the school organizations, and all educational levels. Community little leagues, I want to establish in San José leadership programs that develop life skills for our team members that they can apply in all different aspects of their lives. So please consider opposing the polystyrene ban to give us more time to produce a cost-effective product that will exceed the Green Vision of the great City of San José. Thank you.

>> Mayor Reed: Bob Laurine, José Romero,.

>> My name is Bob Laurine. We represent manufacturers of both polystyrene foam products as well as paper products that we've been talking a lot about. My concern is increased cost to restaurant owners and primarily these are family-owned restaurant owners. By going to alternatives to polystyrene foam. We sell alternatives to distributors so we have these products. Typically they are 70 to 100% plus more expensive than polystyrene foam type products. And with typical customer as being single digit profit margins that has an impact and will have an impact on these family owned businesses, these alternatives that we sell, and we represent, are primarily manufactured overseas. The primary most popular most used alternatives now are coming from overseas. And not domestically. I heard about restaurants, perhaps forming a co-op and perhaps that would help their cost significantly. I've been in this business for 25 years, and I know where costs are. It would be very minor help to them by forming a co-op together in that area. Thank you very much.

>> Mayor Reed: José Romero, Marcelino.

>> Thank you for the time. I'm Alex Antiveros actually. The gentleman Marcelino and Mr. Benitez had to leave. I was going to translate for them. They are small business owners here in the City of San José in the Eastside. I participate with a number of different associations, the Story Road business association, on their board, I participate with the Hispanic chamber of commerce and a number of other small business groups. I'm here speaking on behalf of them in terms of what it represents to the small business community. I think most of you have heard the issue that it is an undue hard stoip these folks. And we all know the economic climate, how it is really challenging for these small business owners to keep their doors open. So we are asking that you do whatever you can to help sustain and possibly stimulate the economy by -- and especially by not really considering a ban here on expanded polystyrene. I have some letters, also of support from the different groups, the different chambers of commerce, like La Raza round table, and different organizations, I'd be happy to leave these with you. Thank you very much.

>> Mayor Reed: Letters to the clerk please. Michael Gutierrez, Aron Racindez, Kevin Kiddles.

>> Good afternoon, mayor and councilmen. My name is Mike Gutierrez. I'm speaking on behalf of Casa restaurant here in San Francisco a presence seem to me you already have somewhat enlightened view of the problem and you're also very sensitive to the economic burdens that this represent so again I thank you for that. I have owned and operated my own restaurant in Pleasanton for 30 years so I know very well the pressures that exist today. The current economic climate. And the burdens that even a small increase in operating costs would -- how they would affect the restaurant. So we're not opposed to the overall betterment of the environment but we would like to have an opportunity to use a product that would satisfactorily accomplish what foam seems to do right now if keeping hot foods hot, any liquids also contained, therein. So again it's not a question of not wanting to help here but we need an alternative that would be cost effective as just an effective product for getting the job done. So again thank you very much.

>> Mayor Reed: Aron Racindez, Kevin kiddles, Ed McGovern.

>> Thank you, Mr. Mayor and councilmembers. I just want to thank you Councilmember Campos, you describe more or less what it is, what's going on in our district. But also, on the Story Road business association, we've been debating this through e-mails. We didn't have a chance to sit down as a board and debate about this. But my own experience is at this time 111 restaurants couldn't come over here because they are the ones who are involved. Last year I was involved in niments where they recycle the styrofoam. It is a very minimal thing but they were not required to recycle, nobody told us to recycle but we are doing it. The city instead of banning this from -- speacialt hurting a small business it would be good to get together and have more ideas how to recycle this form of package of the restaurants. And don't forget, that when we're talking about a small business it's not only the small business, it is the small restaurants, and let's work together, and let us desist on our organization. Thank you and I hope you can postpone this.

>> Mayor Reed: Ken kiddles, Ed Mcgovern.

>> I will save those comments about the plastic bag ban until the open forum. Right now, I want to talk to you about the polyethylene ban. I want -- I think that this is another example of the city council going and doing

something at a they have no business getting involved in. They -- it is something that does not need to be regulated. The city council needs to -- needs to start doing their own business, they should -- you should be doing city business, rather than getting involved in things that have -- that you have -- that don't have anything to do with them city business. Thank you.

>> Mayor Reed: Ed McGovern.

>> Good afternoon, mayor and council, Ed McGovern on behalf of the American chemistry council. The inability to recycle food service material. I know that that is a that is an impression that some people had. I want to make sure you understood that is a misconception. They are actively recycling food service polystyrene foam in Southern California. A gentleman from Nepco was here, just want to make that point that can be done. Number 2, I want to appreciate what's transpired since the tynd meeting in December, we appreciate that there is been some movement that way and some flexibility. I do want to reiterate what was said earlier, that this notion of a council wide effort to ban, and a support of a state wideto effort to ban makes it difficult for the folks from the industry to really come to the city with not only intellectual capital and experience, but also, with financial resources. They are putting financial resources in Los Angeles to help the city reduce their trash overall, not just expanding polystyrene. So again I just want to reiterate, that makes it a lot more difficult. We're going to do it but it feels like we're negotiating. The city's got a foot in one side and a foot negotiating with us. So I just want to reiterate that. And thank you, thank staff for their listening to us and listening to the concerns of the small business community. Thank you.

>> Mayor Reed: That concludes the public testimony. We have some additional council comments and discussion. We do have a motion. As modified by Councilmember Liccardo. I'm still not sure how this will help us with trash. I get some of the other issues, but trash, I don't see it. If we substitute one kind of something for another kind of something we still have something in our waterways and our creeks. So I'm very interested in how a product the problem is people throwing it. And it's not the people who are in the restaurant business. Because I think they have the capacity, either to recycle or get it into the landfill. I don't think they're dumping it into the creeks. But I understand there are other issues around this that staff is looking at. But I don't think changing the

composition of the takeout package is going to do anything except change the composition of the litter in our creeks. Which I suppose in some ways may be better but it's certainly not going to eliminate our litter. Where it's not like plastic bag bans, where if you don't have plastic bags they're not going to end up in the creek. I'm going to support this, industry and the locality restaurants who have offered to work with us to try to solve the problem. But we have to be cautious about what is the problem how we define it because adding another \$1500 or \$2,000 a month to the operating cost of the restaurant is a high price to pay for something that won't solve the trash problem. I'm going to support the motion because I think we're moving in the right direction, let's stop buy the EPS for the city which was the amendment and that will come back to us later. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I appreciate your comments that it's not about trash load reduction. That's why it's not being recommended by trash. I think we recognize there are environmental issues well beyond trash load reduction and trying to substitute what is not a biodegradable with something that is biodegradable. That is receivable preferable. I want to start with comments what we left off with Mr. McGovern, Mr. Choy mentioned it and others. As I understand it, are we now supporting the lowenthal bill?

>> We have not taken a position on the lowenthal bill. .

>> Councilmember Liccardo: Was there any discussion with the lobbyists or lawyers or other people in the industry about our oles and their willingness to support a partnership or engage in a partnership of some kind?

>> Yes we -- Mr. McGovern and Mr. Choy and others from dart and ACC have two page paper that another speaker referred to which talked about a pilot program where we might collaboratively work to reduce litter in our community. We haven't aligned on what those might be. We're very open to that partnership. One of the -- one of the points that they'd like to see to really make that partnership move forward for us not to support legislative action, and you know, we -- we're not supportive of that but we would like to fast track the pilot and try and get some results more quickly which would prove there's an alternate solution.

>> Councilmember Liccardo: There's financial support with conditioned our willingness to back off supporting statewide legislation?

>> That's the feedback we received.

>> Councilmember Liccardo: Okay. In terms of understanding, I know we have a gentleman from Nepco manufactures recycling equipment, last asserted this is something we can recycle. As I recall we had a couple of our own recyclers in San José come to the T&E meeting in December, is that right?

>> Yes, we had representatives from Greenteam as well as Zanker road who did provide feedback at the T&E committee about their challenges with recycling food-contaminated foam and that they've had on occasion separated the foam out, had markets look at them and basically were told that it was too contaminated for them to accept.

>> Councilmember Liccardo: Thank you, Elaine. I guess what's important there is I understand that certainly some may be manufacturing this equipment and asserting that this is a viable alternative. And you know, a couple of speakers have said this is just an impression some people have that it's not viable economically. But the people who have the impression that it's not economically viable are in fact the people doing recycling in this city, I think we need to listen to them, those businesses know better than anybody does, whether that business is or is not economically viable. I look forward to getting more information. Let's face it 53 cities and counties are already in front of us. This is not exactly breaking new ground. I think we can move forward on this and I hope we can do it soon.

>> Councilmember Nguyen: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I want to thank some of the nonprofit individuals who came to speak on behalf of their nonprofits. I know you worked side by side on the city on the plastic bag ban. I think that at this point, as those in the industry both in terms of the restaurant industry as well as those that are -- that produce the

polystyrene, I think there's some time now and there's burden of some of the questions that were raised or food tamed products and the ability to recycle them, that kind of stuff, that is the kind of information we need to know and we need to find out the exact facts on that. Maybe our local recyclers don't know about it because they haven't done it, we have to get feedback from our local recyclers as well if there is a new technology if there's an existing technology allied has that machine and is doing it but I don't know to what extent it's soiled material or not the time we have now that's what we need to do. Let's take all that time now and make sure that we have a policy that really reaches the -- an appropriate goal. And you know I think that in terms of going forward, you know we know that we have to reduce our waste stream. Of all kinds, regardless whether it's polystyrene or whatever replaces it and I think that for example, the restaurant association make reference to the fact that yes, there maybe an opportunity and I'm sure the restaurants would be cooperative in a program that would recycle it. The problem is once it leaves the restaurant's door how do we get it back? And that is the problem. It was the same problem where the grocer's association said we're 100% behind taking back the plastic bags. The problem was once it left the store they never came back and that was over a couple of decades of time that the efforts were made the outreach was made there was cooperation from the grocers it just didn't happen. So I think that everyone up here wants to make a policy that works that is not disruptive to small businesses. And I think we need to have the facts to be able to move in a direction that's positive. But I think there are, the reality is that from the perspective of the polystyrene coming into our community you know we have to be cognizant of the long term impacts it has. And so if the industry has suggestions of I think this is the time we need to hear all of them. I think some have already been relayed to our staff but in the next few months will be critical before we make our final decisions going forward. And certainly in a partnership with other agencies throughout the county.

>> Councilmember Nguyen: Councilmember Oliverio.

>> Councilmember Oliverio: Just wanted to comment on the mayor's comment on the subject of litter. When you are talking about incentivize i.e. businesses or individuals that the reusable container is probably the best bet. And I want to compliment some of the birses that allow that. There are health code issues, I want to compliment those businesses that do it. And again you go back to that -- it's a greatly film it's called bag it. They

talked about why not have the traditional coffee cup again versus having to put everything in a one life single use container when you could have multiple. So choice.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. I just want to go back to something that Sam mentioned because, you were talking about the recycling and I've heard the completely polar opposite discussion, and particularly, we heard about recycling that's occurring in Los Angeles, that's doing it right now or Southern California. When you come back, whenever it comes back next time, if we could get maybe a short report on what they're doing down there and what's different than what we're seeing in our local recycling efforts, because I just have a hard time reconciling polar opposites. And so the more information the better so we could each get a firm grasp on where it actually is.

>> Mayor Reed: I think we're done on this item. We have a motion. Made by Councilmember Liccardo. Half hour or so ago, whenever it was. Based on his memorandum so it shouldn't be too hard to remember what it was, slight modification on that motion. All in favor, opposed, I count none opposed so the motion is approved. Thank you very much. Staff we'll see you again on this I'm sure. That will take us to item 8.1 a spending plan for the supplemental law enforcement services fund. Motion is to approve the spending plan. Do we have some requests from the public to speak? Do we need to hear from the department? Want to snatch defeat from the jaws of victory or --

>> I think we're here to answer questions.

>> Mayor Reed: No questions from the council. We do have a motion to approve a spending plan. It's always easy to spend money when you don't have to take it out of somebody else's hide. We appreciate the federal funding we get for these items. All in favor, opposed, none opposed, that's approved. Item 9.1, it's a joint city-Redevelopment Agency board meeting to take actions related to the dissolution of the Redevelopment Agency. We'll take a moment for the staff to get set. I'd like to start by making a couple of comments before I turn

it over to Richard Keet. There's no doubt that the state of California has the power to terminate redevelopment agencies. The legislature passed the bill, the governor signed it and the Supreme Court said they can do it. There's also no doubt that local government is losing its most important and most powerful tool for job creation. And it's most important and most effective tool for the creation of housing, particularly affordable housing. We certainly have debated the wisdom of that and from the city council's point of view that's a big mistake for the State Farm, will have a big impact on our capacity to create jobs and to provide affordable housing in the City of San José. Nevertheless, the state does get to make the rules and we are in the process of trying to implement those rules. But I wanted to just go back briefly, and talk about what we've done as a Redevelopment Agency. Which we've been engaged in, for more than three decades in the City of San José. If anybody's interested, you can look at the agency's historic capital cost report as of last June 30th and you may wonder, well, where did the money go? And I think it's important to note that out of the \$3 billion over the last three decades, the largest single item that we spent money on was for housing. \$900 million for housing, about \$600 million was for the specific affordable housing programs. Spent \$190 million on industrial areas. \$73 million on downtown offices in support of that construction. \$150 million for the joint library, \$140 million for HP pavilion. \$180 million on the convention center. Strong neighborhoods initiative, \$100 million. Highways 85 and 87, \$112 million. Spent \$53 million at story and King Road and complete transformation of that. \$34 million for the Mexican heritage plaza. And we gave to stlark. So yes, we've done a lot, there's a lot we can be proud of and I think everybody probably remember the then and now video that we showed a couple of times, it's run on our network, we showed it at the state of the city convocation, and that is a graphic demonstration of how big an impact that our Redevelopment Agency has had on the City of San José. So the State's going to take that away. Bad move. Bad idea. Bad policy, bad impact. But nevertheless it is the state of California and they have the right to do that. But we won't be completely out of the housing business. We won't be completely out of trying to generate jobs. What we need to do is to think about some of the things that made the Redevelopment Agency the best in the state. And that's not just my opinion. That's the opinion of speaker John Perez, it's what he told me last year when I was in there and he was talking about redevelopment agencies and the fact that if everybody was as good as San José they wouldn't be having the debate in Sacramento about eliminating agencies. How did we become the best in the state? Besides the fact that we had money to spend, we spent it very well and we had a staff that was very much interested in figuring out how to get to yes, to support private sector investment, in

housing, and industrial and commercial and retail and all the areas. But getting to yes. And that is something that we need to take into all the other departments that are dealing with development issues. Because that was one of the things that made it possible for us to be successful and we need to continue that. And we do not need permission from the state of California to do that. That's just something that we need to do on our own. And I think we can. We've seen that in many areas but we need to take that to heart and understand that that's a key part of why our Redevelopment Agency was successful and something that we do not have to give up. Yes we're going to give up a lot in the way of tools and the ability do things but the staff the agency and the accomplishments and I want to acknowledge that and thank you for that and I will now turn it over to at least one member of that staff, Richard Keet and I suspect we will hear from more of the staff as well.

>> Thank you mayor, for the entire board and council. I've said that before. It's been a pleasure serving this council and the past councils in the past. Assembly bill elimination of redevelopment and what it created redevelopment, they can terminate it. And on December 29th, 2011, the state Supreme Court validated that option, and set forth what's going forward today, the dissolving of over 400 of redevelopment agencies in the state of California. wind down redevelopment and pay off debt. We'll go into a little more detail further in the presentation. It also establishes a semi independent oversight board to oversee the successor agencies. It requires additional review from state agencies, including the state Department of Finance and several county departments as well. Thank you. It allows the city to elect to retain housing assets and aspects that Leslye will go into later in the presentation. Unfortunately the worst of all it has many unintended consequences that cities and counties that have redevelopment agencies throughout the state will have to deal with over the next year or two. One thing we will be doing is providing cleanup legislation, the finance department, housing department successor innocent. The attorneys Betsy Shotwell and our legislative analyst in Sacramento, will be working on language to try to straighten out this bill and the unintended consequences that it purports or unfortunately will set forth. The outcomes from today's action are the city will formally assume responsibility as a successor intent to the former Redevelopment Agency. Several people have asked me what is the name of this successor entity? It is the City of San José acting as the successor agency to the Redevelopment Agency of the City of San José, from now on I think we'll just say successor agency. The -- all the low and moderate housing assets and functions will transfer to the city. Administrative actions will be taken to facilitate a smooth transition. And my guess is that will

take many months to do. Because as the second largest Redevelopment Agency in the state, both on assets, tax increment, just the number of obligations we have, is quite enormous. The successor agency's responsibilities are first and foremost to wind down the affairs of the agency, including making payments on enforceable obligations. We have eight pages of enforceable obligations, that's currently on the Redevelopment Agency Website and the City's Website. And those obligations will be amended on an every six month basis. Of course we will have to manage those enforceable obligations, and all the contracts we have. Including all the debt we have and as I said the hundreds of obligations that are listed on the city, agency side, and then on the housing side. We'll staff the oversight board. And I'll get into more details of the oversight board in a few minutes. But one of the early things we're going to have to do is generate that oversight board on obligations, legal requirements, financial reports, lease agreements, the whole litany of activities that the Redevelopment Agency has been engaged in over the years. The successor agency can use, the law says, the successor agency can use up to 5% of its tax increment this year and 3% the year after. Right now, the way the law is written, though, it says that is at the bottom of the list of all our obligations which is one of the clean up language we'll have to address. For this fiscal year, I want to make it absolutely clear that the agency's funds can pay for all the administrative activities of the successor entity. The structure of the successor entity, we have several specifications, it is a separate entity. The managing director as proposed before you would oversee the day-to-day activities and report to the City Manager and executive staff. The proposal also is to retain necessary agency staff which would be at this time 10 people, and the City Manager, and myself, would evaluate that every six months, to see what the requirements are needed. Of course, the city, the city staff is an integral partner of this operation. We would not be able to do without City Attorneys and the finance department and the budget department, as well. The oversight board responsibilities include the dissolution of the former agency, disposition of all our assets which I said we have 34 real estate assets alone, termination or renegotiating of existing agreements, which there are many. Approval of payments in accordance with the approved payment schedule I alluded to. You might hear the term EOPS and ROPS, EOPS stands for enforceable operations payment budget on a periodic basis , the structure of the oversight board contains seven members. One is the mayor appointment and the mayor has stated he wants to be in that position, which we think is critically important to the successor agency and his leadership. One employee representative, that the mayor will appoint from a past employee of the agency. On the county side, is one appointed by the Board of Supervisors, which we have word is Dave Cortese has appointed --

requested that appointment. One public representative, which actually is going before the board, the county Board of Supervisors, which action has already been completed, Amahd share ma who is also a county staff employee, one appointed person from the Santa Clara Valley Water District, which is the largest district entity in the county and Don Gage is that appointment. There will be one appointment from the chancellor of the California community colleges and one appointee from the California when the oversight board would be in place. That date has not been specified yet. But the law states that it has to be in place by May 1st or the governor can appoint -- make any appointment that isn't made by one of these entities. I will now turn this over to Leslye Corsiglia, the director of the housing department.

>> Leslye Corsiglia: Thank you, Richard. So the legislation abolishes the low and moderate income housing fund which as you know as set aside has been required to set aside 20% of its funds for affordable housing purposes. And if any unencumbered 20% balance is made, the legislature would sweep those funds and obligation or distribute to other taxing entities. However unlike the nonhousing activities of the RDA, the housing assets and functions of the former Redevelopment Agency are preserved. Legislation provides that the city can retain these functions or that the functions and assets can be transferred to a local housing authority and in our cause we have two. We have the San José housing authority of which you also serve as the board of directors for the San José housing authority and then we have the housing authority of the county of Santa Clara. We're recommending that the city retain the housing assets and functions. The city has already administered the housing function since 1988 through a cooperative agreement. The current 20% loan portfolio includes nearly 1,000 loans. It's valued at more than \$650 million. There's a revised list of assets that went out. We had one included in your packet and we've revised it to make sure that it's all inclusive. It's fairly lengthy. It includes now grants, conditional grants and forgivable loans as well as projects with affordable restrictions where we no longer are owed any money. So in addition to managing the loan portfolio there are ten projects under construction that the department would continue to manage. Also it's important to note that because of the city's active program there is nor unencumbered funds in the housing funds so there is no funds that would be swept. The city will manage its loans, assets and functions with loan repayments and other funds from the loan portfolio. So now, I'm going to go through a series of different things that we were asking of you today. So there are a number of budget actions that we need to take to enable the successor agency and the successor housing agency to continue to

function. Council, and the council and its capacity as successor agency needs to establish two funds. One is the redevelopment obligation retirement fund which is for the successor agency, and the other fund is the affordable housing investment fund, which is for the successor housing agency. Additionally we need to take action to create new appropriations for both functions. And we need to make additional appropriation actions for a variety of different funds in the housing department. We do have budget staff here, if you desire questions, if you have questions about that. So the Redevelopment Agency board, as it shows on the slide, needs to take three different actions wearing the board hat. One is to formally dissolve the agency. One is to transfer assets to the city as the successor agency to the former Redevelopment Agency. And a third is to transfer the housing functions and the assets to the city. The city council needs to adopt resolutions designating the city as the successor agency, electing to retain the City's housing assets and functions, establishing the new affordable housing investment fund, and taking appropriation, ordinance and funding actions to make adjustment to various housing department funds. And lastly, the city, acting in its capacity as the successor agency, needs to adopt resolutions that establish the redevelopment obligation retirement fund that appoint the City Manager as the executive officer of the successor agency, that designate the low and mod housing fund as a successor agency fund and also, to take appropriation actions and funding sources amendments to the redevelopment obligation retirement fund. To close. There are a number of things that you'll be seeing this group of folks a lot over the course of the next few months. But the first thing that we need to do is come back to you again next week with, as Richard mentioned, the document called the enforceable obligation payment schedule. That's the document that we will need in order to pay bills between now and the time that the oversight board is in place. And we have a payment schedule that they have approved. We also will be coming back, the Redevelopment Agency will be coming back with budget amendments that it needs to take also on January 31st. February 1st is the date of dissolution. On March 1st we'll come back or before March 1st probably we'll come back with that recognized obligation payment schedule and then as Richard mentioned the oversight board must meet before May 1st or else the governor will make those appointments. We're certainly hopeful that the board will meet much sooner than that so that we can take actions. Until that date there are a lot of actions that we still cannot take so we are hopeful to expedite that. The only other thing we don't have on the next steps slide is that from the legislative standpoint, we will be participating, as Richard said, in cleanup activities. And there are a number of cleanup items that are really important to the city in order to implement these programs. And then we expect that there will be a lot of

legislative discussion about the future tools that cities can have for economic development, redevelopment and housing. And we expect to be very engaged in those discussions, so that San José can continue to do the work that we've done consistent with the mayor's opening remarks. And with that we have our team here. Norberto Duenas who is leading the City's effort on this transition, and Jennifer Maguire from the budget office and other staff in the back.

>> Mayor Reed: Thank you, City Manager.

>> City Manager Figone: Thank you mayor. Let me just wrap it up by making some final comments. Your staff report reflects the outstanding efforts that your city team and others have done to get this very complex set of transactions before you today and again next week. And so I did want to take a moment to thank them individually. If you could just bear with me. From our city attorney's office and general counsel certainly Rick Doyle, Patty Degnan Susan Keet, Abe Ann Leslye Corsiglia, Jackie Morales Fer Rand. uh Jennifer Maguire and fch Betsy Shotwell and last but not least Norberto Duenas who Leslye has just indicated iech asked to serve as day-to-day executive oversight over this team so they have somebody to assist them on a day-to-day basis but certainly with your approval of this recommendation I would serve as executive officer. And in that role, I do commit to you that the full team will handle this transition as effectively as possible with the best interest of the city in mind. And I personally commit to you that we will handle the transition sensitively and with sensitivity to the fine RDA employees who will continue to serve in the face of a transition that will be, for some personally very difficult and they've been through a lot already. I do think that the mayor's appointment, that you I believe will entertain next week is absolutely critical. The oversight board has a very important role and a very powerful role, and we need to ensure that when we go into those meetings, we are very well prepared. We would like to flow recommendations through our council to the degree time permits. Because it is absolutely critical that we continue to be able to pay our bills, and ensure that the finance community continues to have confidence in the city. Because we have a lot of debt to continue to pay off and work through. So with that, mayor, the team is ready to answer any questions you might have.

>> Mayor Reed: Thank you. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. I don't have any questions. I just want to make some few comments. First of all I want to echo the City Manager's thanks to our outstanding staff. Thank you very much for the continued extraordinary work that you've been doing in terms of getting us transitioned into the successor agency. I -- you know prior to the current Governor's election I never thought we would see this day where we would actually have an election and now potentially approving the disillusion of the RDA. I think I concur with the mayor's general comments about the extraordinary opportunities that the RDA brings or have brought to the City of San José. But I just wanted to point out a couple of extraordinary opportunities that took place in my council district. Since its inception we have had, we have built 14 family, four senior and three single resident housing just in my district alone. And I think at a time like this when we are seeing foreclosures everywhere, more so than ever, we need affordable housing for families who otherwise wouldn't have an opportunity to move into a new home. And so these are the kind of opportunities that when people talk about trying to achieve the American dream, this is it. For a lot of families in my council district as well as in Sam Liccardo's and also Xavier Campos' district. And in addition to affordable housing you know, one of the things that really brings the communities together is the transformation of neighborhoods, eliminating blight, getting people together, and through our neighborhood action coalitions, the NACs, we have three, council driks with 15 neighborhood associations and I've never seen people get so excited about working together and really trying to rebuild their community and their neighborhoods. And none of that would happen without the RDA. So just for that I'm really grateful for work that staff has done and continue to do. And just lastly in terms of economic development, we have the Monterey corridor which is a very special place in our city. And with this corridor alone we have attracted over 280 businesses which employ over 7,000 people. Again, it's just priceless when you think about the impact, the positive impacts that the RDA has done for the city and for specific council districts in our city. So it's really a sad day for us to even, you know, potentially taking this action. But it is what it is. And I just wanted to thank Richard Keet for taking on the helm and also thank Harry Mavrogenes for what he has done in getting us to the transformation of the city. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. A lot of things have been said about easy presiding over report that's the dissolution, doesn't happen very often. I can tell by the consensus of everyone but appreciate the hard work. It's been noted that Los Angeles is choosing to not be the successor agency. Could someone maybe Richard go on the advantages or the disadvantages? It appears from what you said that we would not be paid for the administration, so that would be coming out of the General Fund, to administrate that. And obviously L.A.'s just saying, I'm not going to do it, you can go do it. And I'm curious because what I've heard is that well, we'll be able to manage it better. And I'm curious because like if on some of the things that are moving forward there's like a facade grant or a development of a certain area but the city council still retains land use, and trying to think what could go wrong on a facade grant that is already obligated or in a land use thing?

>> Well, thank you. I think there are several things. L.A. of course has 192 employees with a potential impact to their General Fund of \$110 million just this year. Whereas, I said, we have the funding in place to carry us through June. And as I said, we'll evaluate staffing needs at that time. But regardless, if we don't do this as a successor agency, the oversight board can make decisions and I think as the staff, and with the mayor's leadership on board, we'll have the best opportunity to specify all the intricacies of our agreements. We have some very complex development agreements, we have some very complex loan agreements, our for-sale assets, the timing of that is critical that as much money stays within the city to pay obligations. Because if there's a surplus the way I read the law, attorneys correct me if I'm wrong, if there's a surplus that gets turned back to the county. We want to fulfill all our obligations from the smallest facade to the largest debt bond payment. So I think the more staff involvement we have, the more explanation, the more we can educate the oversight board, the better off we are.

>> Councilmember Oliverio: And then when it comes to the oversight board changing the order of the enforceable obligations is there any -- can they just decide this is how they want it to be?

>> I'll let the attorneys address that too. But there's some latitude, my understanding obviously bond payments, both senior and junior bond debt is at the top of the list.

>> City Attorney Doyle: There is an order. The order is, in our view, more obvious than not. There's going to be some gray areas when we get down to the various lower level, more subordinate debt. But it is important and this is another reason why you want some kind of influence, in terms of we have obligations, with the existing bond holders, clearly there's senior debt and bond trustees will have to make sure they enforce that. So that if, in fact, the oversight committee decides to step ahead of it with some other obligation it's going to be up to not just the city but bond holder folks to step up and say, you know, wait a second. And so I think it's very mindful there's an orderly disposition. There's a fiduciary obligation on the part of the members of the oversight board to carry out their functions so I think we're going to hold them to that and it's just -- we're going to try to make it as smooth as possible and that's another reason why I think we believe we should carry forward as successor entity.

>> Councilmember Oliverio: And Rick says we're treading into new territory, the council enforceable obligations does that have some other legal footing or at the end of the day you can just change ?

>> City Attorney Doyle: I think first are going to be the enforceable obligations prepared by staff, getting the oversight committee and having them sign off on it. And where we have a few questions we'll address them.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I want to echo the thanks and particularly thanks to Richard. Because as we see up and down the state, cities are going through real life fire drills now. And this has been an incredibly orderly transition, at too time when you and your employees are dealing with a very reality, I'm grateful for the way you've handled this and recognizing we're still a viable city moving forward and I really appreciate all your good work and the good work of your team, Abe and everybody. I had a couple of questions. I should also mention by the way, I'm incredibly grateful for the great work RDA has done historically, I think Madison really said it well, no community should be more grateful, no more than mine, for the incredible work of the RDA. I can imagine for a lot of employees, this is a time when I know we've lost already the great moornlt of RDA employees, but planning your own funeral is no fun for anyone and what's happened here I think is remarkable because everybody has really come together to try to see how we can preserve what we've got,

recognizing it's difficult. The one questions I had came up on page 7 of the report. And it's -- it relates to the housing projects or series of infrastructure and housing projects in North San Pedro, and you know from what I can tell based on our meetings that we had last week, it looks like this is imminently going to move forward. But I'm wondering why we wouldn't move that into housing rather than keeping it in the successor agency. Given the fact that I think we'd all agree we'd want more autonomy within the city over that project than having to get the approval of people from you know the Water District, the community college district, whoever the representatives might be on what we really recognize as very much a city-RDA project. Is there any flexibility for us to decide that that North San Pedro moves into housing rather than to the successor agency?

>> City Attorney Doyle: I don't know. It's April 80% obligation. Tom, it's your project.

>> I think that's the way we've been reading the law is that housing assets were 20% assets. Versus the North San Pedro project is totally 80% funded. And the property was acquired with 80% funds.

>> Councilmember Liccardo: So even if it relates to housing, we have an affordable housing project from first community within that development. I'm wondering --

>> City Attorney Doyle: Counsel we should revisit that oops as to whether or not you want to quirted it to the housing function within the city. Let us caucus and we can look at it. We have a week.

>> Councilmember Liccardo: Yeah, I appreciate that, I don't need to tell anybody here least of all Tom that project has been unbelievably complex already, the last thing we need is more chefs, just to make that broth just impossible to cook. I'm really helpful to find a way to just keep it within the city. I certainly hope that our friends in Sacramento will finally release the \$24 million grant soon. In terms of the \$4.4 million of housing Leslye I'm trying to understand clearly, are we in the clear, in terms of being able to use whatever revenue we generate from loan repayments or other sources there in that fund, that we can use that nexus not for administration but we can actually use it for new loans or new projects? Are we still figuring that out legally?

>> Leslye Corsiglia: Well, the section of the law on the -- what we're calling the successor housing agency is very vague. It does not include a lot of words. And it says that the city or whoever the successor housing agency is, can continue all the functions of the prior -- the Redevelopment Agency had, but it does not call those out. We would prefer to have a little bit more clarity there, and so we do have some language that we tried actually this fall and we're trying again to put into law. But that is our -- that is our premise at this point. Put we would prefer clarity.

>> Councilmember Liccardo: Okay. And if for some reason the padilla bill, I'm not sure the status of that, I understand the governor is not warm to that. But if the padilla bill actually goes through adjustments we want to make?

>> City Attorney Doyle: We would have time before we would formally go into the successor entity. The idea is we are moving forward with this effective February 1. I think we need to make sure the resolution says effective February 1 or the ultimate date as required by law.

>> Councilmember Liccardo: Okay, that would be helpful, I'm sure we would all want to have another couple of weeks to try to work this out.

>> Leslye Corsiglia: I would say you would expect to see cleanup legislation, regardless it's February 1 or April 15th. Hopefully if there's delay, fixes can be fixed before the date of dissolution. But I think even if it's afterwards there is a lot that needs to be fixed.

>> Councilmember Liccardo: Okay, thank you. I wanted to note for the record I have a conflict and I'd like to ask whoever the maker of the motion might be to bifurcate this item. To two motions, one motion dealing with only the issues related to the Santa Clara County housing trust because I understand there's some dollars there and another motion having to do with everything else which I would be happy to vote on recognizing I have a conflict open the housing trust issue. Just make that request.

>> Mayor Reed: Do we have a motion on the floor?

>> Councilmember Constant: I'll make the motion first I'll bifurcate it to take the nonhousing part first so that's my motion to go with the staff recommendations.

>> Second.

>> Mayor Reed: Okay so we have a motion to deal with everything except the housing trust part. Further discussion on that? Councilmember Pyle.

>> Councilmember Pyle: I really don't need to say anything that's very germane to the subject but I would like to express my sympathy to all of you who have been dealing with a funeral process for many, many months now. I can't believe how resolute you've been, watching members of the Redevelopment Agency come and go. It must have been just horrible. If you have a little bit of posttraumatic stress syndrome we all understand that. hopefully you'll get forward to more productivity and a happier ending. I want to thank you very, very much for how you've hung in there. It's been absolutely initial. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you mayor and thank you to your earlier comments speaking to the value of the Redevelopment Agency, you put it well and I'm not going to go through there. First things come to mind is the valuable experience I had for six years working there. I'm a better employee and a better councilmember for having done that. All the work that I saw during those six years and witnessed firsthand from SNI to the downtown division, industrial, housing, finance, design unit, HR, administration, transaction, that's just to name a few and all those professional people that worked there were very dedicated public servants. And this is an unfortunate day and to me another example of a misguided and short sighted decision by the state. And there's a long list of those to complain about. Now, I want to thank Richard Keet as well for stepping up knowing exactly what was going to happen and still willing to take the lead on this, and move and everyone else here who is also had a hand in

this. I'm very disappointed this is where we're at today. But we've had a long road here to come to grips with this. And unfortunately, it's a depressing decision today. And thank you for all of your work, Richard.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. And don't need to add any more to what's already been said. I just want to also just for the record indicate I will vote on this motion but on the bifurcated motion just like Councilmember Liccardo I'll have to recuse myself.

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

>> I have another idea. First of all, there's a problem with this oversight board. This is, Mr. Mayor, you should be ashamed of this. This is basically political puppeteering. We need to address the oversight board lie Councilmember Constant and the rest of you did with the retirement board, so they don't rein in political and pecuniary gain . On page 7, where the City's housing department has worked with a cooperative agreement. If it is not mandated, that they operate this way, then why not nest the housing underneath the successor agency, then has no oversight board and yet I.T. has a revenue stream coming in from its portfolio for administrative cost. With the successor agency from the RDA having no revenue stream except for the General Fund, if you were to nest the housing underneath RDA portion, you would be able to pay your administrative costs. If that cannot happen, then the portfolio revenue coming in could start to pay down the unfunded liabilities for the retirement of these individuals in the housing successor agency, and the alternative is, make a deal with the county because of this interesting formula for money and sell off the housing entity itself for some future consideration not yet defined or ascertained as far as the crying over this this council and other councils ran it into the ground. That's why the governor got rid of it.

>> Mayor Reed: That concludes the public testimony. We have a motion on the floor to approve the many actions, five paragraphs worth separating out the actions related to the housing trust which will come in a later

motion. So on the motion in chief, all in favor? Opposed? None opposed, those are approved. Councilmember Constant you want to pick up the housing trust related items.

>> Councilmember Constant: Yes I'll now make the second motion to accept the recommendations on the housing trust side, housing side.

>> Mayor Reed: Okay, we have a motion to approve the items, that relate to the housing trust. Councilmember Liccardo and Kalra are going to abstain. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. So if I remember from the report that actually the investments will, on managing the administration of the housing authority will create no is that correct?

>> Leslye Corsiglia: That's correct.

>> Councilmember Oliverio: We talked about the advantage disadvantage on the 80%, Leslye could you talk about maybe the advantage disadvantage from your perspective retaining it versus giving it to the Santa Clara County housing authority?

>> Leslye Corsiglia: I think some of it is what we talked about as far as the agency, it is well having control of our own assets and it's over \$650 million of assets, as mentioned in the report. But also, I think you know we have had maybe not the smoothest relationship with the Santa Clara housing authority. They've recently not accepted council acting as the board of the housing authority direction. And so I think we feel a little bit better ensuring that funds that are used are used in the way that this body would like them used rather than handing that over to another entity that might make decisions that would differ from what you'd like to see.

>> Councilmember Oliverio: And what would be the team you'd have, about how many people?

>> Leslye Corsiglia: The housing department right now has about 63 staff people, which is about 25% less than it did two years ago. So we have taken a lot of reductions in anticipation of this happening. So we will be coming back to you in the budget process with our budget recommendations. But remembering that this, for you, you have a housing department that has a lot more than just the redevelopment funding. So this represents about a 16% reduction in program funding and again, we've taken a 25% hit in staffing so far. So you'll probably have a staff that's somewhere around that size, maybe a little bit less, with some strategic look at our vacant positions.

>> Councilmember Oliverio: So Leslye you're saying 84% then of state funding comes from federal and state you said 16%.

>> Leslye Corsiglia: I said 16% of the program funding has come from redevelopment, yes.

>> Councilmember Oliverio: So then 84% would come from nonRDA sources.

>> Leslye Corsiglia: 84 -- most of our funding has coming from the loan repayments and we also, the actions that you're taking today are redistributing some funds to other federal and state funds as allowed. But the rest comes from our portfolio. So not from tax increment.

>> Councilmember Oliverio: Got it. And then is it a fair question to ask then, if it's no cost to the General Fund, but then, there is the cost of pension plans for the remaining, is that for the budget office, does that create us a revenue-neutral type position, Jennifer?

>> Jennifer Maguire: The actions that we're taking should not have any General Fund impact. In fact keeping the housing funds does recover overhead for the General Fund.

>> Councilmember Oliverio: That's good to know, I appreciate that, thank you.

>> Mayor Reed: On your question about pension impacts I know that was a big issue in Los Angeles, one of the reasons they didn't want to take on the successor agency was the concern about ongoing pension obligations. But we have no ongoing pension obligations with redevelopment agencies they were covered on a defined contribution plan not defined benefit plan.

>> Councilmember Oliverio: Was that for the 80%? Or the 20% ?

>> City Manager Figone: The 20% side are civil service part of the plan but Leslye has indicated had a funding source not dependent on the General Fund.

>> Councilmember Oliverio: That would be contrary to what you just said mayor.

>> Mayor Reed: For the 80% employees, we get a split here, for the 80% those are Redevelopment Agency employees, there are no pension obligations. But those who use redevelopment dollars in the housing fund were city employees there is, they were covered by Federated. I was 80% accurate.

>> Councilmember Oliverio: We are forming this reserve for the norberto you're shaking your head.

>> Jennifer Maguire: The retirement prepayment reserve is something of a technical account related to us just generally prepaying our retirement cost that we do on the General Fund and all the funds. And it's for accounting true ups at the end of the year. We're likely to not need that this next year because we're now paying completely in full and we went to the new floor methodology so we're evaluating if as part of this policy. But that's an independent true ups based on what we prepaid and what we actually owed at the end of the year.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: I think that concludes our discussion. We have a motion, this final motion is just on the matters relating to the housing trust. On that motion all in favor? Opposed? We have one opposed, and two abstaining, so

that passes on an 8-3 vote, Councilmember Liccardo and Kalra abstaining so that is approved. Thank you staff. It's a lot of work, I know that tremendous amount of work has been done in the last weeks alone and I pity the cities that have not started on this and have to do it all in a week. But our staff has been working on this for months trying to be prepared and doing a good job under difficult circumstances, so thank you. That's the only item on the joint agenda. So we are -- it's time to take up the open forum. I have two requests to speak. Mr. Wall and Kevin Kiddle.

>> I would like for the City Manager to give an accounting on the Applegate Johnson matter. I know that you're ultimately responsible for it but there may be other departments involved. And I'd like those departments identified. Either today or tomorrow at Rules. And I think that -- I think that you should take the time to thank the City Attorney publicly, for all his efforts in bailing out the various entities involved with that Applegate Johnson affair. I think the City Attorney's done an outstanding job in all matters. But I think when somebody screws up, they ought to thank the person that saves them. And I think a public thanks is in order. I don't think it's out of -- you know it's not unreasonable request. We're all here right now. You can say Mr. Attorney I thank you for bailing me out. That's what I would do if I'd screwed up. But I didn't screw up. Because I warned you plenty of times about that environmental innovation center. And it's only going to get worse. But we'll talk about that later. Have a good afternoon. Thank you.

>> Mayor Reed: Kevin Kotello, Ross Signorino.

>> Good evening, Mr. Mayor, and city council. I want to discuss something that I have already discussed with the mayor's -- with some people from the mayor's staff. I have a lot -- I want you guys -- I want to go on record having you know that there are a lot of -- that we're having a lot of problems with this plastic bag ban. It needs to be pulled back. It should have been, and as I am going to tell you, that before you put it in, you went over the heads of the people. You should have put it up for a vote of the people. In the City of San José. And I'm saying that you don't have the guts to do it. You want to know why you don't have the guts to put that -- why you didn't have the guts to put that before the people of the City of San José? Because you all know that it would have gone down in flames. It would not have passed. That plastic bag ban, if you had put it before the people in a vote, it would not

have passed. It would have -- it would have died. You need to pull it back -- you should pull it back -- I want to see -- I would love to see somebody from this city council put a measure before the city council to pull the measure -- to pull it back, and put it before the voters of the city, put it before the people of the -- put it before the people so vote on. And until you do that, people like me will not do business in the City of San José. I will go -- I will go to Sunnyvale, Mountain View, or Cupertino or Campbell to buy my food, where I don't have to -- where I can get a plastic bag for free. It is wrong for you to not put this before the people.

>> Mayor Reed: Sorry, your time is up. Ross Signorino is our last speaker.

>> Thank you, Mr. Mayor, members of the council. Today I was reading in the paper about the suspect that was shot by the police in kidnapping that girl abducting her and the police did the right thing, they had no choice to do that, they were right. But what I'm getting at is this. This happened a few days ago, the abduction and the killing of this individual who abducted this girl. But what came out in the paper which I object to, and I think something we should look at very carefully, this is a 13-year-old girl we're talking about. A girl that has the scars already of being abducted. And then the scars of seeing this individual shot in front of her. And now we find out in the paper, and I don't see why this even had to be revealed, and I think this should be looked into, that this girl was molested. That is another scar that she has to live with, that people know all this already, and how this is going to affect her personality. How this is going to affect her life in the coming years, is a question and I don't think that should have been revealed. I think please look into this and look into it very seriously, how this was revealed. When I don't think it was necessary, because there is no court action that has to be taken here. This individual is dead so he doesn't have to appear in court. And we don't have to have all this testimony coming out in this regard. So please look into this. Something that doesn't need to be revealed about a 13-year-old girl. Please look into it. Thank you.

>> Mayor Reed: We have one more speaker, Shirley Vargas.

>> Good afternoon. I really don't know where to begin because there's so many things I would like to say here. First of all I would like to talk about the Redevelopment Agency of course the state is no longer giving funds for the Redevelopment Agency, and that's op okay, Redevelopment Agency did do a lot of good but then also, it

actually didn't help everyone. They did have a low and moderate income housing, you wouldn't need low and moderate income housing if this city had more jobs that paid decent salaries. Taxes, especially senior citizens like myself wouldn't have to fill their house and then live off the amounts they got in snare homes and move into low and moderate income housing. So what I'm trying to say is I think you have to stability tamps for your taxpayers. Lower taxes or keep the taxes at a minimum. Every year it goes up. This year again my taxes went up on what was it the vug department another \$50 and I'm thinking ten more years it will be \$500 when does it stop? It doesn't. If all of you councilmembers voted because you're intelligent. Increase more revenues into the city. Call these CEOs. Call Cisco, what is his name, I can't think of the CEO. John chambers, yes. Call these people and ask them if they could help. By hiring more people. We don't need more taxes, we need more jobs. We need more low and moderate income housing. What you are doing is building the low --

>> Mayor Reed: Sorry, your time is up. This concludes the open forum, that concludes the afternoon session, we will be in recess until 7:00 p.m.

>> Good evening. Good evening, everybody. I'd like to call this meeting to order. This is a continuation of the meeting we started much earlier today. We still have a couple of items to do this evening, so, as you probably noticed, there's some excitement in the room about a ceremonial item. We will start a meeting with a ceremonial item. I'd like to start by inviting council Councilmember Campos and the football team to join us at the podium. Come on down!

>> Good evening, everyone. Thank you, Mayor. I'd like to, first of all, tell you how happy I am. I'm the Councilman for District 2, Ash Kalra. I'm happy to have them today along with head coach, Michael Short. Their team effort and spirit helped them get to third place in the nation for their age group. They're the only team in Northern California to place. They are playing against some of the top competition in the nation from teams from Harlem to Chicago to Maryland, all over, and we're just so proud of them. I wanted to have them here today, so they can be recognized for their achievement. It's not -- we're not just here to honor the students. We're here to honor the coaching staff as well as all the parents and family members here to recognize these great young student athletes. I learned a little bit about the game and the playoffs in Florida. I learned that in the first game, they came very close to winning the game, just short in the last couple of minutes. They had been ahead in that game and been a tough game and battled all the way to the final couple minutes. They lost that game. But they kept playing and kept playing hard. The next game, they beat the number one team in the nation for their age group, Harlem and won the next game after that to take third place in the tournament. They really can show all of us what it means to stay dedicated, to persevere and even through loss, recognize you can still fight hard and you can still win. They define winning in an all encompassing way. I know there's a commitment from the coaching staff and from the parents that they also focus on their academics, certainly student athletes in the true sense of the word. I know they work all season on doing their homework in school as well as their homework in the field and that's why they're able to excel so much. Because of Coach Short and the rest of the coaching staff, they have strong role models to look up to and the perhaps of that is undeniable. A huge fan of football and especially any Oak Grove things, the President is giving his State of the Union address and we know Oak Grove football is strong. And Mayor, I'd like you to present this to them for representing all of the neighborhood and all of San José. [Applause]

>> I just want to say thank you so much for the Mayor having us here for Ash and for Steve bringing us here. You guys worked hard to make this happen. As you know, for our kids to have this experience, obviously, football, but to come here to city hall, some of them have never even been here and say, what's that building, right? Just shows them, this is one more option for us in life, to come here, as we serve as a team, same thing as the Mayor, working for the good of all of us, right? The one thing I do want to say about this team, you know, when you know you're going to lose, when you know you can't win, it's not just easy to give up, it's accepted in our society, when you know you're not going to come in first place because you see the kids already in first place, it's accepted for people to give up, because, hey, you're not going to win anyway. The biggest thing that these kids came through and saw, even when they knew they could not get the championship, even when they knew they weren't going to come in first in the relay race, they did not stop. There is no quit in these kids. They played teams that were strong, fast and big, and these guy, I was so proud of them. My coaching staff, never quit, nobody was ever negative. My right hand, Molly, without her nothing would happen, we wouldn't even dress ourselves, probably. The kids, for you guys, is the one of the things that you get, right? These are one of the accolades and rewards that you get when you don't quit, right? Doesn't matter, first, last, one of the things we said, we will go there and let it all hang out, wherever we ended, we would end up. I'm so proud of you guys, I'm thankful to the City of San José. We have such a great city here. It's just a great place to represent. We say Oak Grove but on our shirts, it says San José. We definitely are thankful for this. Thank you so much. [Applause]

>> Let's -- before we take the picture, are there any Oak Grove School Board members in this audience today? Any Oak Grove School Board members? Dennis, come on up, be in the picture, come on! [Applause]

>> You want to go this way?

>> Don't tag me on Facebook. [Laughter]

>> Congratulations.

>> Thank you very much.

>> Good job. Thank you.

>>> We have one item on the businesses agenda tonight, on the consent calendar, only one item left on the consent calendar. I have no requests to speak on this item. Motion to -- we get a second? If you want to speak, no, you don't want to speak. Okay. We have a motion to approve 11.1. People will speak on open forum, I think. On motion, all in favor, opposed? None opposed. Approved. Taking us to the open forum as our last item on the agenda. I have some folks that want to speak. Please come when I call your name, close to the microphone. John Joséph and Mrs. Joséph. And Hechavarria.

>> Thank you for the opportunity. The community garden has been successfully managed by volunteers for over 30 years. The City is now adding a fee, which they say can be used for taking over water bills for the 19 gardens. Adding up to the fee across all gardens, it adds up to somewhere between \$12,000 and \$15,000. In today's modern age of automatic payments, we find it hard to believe it could cost that much to pay the bills just for the water. California Proposition 218 states that cities cannot charge more than in fee than the actual cost of providing the service. It is also our understanding that the fee needs to be used for services that directly benefits the person paying the fee. For example, it could not be used for other general items like expanding the programs which would benefit future gardeners. Could also be not used for items the taxpayer is already paying for such as police, fire, et cetera. We are requesting to see the breakdown of work provided to the gardeners and associated costs. Thanks.

>> Charlie Joséph, Kimberly Hechevarria and Margaret Harris.

>> Hi. I'm here also to speak on behalf of the community garden program. I am here because I am very disappointed to see the City is breaking a contract they signed with the gardeners. When the non-resident gardeners joined the community program the rules stated non-residents were allowed to join. It also stated any gardeners in good standing would be allowed to renew. The contract each year. The gardeners have spent a lot of time, effort and money to improve the garden in their plots. When I joined, the garden was full of weeds, been

neglected for two years and I spent numerous, countless hours removing the crabgrass, spending money, building rice beds and now I am being kicked out from the garden. Even though the City stated in the contract they wrote that I would be allowed to renew. I'm very disappointed to see that the City is breaking the rules they wrote themselves, yet if the gardeners broke rules, they would be kicked out of the garden, so we respectfully request that the City reconsider this. Thank you.

>> Kimberly Hechavarria, Margaret Harris and Carolyn Dudley.

>> Hi. I'm Kimberly. I'm a volunteer gardener for the Jesse Fray garden, here to support my friends from the Hamline Garden but the gardens as a whole. The community gardens of San José have been successfully managed by volunteers and some of these gardens are more than 30 years old. This year, the City decided to add a fee that has not been explained to us in clear terms as to what this fee is covering. As John mentioned, adding that fee across to all the gardens adds up to 10 to \$15,000. We'd like to know what this is paying for. Proposition 218 states the City cannot charge a fee higher than services that directly benefit the person paying the fee, in other words, the fee can't be used for general items such as expanding the garden program. The gardeners are asking to see a detailed breakdown of the work provided to the gardeners this fee is paying for. I think basically in a nutshell, we want to be more involved in decisions like this being made regarding the garden system. We want the City to be honest with us as to, you know, what is behind some of the decisions that they're making. Thank you.

>> Margaret Harris, Caroline Dudley and Karen.

>> Good evening. My name is Margaret Harris. This is not my first time before you talking about the garden. Today, I'd like to talk about lack of transparency. I was one of the founding members of this garden in 1981, when it was started for the second time. And the Hemline gardeners have tried to get a productive dialogue with the City of San José without success since late August. Gardeners have sent many letters of concern and repeatedly requested for information on the decision-making process and who the decision-makers would be. Concerns were never addressed and the process not transparent. On August 29th, 2011, the Hemline community garden

submitted a proposal with suggestions to the City to reach a win-win resolution for the gardeners and the City of San José. We believe it is a common interest of the gardeners in the City of San José to minimize the cost to run the community garden program and to make the garden self-sufficient over time. We were surprised we didn't receive any response for comments on the proposals and disappointed we never got an opportunity to discuss the proposals with the decision-makers and it appears the proposal was never presented to the actual decision-makers as an as a result. Our several attempts to get on the agenda for the PRNS monthly commission meeting were also not successful. Thank you.

>> Caroline Dudley. Karen Mccredin. José.

>> Good evening. My name is Carolyn Dudley. I'm been a Hemline gardener for many years. The garden is on the border of Santa Clara and we do have Santa Clara residents who have gardened there for many years. We have kept our garden plot in the black. We have followed all the San José community rules for community gardens for remaining organic and as natural gardening processes as possible. Our immediate neighborhood definitely benefits from this. And I was very surprised when suddenly late last year things started to change. We started to hear rumors about different new rules for 2012. When we tried to communicate with Manny Perez, who I understand is in part in charge of the community garden system, we got essentially no response. He was invited to our community garden meetings which we hold regularly, as required by the City, and we would do naturally. He either declined to come or simply never showed up. I'm also given to understand Mr. Perez is not a gardener himself, has no horticulture background and shown us he is not interested in this. My biggest concern is we now have a gentleman that oversees many of these rules and suggested changes to the garden system when he himself is not part of the gardening community. 2012 brings some devastating changes to Hemline and I hope that you'll reconsider some of these changes. Thank you.

>> Karen, José, Antonio.

>> Hi. My name is Karen. I'm a gardener. I'm one of the volunteers at Hemline. I'm very concerned about these changes. I've come to a number of meetings. I'm concerned about the eviction of the non-San José residents, a

third of our gardeners are from Santa Clara. I have handout that gives you personal stories of some of those gardeners. I'm also concerned about the white list we're told driving the eviction of the non-San José residents. As secretary treasurer, it's my job to fill vacancies when plots are available. My experience has been, only about 25% of the people on the wait list are actually wanting a plot, their life has changed, haven't read the rules, a variety of reasons. I asked in writing from the deputy director of the parks and rec for the methodology used to give these wait list numbers. I have received no written response. I have received vague evasive answers. I have a copy of that letter. I would really like to see a written breakdown of the number on the wait list, which numbers have been confirmed, which people they were able to get in contact with. I don't know if I'm running out of my two minutes or not, but, my third point, is part of the reason you don't have a lot of people complaining is the registration form wording has changed and it now includes that you can be evicted within 30 days, and a lot of the gardens are finding that intimidating. They're afraid there'll be retribution if they Carry on too much. The gardens that are most impacted are the gardens you hear now. I have copies of the before and after changes in the rental agreement, too. Thank you.

>> If you want to give those changes to the City clerk, she'll make sure they get to the City manager and anybody else who needs them. José, Antonio, and Gary Cooper.

>> Good evening. My name is José. I am a resident of the community in District 7. I recently joined a community group focused on having a quality environment for children. I have recently volunteered to help our local school with safety, particularly for cross ing guard for the school children. One of the biggest problems I have seen recently, there's a lot of speeding in the area. We are recommending speed bumps for our area. They're disrespectful of the children, possibly stop signs in certain locations, a study of the area. We recently found out there was \$55,000 allocated to the office of traffic safety and that was going to be providing helmets for school children and would like to have that reconsidered and have some of the money spent on speed bumps or anything that will slow down traffic and keep our children safe. Thank you.

>> The next speaker, Antonio, Gary Cooper and Fortuna.

>> My name is Antonio. We live on Easy Street and lived there four years already there and to my friends coming about the street, many people drive doing fast. And also, you know, I want to do -- make a bumpers people drive too fast and because a lot of people he know behind my house is 7-3 school, why people drive doing fast. I watch in the morning. He know walking across the street, no watching the cars. I don't want nobody hurt, the baby or kids, you know. Some kids go walking, mom pushing that thing, people is a thing I want to see something to do, you know. Thank you.

>> Gary Cooper, Fortuna and --

>> Good evening. My name is Gary Cooper. I need at least five minutes. I'm in the seven trees area.

>> Two minutes, siren.

>> Okay. Two minutes. I've been in that area two years. A lot of crime. A lot of speed, a lot of drugs. I went door-to-door and got 200 members petition to sign. Someone got hit four or five times hit-and-run. You used to have eight police officers now you only got four. Wen they have a phone call, they kind of brush it off to the side. Late hours in the morning, donuts in the morning, constantly fighting and shooting and killing in this area. One time I seen this area get cleaned up. Now, when I make a phone call, get brushed off. One time I had to whoop the guy to make him sit up on the car until the police come there. It's totally out of control. They talk about \$5,000 for helmets. We need the speed bumps, we need more policemen, we need crime and drug cleaned up. We have trash in that area. If we don't get and do something, it will be just like Oakland. I live -- I work in evergreen college area. I've been there 37 years. I see what -- when the community can get together and do and work together. I went door-to-door and got people to sign a petition about the crime, about the drugs, about the violence. It's not safe in that area, totally out of control. What do we got to do to get something done here? Talking about, we did the cleanup, now, we going to do another thing. I went door-to-door talking to department people about the trash. We spend a lot of time and I want to know what can be done and how much longer will there be crime in that neighborhood, you know. I'm very much concerned. I look at the childcare center down there, all my kids --

>> Your time is up? Thank you.

>> Fortuna, I'm not sure and petro.

>> Good evening, Councilmembers. My name is Fortuna and I have lived in the neighborhood eight years now. It's part of District 7, which is Vice-Mayor Nguyen's district. The reason I'm here our neighborhood has declined and so many issues to deal with. One is lack of presence of police. It's unfavorable for our environment because the criminals, gang members, drug dealers and all the unsavory characters have become brazen in their actions. How do I know that? Several times, I've witnessed somebody dealing drugs. That's how brazen they've become. You know, I've been awakened by police on more than one occasion because somebody got shot in my block or somebody else, around that neighborhood. The reason is the school area, where my child goes, he -- there was a car penetrated the school ground and it was full of bullet holes. And is another reason which was last Friday, the 20th, there was a shooting around that area, and that they had to put the school on lockdown. You must consider our plight here and consider having more police presence in our area, so thank you for listening and hopefully, that you'll take that to heart. Thank you.

>> Pedro Mendoza, the last speaker.

>> Just to give you an example of why we need speed bumps in the seven trees community, on may 21st, we had a party at my house, and there was a high speed chase and the car was at least going 75 miles an hour. There was three, four police officers chasing this person. It was really dangerous for any to be crossing the street in those type of conditions, because as soon as capital expressway is closed between Capital and Center, the traffic goes down Easy Street. That's a big traffic concern. We have kids crossing the street from one area to the next. We really need to get the situation cleared to address. There's a whole bunch of issues in District 7. As we talked about, there's drugs, gangs, violence. I think one thing we also need to focus on is on building a community center in the seven trees area, which is focus on the education piece of young people, especially the counseling. I don't believe we have enough counselors special there in center to help young people overcome

drug and alcohol abuse. We need to direct traffic, alcohol and drug abuse and we need to address the gang issue in our community. I hope that you're with us, Madison Nguyen. Hopefully you jump on board with District 7 and make this a safer place for us. Hopefully we can talk to you, you know, after this or maybe you can show up at one of our meetings.

>> We have one more speaker. Jesus.

>> Good evening, everybody. How you doing? I'm a little late. I apologize for that. I had another meeting I had to go to, but I'm here. I don't know what everybody else discussed so I'm raising my concern. I was listening. I won't overwhelm you with all these things I want done. I think one item at a time works for me. So I like the idea of speed bumps. I think they're something that is needed, excuse me, is needed in our neighborhood. I don't know if you've ever been to our neighborhood. If you have, you know what I'm talking about. If you haven't, I invite you to come there and take a look. It is humble but nice. It is a little dangerous. That's where the speed bumps request comes from, you know. I am a father of four girls. I do not let my girls play out on the sidewalk for any reason, for that simple fact. You know, there is a lot of cars, unfortunately not everybody drives at a safe speed. I can't see doing anything else that would work as effectively as a speed bump because we can't put a police officer on every corner. I think that would start the process of bettering our neighborhood just with a simple reduction in speed, would hopefully alleviate some of the accidents that have been caused, problems we've been starting. I'm sure you will see my face here again and we can discuss the next item on the agenda. For now, my plight with you is just the speed bumps. I hope we can find way to bring this to light and hopefully implement that. Thank you for listening.

>> Thank you. That concludes the public comment. The City manager had a comment.

>> Yes, Mayor, on the testimony regarding Hamline, I want to let staff know I am meeting with staff to know more details. Signed a letter back to Santa Clara a few months ago indicating yes, we had stopped allowing non-residents to have plots. It sounds like there are many other issues being raised. We'll let the council know in an info memo what I find out.

>> Councilman.

>> Actually, that was going to be my asking from the City manager and appreciate the feedback on topics. We don't always get that and appreciate that and I invite any and all to be part of the Mayor's budget process to understand the trade-offs that have to be done.

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