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>> Mayor Reed: I'd like to call to order the October 9th, 2012, priority setting session and discussion of process for selecting study sessions. We are not having a regular meeting today because of the holiday but we are going to fill the time with this study session. We'll start the meeting as usual with the pledge of allegiance. Please stand. [pledge of allegiance]

>> Mayor Reed: We have two items, policy and prioritization, process, and then the study session. We'll have open forum, but if people would like to comment, we'll take comments on each section, including the ordinance prioritization and the open forum. With that I'm going to turn it over to the City Manager to start the priority setting discussion.

>> City Manager Figone: Thank you, mayor. Actually I'm going to turn it over to the staff who have done the heavy lifting on this and begin by thanking them. Ed Shikada and Ashwini Kantak, and all of the department for really doing their best to facilitate your having a meaningful conversation today. So with that I'll turn it over to Ed.

>> Ed Shikada: Thank you, Deb. Once again, Ed Shikada, Assistant City Manager. Let me just give you a quick overview of the material that we will cover this afternoon. PowerPoint is up. So in general terms we've set up the discussion and the material you have before you in two primary phases. Or packages. One being on the policy and ordinance prioritization and the voting related to that and the second piece related to study sessions, the process, as well as the topics that are both currently on the horizon as well as through some of the recent memos. Clearly there's council interest in pursuing. So staff from various departments are here this afternoon recognizing that your discussions, deliberations could go in a variety of directions. We will try to be as interactive as possible and request, as the discussion allows, opportunity for staff to provide some input that you may want to consider as you're setting your policy direction. So with that let me turn it over to Ashwini.

>> Thanks Ed, good afternoon, mayor and council. So over the past decade the city has seen a drastic reduction in staffing level, as a result of ongoing General Fund shortfalls. So a current staffing levels of about 5400 positions are at a level that we've not seen since 1988-89 when the population was only three quarters of what it is today. So this significant reduction in staffing levels severely limits the ability to take on new initiatives as

departments continue to focus on successfully implementing programs and initiatives that have already been deemed priorities by the city council. And also, it's not just about reduced staffing levels, but managing through the substantive changes and disruption involved with downsizing and bumping like turnover, loss of knowledge, and people learning new jobs. So this slide provides you with the current top 10 priorities list and it's just a reminder that these priorities are already underway and will not be up for consideration during this afternoon's prioritization exercise. This list includes six items that have been added to the list since our prioritization exercise in February and these items replace five top ten priority items that were completed and are listed in attachment A of the staff report. One item which is medical marijuana has been moved off the top 10 priority list temporarily, so as the council will recall on February 14th, 2012, council approved rescinding title 6 pertaining to medical marijuana regulations. Since the city is now waiting a Supreme Court decision on this item before amending actions the medical marijuana has been moved to the list of pending sources and can be moved back to the top 10 once the court decision has been rendered. There is one item which is the urban village zoning district that remains a future priority item that will be added to the top 10 list as one of the existing ones is completed. So one of the current top 10 priorities are anticipated to be completed by early next year. As such, to help staff transition quickly to supporting other priority items, we will be asking that you identify 9 additional items from the remaining policies and ordinances which are listed in the revised attachment B of the staff report. As I already mentioned, the urban zoning districting priorities are already on the list of priority items. So we would like to give you a quick overview of the items that are up for consideration, and staff is available to provide more detail in case you have questions on specific items. For the purposes of this presentation, to help council kind of see the general themes, we have grouped the items by broad topic areas. Of course many of the ordinances may touch other topic areas as well. Items highlighted in blue have been added to the list, since our last prioritization exercise in February. So under neighborhood quality of life we have 15 items. This slide lists the first of seven of those items. The first ordinance in this category involves updating the noise performance standards for best practices while the second item is focused on amending the zoning code to provide for discretionary review of new retail and existing buildings. As I mentioned earlier, we've temporarily moved medical marijuana from the top 10 onto this list. The fourth item involves the public entertainment ordinance to authorize changes fee methodology so that the city can require entertainment venues to pay for half of the police overtime and costs in downtown. The remaining items in this category including the three items shown in blue on this slide have arisen since our prioritization exercise in

February. Item 5 would involve regulating window obstructions on ground floor retail space. Item 6 would explore options to facilitate the conversion of hotels and motels to residential apartments and was added at the Rules Committee last week, and the finalist item on this slide will streamline the process for property owners and invite community participation. Continue on with the same topic area, neighborhood quality of life. Item 8 would involve changes that would help facilitate liquor store owners to convert their store front to another type of business. The medical marijuana collectives items would be brought forward through rules committee in September and would involve the development of enforcement options to address the proliferation of medical marijuana establishments. Item 10 would involve modifying the Muni code to enact an ordinance that would prohibit the obstruction of sidewalks without a permit. This was also added to the list at last week's Rules Committee meeting. Other potential ordinance changes include amending the zoning code to prohibit adult book stores, tattoo parlors and tobacco related businesses from operating within thousand feet of areas frequented by youth. Expanding the second unit or granny unit ordinance, aligning the definition of single room occupation units to current market conditions and expanding the record-keeping requirements placed on motel operators. The item related to ending homelessness was added through a supplemental memo last Friday and is thus shown as item 32. We have seven specific ordinances related to economic development. These including developing council policy to provide more specific guidance on the recently adopted development agreement ordinance and updating the sign code to meet current laws and address billboard relocations. We are recommending today that the ordinance change pertaining to allowing semi permanent kiosks at the San Pedro urban market be dropped as developers in the area no longer wish to pursue this effort. The remaining items on the slide include streamlining the conversion of residential to nonresidential areas, providing allowances for new rack in business districts, revising the sign ordinance to allow for advertising on city property and in the public right-of-way, and amending existing ordinances to enable alternative traffic control delivery models for temporary outdoor events. In the area of environment there are five ordinances, the green building retrofit ordinance would look at green building requirements for additions and alterations of existing buildings. Item 23 would modify the city's existing water efficient landscape ordinance to align with the state model landscape ordinance. Item 24 would involve modifications to council policy 4-3 to include standards for the use of white light sources and private streets parking lots, pedestrian and landscape areas and this would be consistent with an updated council policy for public street lights. The next item in this area would involve developing a council policy and ordinance to align

with the riparian corridor policy study and the general plan. And the finalist item would involve amending the municipal code to regulate wood burning in order to combat air pollution in the city. So in addition to the areas discussed thus far, we do have some administrative ordinances such as clarifying specific provisions of the gift ordinance, amending the tow car ordinance to be consistent with the new California vehicle code revisions, and amending the Muni code to provide for possible injunctive relief for nonpayment of city fees or taxes. Our final category related to historic preservation, we have two potential ordinances. The first would amend the Muni Code to create a more efficient process for establishing conservation areas, while the second item would modify the Muni code to strengthen historic building provisions beyond city landmarks. In terms of process, the priority setting sessions, councilmembers will be given a ballot that would list all pending and potential policies and ordinances shown in attachment B. You will then have the opportunity to vote for your nine highest priority items on the list. The ballots will be collected and City Clerk would tally the number of votes for each item. The nine items that receive the highest number of votes will be used to establish the future list of top priority ordinances which will also include the urban village zoning for a total of 10. And just as a note, a minimum number of six votes are needed for an item to become a priority. Also, as I indicated earlier we are recommending that the San Pedro urban market kiosks item be dropped. So that completes the staff presentation on this portion of the discussion, and we're open for questions if the council wants to proceed with the prioritization.

>> Mayor Reed: I think what we would like to do is to let the public comments be made before we get into a council discussion. We have people that want to speak to more or one of these items and I think it would be good to hear that first but I did have one question about the process here just to make sure that everybody is clear on what we're going to do. So we have items already on the ordinance list, there's ten of those plus one. Plus marijuana? So we essentially have 12. And today, our task is to pick nine additional items, to go, I guess, into the waiting list for the top 10.

>> Right. So the medical marijuana, I guess not know exactly when the decision will come, will move it onto the list, when that happens.

>> Mayor Reed: Okay. So for everybody's understanding, we're going to select nine items out of the list of whatever, 30-something.

>> 32, yes.

>> Mayor Reed: 32 today and we'll go through that process, we'll have paper ballots, check the boxes, we'll do the tallies and you'll know what goes on to the waiting list to go onto the top 10.

>> Councilmember Chu: Mayor here.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Can I ask a question? Is it possible to add another item to the 32?

>> Mayor Reed: I don't know. We'll take that up when we get there. We'll ask the City Attorney to talk about the Brown Act, I don't know if that's a problem. Let's hear from the public and then Rick can think about whether or not we can do that. So come on down when I call your name. Rose Amador. Jenny Nicholas and David Wall. It may not be clear what we're doing on the agenda, so if you put in a card, and I don't call your name, you can wave.

>> Rose Amador, Center for Training and Careers, day worker program. I'm really here to encourage you to make homeless and homeless encampments a priority for the City of San José. Our day worker center currently works with many of the homeless and near homeless and our funding ran out in 12-31 of 11. I'd like to thank the mayor and the Vice Mayor in helping us secure funds from outside sources to try and help keep our doors open. Our day workers themselves have had weekly car washes on weekends to try and keep the center afloat. And also, Councilmember Liccardo, and Kalra for their contributions to our center, because all, any contribution is very much appreciated. As I said, most of our workers are homeless. 30% of the workers are female. Females. And the workers when they come to our center in the morning most of them come from the encampment near Happy

Hollow. Some live in their cars in the adjoining shopping center and they come they get breakfast they can take a shower, if they need one. They can pack a lunch. And then people call in, jobs, and we send them out for jobs. They negotiate their own salaries. But they at least have a job for the day, some for several days. And many lead to permanent employment. Last Saturday when they were having their car wash I happened to go by because I've been going every weekend to get my car washed and she was holding a sign and her little dog and she said she had finally earned enough money to get out of her car because she was living in her car in a parking lot. She got a room for \$300 a mop what they earn from the day worker center helps them to either get a roof over their head, get out of the creek bed. I don't know if you heard that last week in was a baby born in the creek bed. That was right across from our center. The -- we have a doctor in our building and he actually helps with the day workers program. He helps give them.

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

>> Oh, okay. Thank you.

>> Mayor Reed: Jenny Nicholas, David Wall, Alice Kaufman.

>> My name is Jenny Nicholas. I'm the CEO for EHC life builders. I want to first start off by saying how much I appreciate the support of this whole council but in particular from Councilmember Liccardo and Vice Mayor Nguyen in looking to prioritize the efforts to end homelessness in San José. The enthusiasm and the conscientious efforts they mean so much to me, they mean so much to the clients we serve and are really seeing good important impactful movement on the issue of homelessness which is really meaningful to me. I really appreciate your willingness and responsiveness and your leadership on these issues. I would like to specifically ask that you include the SRO and motel convergence ordinances and priors for today's meeting and I ask that council take action today to approve those items. I also really support and appreciate Vice Mayor Nguyen's memo on the broader strategies to end homelessness and would like to see that as a priority but I'd like to see that discussed at the larger study session on October 29th when we're going to be looking at I'll be speaking at that along with some other folks where we're going to be looking at the larger policy discussion related to

homelessness. That is what I would advocate for today. The uses that the Vice Mayor identifies should be seen as discussion points at that meeting and again I just thank you all for your commitment to ending homelessness and it's a real privilege to work with you all on this issue. Thank you so much.

>> Mayor Reed: David Wall, Alice Kaufman Barbara Koehler.

>> Good afternoon. I'd like to see stricken from your list of wants is the contractor employee benefits. I don't see how looking at a \$22.5 million deficit that you can afford to be generous with gifting of public moneys. Above all, I'd like you to heed the city manager's warning about keep adding to their workload. It's not reasonable that you're doing this to them. They're understaffed and you are just adding more and more. Secondly I'd like to see the municipal water system taken off your agenda for consideration. I don't believe at all that it should be privatized leased out or what have you. That is a money-maker and it should maintain in city control. With reference to the homeless issues I'd like to applaud Vice Mayor Nguyen and the rest of you for that matter for your continued exhibition of humanity. However, without any real structured approach to this plan it's more rhetoric than anything else. Furthermore I notice that the basic housing consortiums are in the throes of losing all their Community Development Block Grant money that is coming in. So I think it's prudent for them to join forces, realign themselves, and to come up with prudent business plans that should be submitted to either to the office of the City Manager or to the office of the auditor for review before any public moneys are given out. In addition, I think you're going to have a hard sell to the public if you start housing illegal aliens on the taxpayer's dime. And we get back to that taxpayer's dime because you don't have that taxpayer's dime. And so until you come up with the long term funding scenario this ending homeless now business is just a dream. It's an unfunded dream. Unfunded mandate from a near bankrupt city. Thank you.

>> Mayor Reed: Alice Kaufman. Barbara Koehler, Victor Hernandez.

>> My name ask Alice Kaufman for the committee for green foothills. I've brought copies of a letter that I believe was e-mailed to the council last week, I don't know if that had reached you so so I brought hard copies to be passed out. Committee for green foothills, along with Sierra Club, Santa Clara Valley Audobon Society, and

Greenbelt alliance were also the signatories on the letter. We also believe that the City Council should prioritize development of a riparian corridor policy ordinance over the coming year. This is a logical and necessary next step following on the envision 2040 general plan's riparian policies. Riparian setbacks protect not only the stream environment but also existing development. When development is located too close to rivers and streams, the resultant impacts from erosion, increased sedimentation and consequent flooding can significantly affect downstream property. The city's riparian corridor policy study states that it attempts to find a balance between the competing interest of development flood control and habitat preservation along San José's riparian corridors, assigned to achieve this balance through a comprehensive riparian corridor policy ordinance. Thank you.

>> Mayor Reed: Barbara Koehler, Victor Hernandez, Alejandra Herrera Chavez.

>> Good afternoon, Mayor Reed, and members of the council. I'm Barbara Koehler, here representing the Bay Area air quality management district in support of prioritization of the proposed wood burning ordinance. Sign particulates are by far the leading Public Health risk from air pollution in the Bay Area. They account for more than 90% of premature mortality rates in the Bay Area. Wood burning makes up a significant part of fine particulate matter in the winter time and that's why in 2008 the air district's board of directors documented our wood burning rule. We're about to embark on our 5th winterren the implementing of the rule which includes curtailment of wood burning when we predict the air to be unhealthy. What we have learned throughout the years is that there are regional localized areas that are disproportionately affected by wood smoke. And what we really need is San José's help. Our air monitoring network which is located throughout the Bay Area shows that San José for the last three years running has had the highest fine particulate matter in the Bay Area and consistently has been one of the highest since we started monitoring in 2000. Also, through our last winter spare the air season 43% of the wood smoke complaints we got into the air district, 43% of those submitted for Santa Clara County overall were for San José. So should you vote to proceed, and we urge you to do so, here's how we can help. The air district developed a model wood burning ordinance with a menu of options that we sent out to all cities and counties last spring so we've got the language and the structure kind of worked out for you. We also researched the existing wood burning ordinances in the Bay Area and there's 49 total of cities and counties we have those posted on our Websites with their primary components and links to each of those. Also should you vote to proceed we are

happy to help and provide technical assistance for any questions your staff might have as they're drafting an ordinance or --

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

>> Thank you.

>> Mayor Reed: Victor Hernandez, Alejandra Herrera Chavez, Margo Sidener.

>> My name is Victor and I'm here as a concerned community member. I'm here for the improvement of wood burning policies here in San José. I'm diagnosed with asthma, had asthma since I was young and wood burning has affected my air quality, and I have actually been hospitalized because of this and I actually know of people in my neighborhood who using masks with ventilators on the side because of wood burning smoke. And so I am just speaking here for the improvement of wood burning policies and to reduce air quality issues in my neighborhood. Thank you.

>> Mayor Reed: Alejandra Herrera Chavez, Margo Sidener, Steven Macias.

>> Good evening my name is Alejandra Herrera Chavez and I'm here for destination home. Jennifer loving couldn't be here today but she asked me to convey destination home's deep appreciation and support for the items that Councilmember Liccardo and Vice Mayor Nguyen have prioritized in the City of San José specific I'm here today to ask that you include the SRO and motel council take action today to approve these critical items. We also embrace and support Vice Mayor Nguyen's memo on broader strategies to end homelessness and we 100% support referring the strategies contained in the Vice Mayor's memo as part of the broader policy discussion that will take place on your study session on October 29th. So as always thank you for your partnership and your determination in ending homelessness in the City of San José, thank you.

>> Mayor Reed: Margo Sidener, Stephen Macias, Rachel Popluc.

>> Good afternoon, Mayor and councilmembers, I'm Margo Sidener of breathe California the Bay Area. A century old San José based nonprofit dedicated to clean air and healthy lungs. And I'm here today to urge you to prioritize the strengthening of our wood burning ordinance next year. I wrote you each a letter yesterday. But I wanted to take my two minutes to make a couple of points. One is that we have been designated by the Bay Area air quality management district as a community air risk evaluation community. And that's the care community. I'm sure you all know that we began last year and you will continue developing a community risk reduction plan, that will meet the mitigation requirements to reduce our air pollution according to the air district's request. And I believe that this ordinance could go far to help is with that mitigation. As my colleague from the air district so eloquently told you, it's a really, really really big issue and a problem. So I think the other things that I wanted to share with you is at a breathe California's committing to assisting with the implementation of the ordinance. We will provide lots of education and outreach services for you. We similar to the ones that we have been providing for the secondhand smoking control ordinance that you so wonderfully passed last year. And I wanted to just enumerate some of those things. We go to about 200 events each year in the community and we'd be happy to put the word out there. We have a television show called breathe California and we would be delighted to talk about wood burning many times on that. And we have of course Websites, e-news and so on.

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

>> Thank you.

>> Mayor Reed: Stephen Macias, Rachel Popluck, Eileen McLaughlin.

>> I'm Stephen Macias, I work for KTV, I know a lot of you from our studio. But I'm here to endorse Vice Mayor Nguyen's proposed strategies to end homelessness. CTC's daycare program is a part of that strategy. It offers part of a structured approach to get people jobs, job training and employment for the homeless. As Rose Amador was saying before, many of these homeless people are living directly across the street from CTC. Just yesterday I was out in the parking lot and there was a woman collecting cans and bottles. And I had something that I could

give to her. And she asked me, do you have any food? I went back into our food bin and gave her some things to eat. Our day worker program would help alleviate this program. Like I say, it's part of a structured approach. We'll give these people job training. We'll get them certified in certain fields that they do have particular training. And we'll offer them a place to eat and to help take care of themselves. Thank you.

>> Mayor Reed: Rachel Popluck, Eileen McLaughlin, Shawnee.

>> I'm if you recall the health trust for the last year has actually been working with City of San José as well as a number of partners on campaign for healthy food San José. Our goal has been to increase access to fresh fruits and vegetables for communities in our city, focusing specifically on community gardens that happened in February, council voted to put healthy food access on that priority list and in was also a consolidation that happened at that time with the idea being to pull the healthy mobile vending out and add it to the \$25,000 grant at the time to support their work on those ordinance changes. We were very pleased when the council voted in August to support the farmers market change however things have progressed more slowly on the mobile vending piece. So we're pleased to see the mobile vending on the priority policy today, however would like to request that that actually explicitly includes a focus on fresh fruit access. So you'll see on that model ordinance -- I'm sorry on the mobile vending ordinance it says to previous commitment that was made to also look at a healthy fresh food vending as part of that mobile food strategy. Also, I wanted to just point out that on attachment A on page 8 under completed work it references under healthy food access that work has been completed on mobile vending which is actually an incorrect statement on that attachment. And then finally I would just like to say I support the memo that was submitted by councilmembers Kalra, Rocha and Pyle, and the intent of the health resolution that Councilmember Chu is setting forth and the health trust will welcome the opportunity to participate in a study session that looks at some strategic priorities that the health trust and other organizations can partner with on the city around health priorities. Thank you.

>> Mayor Reed: Eileen McLaughlin, Shawnee, Joshua McClusky.

>> Eileen McLaughlin representing the issues about the riparian corridor policy. We believe it deserves a high prioritization by the city. In particular I'd like to emphasize that this is a watershed issue. I suspect something that we leave to the Water District riparian areas enhance the integrity of our streams. I live in District 1. What happens in the streams in District 1 is the same as what happens in every other district of the city. What comes downstream in the watershed all ends up hitting District 4, the Don Adams refuge and the bay. With extreme storm events sometime in the offing we need to think about that sooner than later. I ask you to please elevate the riparian corridor policy in your considerations, thank you.

>> Mayor Reed: Shawnee, Joshua McCluskey, McCulpick.

>> Good afternoon, Mayor Reed, city council, my name is Shawnee development of a riparian corridor ordinance. I wanted to thank Councilmember Liccardo for talking with many of our volunteers from San José and discussing how we can help and I hope we can continue to assist the city in development of such an ordinance. We believe that the ordinance has a very pervasive impact on the life of citizens in San José because anything that someone does upstream propagates downstream. And this can impact water quality and sedimentation, it impact flooding, it definitely impacts how people enjoy the streams and the wildlife that live there. Please assign a high priority to the stream policy and ordinance. Thank you.

>> Mayor Reed: Joshua McCluskey, Doug Flopec. .

>> I want to encourage council to take up riparian corridor setbacks. I frequent the trails along downtown and I'm concerned with the amount of trash that we see in there and just the trash gets stuck on the side of the creek. And walking with my daughter, it's kind of disheartening to see the amount of trash. We want to use these areas, it's not quite comfortable at the time. I think with an ordinance it would help reduce some of that and I think it goes hand in hand with the homeless situation being along the creeks as well. I would really like the council to take this up next year and find some kind of resolution so we can enjoy the open space we have especially through the downtown area. Thank you.

>> Mayor Reed: Doug Klopeck, James Anthony, Gina Gates.

>> Hello mayor and councilmembers. I'm here today speaking on behalf of the medical marijuana and medical cannabis situation in San José. hopefully ask you and support you in your goal of figuring out a successful ordinance in the way to regulate the medical cannabis industry. I hope you see this as a priority and decide to keep this on your top 10 priority list so we can successfully move forward in our endeavor. We as a community and the successful work the with you on to create a healthy environment for the City of San José. Thank you very much.

>> Mayor Reed: James Anthony, Gina Gates, conet tabet or tabile.

>> Hi James Anthony on the medical marijuana issue again in February when you chose to repeal the previous title 6 ordinance and suspend the title 20 ordinance you were waiting for the Supreme Court to rule on the City of long beach versus PAC case. The Supreme Court has dismissed that Kay as moot because the city of long beach rescinded its ordinance which was the subject of that case. So though that case is no longer before the court, the issue is still out there and you know we should be mindful of it but there is no longer that obstacle to going forward. Staff and city attorney's office continue to seem to be somewhat resistant to addressing the issue but the other cases before the Supreme Court that they cited are not particularly relevant to this city and this council. That's a case about a ban. This council has never shown very much interest in a ban and is now receiving \$4 million a year in tax revenue from medical cannabis. The other issues that would make it particularly important now, the tax enforcement, the nuisance, the proliferation issue, you are going to see an explosion of collectives leaving the city of Los Angeles which is in the midst of an enforcement crack down. They're going to start popping up here in San José. They've already begun popping up. Check with your real estate brokers and landlords. Anyone who is willing to rent they are going to explode. Let's do it now, registration, pac-compliant we want to work with you on it thank you soful.

>> Mayor Reed: Gina Gates, Conet Tabet,.

>> Good afternoon, I'm here representing Latino coalition of Silicon Valley which is a nonprofit organization that's been around now for over ten years which is to assist Latinas in civic engagement and leadership development. We would like to support the work that Councilmember Chu is offering up, that it become a priority to deal with a heal resolution. We believe that health is a priority for all citizens in our community. We as the Latina coalition worked with a resolution on the issue of healthy eating healthy lifestyles. So along with that we would like to offer up in addition to what Councilmember Chu is offering, is that we would really like to make sure that there is representation in discovery of this, of people of the community. We wanted to reflect away our community looks like and we would really like to see grass roots people to talk about real stories, real issues on what people are doing to survive and have healthy diets and affordable as well. So again, with the Latina coalition we support wholeheartedly Councilmember Chu's priority. Thank you.

>> Mayor Reed: Conet Tabet, Greg Rekien.

>> Good afternoon, councilmembers. I live promotes policy options that cities can adopt to improve the nutrition and physical activity environments for the residents and employees. We're asking the council be to consider Councilmember Chu's recommendation to direct staff to develop a resolution that is appropriate for the City of San José, and have San José join and promote the heal cities campaign initiative. San José is one of the largest employers in the area as well as a leader in the community. The heal cities campaign is currently working with league partners, league of California cities partners and Kaiser Permanente and Keenan Associates for heal cities workforce wellness program that will be launched in 2013. workers overcome obesity. As of 28, every 20 cents spent on a dollar on health care goes to diabetes, a 2009 study by the centers for disease control found that the direct and indirect cost of obesity is as high as \$147 billion annually. The study was based on figures collected in 2009. 2006 that made up 9.1% of medical spending across the nation. So considering those numbers 9.1% of what the city spends on employee health care premiums is the direct result of disease caused by obesity and overweight. So please do consider Councilmember Chu's consideration, to have the city join the healthy eating active living cities campaign with a resolution that fits the city's palate. Thank you.

>> Mayor Reed: Greg Karekies.

>> Good afternoon, my name is Greg Karekis. I'm a direct of Sam Liccardo's district and a graduate of San José State university. I'm also a wildlife conservation photographer working on a documentary of the Guadalupe river. I want to show you a common theme I see each year a few times after each trash from over 171 square miles that the Guadalupe river helps drain. So I'm here to support a stream ordinance. I think there's a lot of opportunity to revive our natural legacy and there's also a lot of things that need to be done as far as stream setback and dealing with the pollution and the occupants of the river that can really benefit the life of Silicon Valley and also the people who rely on it. So thank you.

>> Mayor Reed: I think that was the end of the people that wanted to speak on these priorities. If anybody else put in a card and you wanted to speak, now is the time. Looks like that's the end of this public comments, on section 2, we still have if study session section, and we'll take additional public comments on that. Before we get into the council discussion of the 32 we should take up Councilmember Chu's question about adding additional items to the agenda. I have copies of a memorandum from Councilmember Chu dated October 5th, requesting an additional item to be added to the list to consider and a memorandum from Councilmember Campos dated October 9, requesting an additional item regarding university corridor be submitted. I don't know if there might be other memos that have come out since then, so I think those are the two requests that are after the Rules Committee meeting on Wednesday. You so with regard to those two requests, I'd have to on to having them part of the voting today because staff hasn't had a chance to comment on them prepare for them, they're not on the ballot, no staff work has been done but more importantly they're late and they weren't made public until recently. They're not part of the proposed list and I just think we ought to stick to the process of getting these out. We have months to prepare, it goes to the Rules Committee gets on the agenda and everybody Foss what the contest is about. So we have this items and I think that's plenty. These two could go on if list to be considered the next time we do the priorities. But I wouldn't want to vote on them today. Councilmember Campos you wanted to speak first Councilmember Chu? Okay, Councilmember Campos can go first. I'm flipping a coin mentally.

>> Councilmember Campos: So I'm wondering if we could get staff feedback on whether or not any of these would be able to be combined into one of the priorities that have already been submitted. The one that I submitted

today is the land use recommendation that mirrors very close to some of the form based zoning activities we've done and I'm wondering if a lot of the work has already been done and this might be able to be collapsed into something so could staff please respond to that, thank you.

>> Ed Shikada: Perhaps as Laurel's coming down we note that actually -- I'm not sure -- we haven't seen the memo. So in getting prepared to respond to that Laurel I'm not sure you have or if you have enough background information to respond.

>> Laurel Prevetti: Thank you, good afternoon, Laurel Prevetti, assistant director of Planning, Building, and Code Enforcement. I had the pleasure of joining Councilmember Campos last Friday in a conversation regarding this, so while I have not seen the memo either, I imagine it is similar to what we discussed. And that would be to create an overlay zoning to essentially reinforce the role of the national Hispanic university in our community. So this is something that is related to the urban village zoning and other form based zoning. So if it's the will of the council to defer this to the next priority-setting session, that's one option. Another option is that we could consider it with some of the other zoning activities that we will be doing. But it is a new idea. And something that does make sense for our city.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to provide a little bit of background about my memo. I presented a similar memo to rules probably a month ago. I don't remember the exact date. And during that Rules Committee meeting I was told to put it off until the next priority setting meeting. So when I see the list of the 32 priorities, and that the healthy heal campaign wasn't part of it, that's what triggered me to be write the memo and ask you to add it to the list of 32 and make it 33.

>> Mayor Reed: Any comments from staff on that item?

>> Ed Shikada: Really no further background. In terms of the healthy eating active living, it does somewhat refer to the memo that had been raised by several councilmembers, and the question of best practices in that arena.

>> Councilmember Chu: I just wanted to reiterate that the similar memo was presented to rules probably eight months ago, I can find out the exact date. And during that meeting I was asked to defer that until the next priority-setting meeting. And that's where we're here today.

>> Mayor Reed: So does anybody know whether or not this should have been on the list that got missed or this is something different? I don't remember the earlier submission so I'm no help. On that, I don't know if this is the same thing or a different --

>> Ed Shikada: I'm afraid I don't recall either so it's possible we missed it. But there's really no further information I could add to the discussion at this point.

>> Mayor Reed: So let me suggest we add Councilmember Chu's request as we forgot it and leave it on there since it's been out there before but we not put on the university corridor overlay, but we refer to staff to figure out how that fits in with some of the other work we're doing whether it's urban villages or the Alum Rock work. So that at least Councilmember Campos can figure out how to move it forward.

>> Councilmember Campos: I'm fine with it.

>> Councilmember Chu: Thank you, mayor.

>> Mayor Reed: Okay, if that's okay with the council I see no objections to those. We'll have 33 items, you get enough room on the ballot page to add number 33?

>> Dennis Hawkins: We'll reprint the ballots to include number 33.

>> Mayor Reed: You think we'll be talking long enough for you to do that? Possible. Okay.

>> Councilmember Liccardo: Mayor could it be possible to restate exactly what 33 would be?

>> Mayor Reed: Councilmember Chu's memorandum dated object the 5th would be the gays for that ordinance to enforce parts of health eating active living initiative also known as heal. And you heard some people talk about it. It meet also be a resolution I guess is the memorandum refers to policy resolution or ordinance. Since we're talking about ordinances I'm assuming it fits into that. Anything else the clerk needs for that? On to the substance of the eventually we'll get around to voting. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I wanted to raise a general question. Either for the City Attorney or for City Manager's office about, seems as though several of these initiatives are really broad initiatives around policy areas. When we think about heal, homelessness and others rather than specific ordinances and I'm just wondering in terms of procedure and process how we could best sort of tackle these since we're also considering study sessions. It seems logical that one or more of these could be a subject of a study session and we could define specific ordinances if any we would like to move forward on. He just raise this subject because I feel as though we're looking at apples and oranges in term of prioritizing when it would be easier to just prioritize apples.

>> Ed Shikada: If I could extend the metaphor from apples and oranges to chicken and eggs.

>> Councilmember Liccardo: Yes.

>> Ed Shikada: One of the issues is perhaps the amount of staff time that would need to go into preparing for a study session in an area such as the public health which I think it's fair to say is outside of our core skill settle or base knowledge and so in some of those areas, they could require substantial staff work up front. So whether it be a study session or really, simply, an initial expression of interest from the council, that would then need to trigger quite a bit of we'll call it resource allocation and scoping of the staff work that would help us ensure that you could have a productive structure to it following discussion. So that would be as one example. In terms of

issues such as marijuana, as the council has discussed, that's obviously a very complex issue. So again to the extent we could parse out components of it and staff could follow up and structured, follow up discussions accordingly.

>> Mayor Reed: City staff, Ed --

>> City Manager Figone: Maybe you could add to your own comments about the area of healthy lifestyles and healthy living clearly there are some elements of council policy which touch those, whether they're in the general plan or when you think about our park system and so forth and so open. So to Ed's point about scoping, is a starting point for the conversation understanding what we do touch, and what is in our kind of realm, or then going beyond that? And that's where I think some clarity from Cal so your interest may be important and that may look more like a study session conversation with some loose framing by staff before we get into ordinances and you know, taking what we now deliver further.

>> Councilmember Liccardo: Okay, thank you for that. So just to clarify then, the task of scoping or describing what we want to change within a broad initiative, should that conversation and that definition happen here or at some other date? Seems to me we could spend an awful lot of time figuring out --

>> City Attorney Doyle: Exactly. My take since we draft most of the ordinances is to get as much definition here.

>> Councilmember Liccardo: Okay.

>> City Attorney Doyle: It may be that it's something like the sign ordinance. Staff could come impact and say okay, option A option B option C, and but for the most part we try to get as much direction from here.

>> Councilmember Liccardo: Okay. Item 6 and 13, item 6 is an item I initiated relating to hotel and motel conversions, 13 has to do with modernizing the single room occupancy ordinance. Recognizing that a lot of these ordinances would in fact would likely be towards apartments and SROs it seems to me that an awful lot of parcels

and I'd like to if my colleagues are willing to merge 6 and 13, as a single item, if staff agrees that that's really what we're essentially dealing with the same general issues.

>> Laurel Prevetti: Yes, staff does agree. Housing department and I spoke prior to the study session and we have considerable overlap with the SRO definition.

>> Councilmember Liccardo: Okay so I guess I'd like to merge the two make that motion.

>> Councilmember Herrera: Second.

>> Mayor Reed: We have a motion to merge the two, shortening the list.

>> Councilmember Liccardo: Yes.

>> Mayor Reed: I don't know if it matters for our purposes which one is which, it will be treated as one. When you get down to voting there will be only one slot there effective there?

>> Dennis Hawkins: That is the way I had interpreted it.

>> Councilmember Liccardo: So consolidate the six and get rid of the unlucky 13.

>> Dennis Hawkins: Or make someone else unlucky.

>> Mayor Reed: Let's just take up that motion. Anybody wish to speak to that one? On that motion, all in favor, opposed, none opposed, we'll do that.

>> Councilmember Liccardo: Thank you. Some I would like to request, the city attorney's office came out with remedies for nonpayment of city fees and taxes, number 29. And to refresh the recollection of my colleagues,

particularly those on rules committee, this relates to primarily marijuana dispensaries that were failing to pay the marijuana tax and our challenges in being able to actually move forward on actions to close those dispensaries for nonpayment. As a result of the conversation I've had as recently this morning with Rick, it appears that with additional legal research there's been some the shift in the City Attorney's's in the office's position of what's the best way to do this, to approach this. As I understand it, it would be modifying the can definition of nuisance to incorporate as the nonpayment of tax as a nuisance, is that fair?

>> That's correct. We didn't want to confuse it too much, there are states that have adopted statutes which declared the nonpayment of a tax is a nuisance and it would give you right to.

>> Councilmember Liccardo: Okay I'd like to adopt that evolution of thinking, to modify the definition of nuisance, that would be my motion.

>> Councilmember Herrera: Second.

>> Mayor Reed: We have a motion to change the focus of number 21, remedies for nonpayment of fees or taxes, would be what now Sam?

>> The same as suggested by the city attorney's memo.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved.

>> Councilmember Liccardo: And then I just had a question for staff about item 21. I recognize some of these are policies that it would be a good job to do but I'm not sure it necessarily needs he really legalities to more efficiently utilizing our very scarce human resources for mayor's special events. I guess the question is do we really need an ordinance change for this or can this be implemented without going through that process?

>> Kim Walesh: Hi, Kim Walesh director of economic development. We don't know at this point if we'll need an ordinance change. We believe this is becoming a really critical issue, because our traffic control unlike other cities in California, is very officer-intensive, and we want to be shirr that our officers are being deployed to the highest and best use. If it is prioritized we'll work with the attorney's office to determine what if any ordinances need to be made.

>> City Attorney Doyle: The current ordinance allows traffic compliance officers to do this work and it's really more of a policy issue and there may be some additional administrative issues that need to be dealt with. But we'll try to tackle it at that point and come back .

>> Councilmember Liccardo: I was under the impression that.

>> City Attorney Doyle: My idea as well.

>> Kim Walesh: And if we pursued that that's one area my understanding is might require an ordinance change.

>> Councilmember Liccardo: Thank you very much, Kim. Another question I guess for laurel, the riparian corridor policy number 25, given all the conversation we're going to have about the HCP in the next month or month and a half, two months. Is this something that is likely ting he the get worked out through that conversation or do we need a whole separate you know path of ordinance change? As I understand it, the ACP is pretty much mandating 150 foot corridor, is that right?

>> Laurel Prevetti: That's correct, the HCP empties do document the ACP. However this is an outgrowth of the envision 20-40 plan. This council may want to also prioritize if riparian corridor policies so we have a venue of our public to participate in and any specific rule making for San José.

>> Councilmember Liccardo: Okay, all right thank you Laurel. Just looking for opportunities to narrow the list. I guess the last question I have for Rick, regarding the broader approach to marijuana dispensaries. And I think that's number 9. I recall James Anthony indicating to us that the -- it was a long beach case if I'm not mistaken.

>> That's correct.

>> Councilmember Liccardo: That was resolved. Are there any other pending cases before the California Supreme Court?

>> City Attorney Doyle: There are a handful of cases, they're really preemption issues in terms of ban and whether or not cities can ban medical marijuana regulations I do want to note that the concern about Los Angeles is probably less of a concern given the fact that L.A.'s proposed ban was put subject to a referendum. The city council repealed the ban so I don't know what enforcement efforts the City Attorney or the city is doing but the ban is not in place. So it may not be as urgent as you think. The concern really is a couple. One, the regulatory ordinance we adopted back in -- that we ourselves or the city council repealed, unless it's substantially different can't be revisited until February one year later of next year. There's a Supreme Court case I'm told that's fully briefed, oral argument has not been set, it's likely to be next spring before we get further guidance from the court. I think we're trying to tackle regulatory and enforcement issues but beyond that there's still some uncertainty out there.

>> Councilmember Liccardo: Okay, just to understand more clearly and I'm sure this will get a lot of conversation. Right now this is a kind of familiar dance whether it's is an outright prohibition or regulation, whether it's L.A. or San Diego or anywhere else, we back off and I'm not eager to keep dancing like that. At what point does it make sense to move forward and put forward a sense of sensible regulations until we have word from the California Supreme Court in the spring, or should we be starting that work now? What makes sense?

>> City Attorney Doyle: I think it makes sense at some point first defining whether or not the council wants to look at limiting the numbers as it did a year ago. You may remember there was a limit of 10.

>> Councilmember Liccardo: Yes.

>> City Attorney Doyle: The council also passed a land use ordinance which regulated where those types of businesses could go. The -- that has been suspended. It may be something worth revisiting as to do you want to look at, I want to say reenacting but lifting the suspension of saying if you're going to have them they should be in these certain areas. So at least we should have something we can point to from a land use standpoint. The regulations, you know, again, I think it's going to take more than just staff considering the item because the council already drafted something which was subject to referendum and I don't know wherever -- I'm really looking to council for guidance on that as to do you want us to come back and revisit proposed regulations that are substantially different than the ones that are enacted and put subject to the referendum.

>> Councilmember Liccardo: Right, I can say we have a mutual interest in heading into the legal landscape has changed sufficiently to enable us to go forward with any portion.

>> City Attorney Doyle: It hasn't changed with exception of the long beach case being declared moot and that's still an open issue though. You have a federal preemption issue, councilmember, you congress to do something for the last couple of years. But it may be something to look at the land use ordinance again and say at least regulating where you might allow these businesses to exist.

>> Councilmember Liccardo: Rather than a numeric --

>> City Attorney Doyle: As opposed to getting -- and maybe having staff revisit the regulations but you know I don't know how we would do that at this point without further guidance.

>> Councilmember Liccardo: Okay. I hope I'm sick those days in council. Anyway. I thank you very much.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. Just a quick question for Ed. I know we spoke briefly before the council meeting. My question was on title 16, the alternatively dispute modification resolution can you update us on that?

>> Ed Shikada: We have already incorporated it into our fiscal year work .

>> Councilmember Constant: Great, I just think that's important to keep that on the top burner front burner given when we have the disputes they end up being long and costly for us. Thank you. I just wanted to make a couple quick comments. I think that Ed made a good comment earlier on what our main priorities every year we really need to be look at what are the core issues that we as a city should be dealing with. And how the proposed ordinance fit in with that. Because let's face it, we're not able to meet our core responsibilities, our essential services now. And taking on projects that are outside of our scope or tangentially related to our scope really taxes the system. For example with the Public Health issue, while it's important it's much easier for us to pursue that as a resolution and deal with a statement of policy or statement of position by the council versus getting ordinances in place that are quite frankly more -- more jurisdictions or other organizations, it is not our primary core core purpose. In areas of the riparian corridor, that's an important issue but I would much more rather see us work on the homeless encampment issue because that has a far greater negative impact every single day, on our streams. And that's it. I just want to vote.

>> Mayor Reed: You're going to have to wait a little bit. Councilmember Chu.

>> Councilmember Chu: Thank you very much, mayor. I, thanks my staff, today we find out the first time that presented this resolution to the rules was dated October 19 of 2011. So almost a year ago, not just eight months ago. But again, the purpose or the intent of the -- this resolution is to can council to support the intent of the healthy eating active living campaign and direct staff to develop a policy or a resolution to promote and enforce part of or the portion of the heal campaign initiative that is appropriate to the City of San José. I want to thank all the speakers here to support this resolution, I wanted just to point out that to date, where there's 437 California

cities have joined the campaign by adopting a resolution to support the heal campaign. And then the effort, the heal efforts is in line with the envision 2040 general plan, as the city council adopted last fall. Today the council has also approved the zoning code amendment for certified farmers market and working with the health trust and the stakeholders on access to healthy food policies. So we're making actually a significant strikes towards the heal campaign. I'm mindful of the current workload by the staff. But I also want to point out that the city has received funding for the heal resolution. We have currently over \$230,000 for the health department putting county grant and a \$50,000 from health trust to incorporate the resident input to develop the urban village plan that would be used as a tool to implement the growth and the strategy of the envision 2040 general plan. Sing there some money available there. Instead of debating the specific points, for today, I just like to ask the staff to include the general community, community member, different ethnicities as well as the business owners to look into our concerns and address them before bringing this forward, to the full council, for approval. I have included some draft resolution from our neighboring cities and cities in the California. And I just wanted to ask the staff to use it as a guideline. Have the freedom to pick and choose what they feel are an important part of the city to adapt. So at this time, I just wanted to ask my colleagues to support this campaign resolution. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. While there's such a variety of topics, I'm sure this council could discuss any of these at length, and I'll just speak to a few of them. We've obviously been discussing medical cannabis since the difficult times getting through things even when back when I proposed a small number in October of 2009 heavily regulated. With that said we did act as a council, is repealed by signatures of the voters i'm inclined to wait until we have resolution versus spending effort on something that the court may not agree with in the spring but I think in the meantime clearly having everyone on the level playing field and everyone paying their measure U tax, would be the appropriate thing to do because that in itself would reduce the number. That in itself would reduce the number. And then by that time in spring we'll have a better way where we can go. Other items, liquor store conversions, I think that would be fantastic. I really don't see liquor stores providing much value and if there's opportunity to convert them to other uses I think that would be great. And another one I wanted to touch base on was back in 2008-2009, the city council voted unanimously to move forward with distinctive

neighborhoods. This city is challenged in managing any level of historical preservation with no Redevelopment Agency. This city is not one council district it's the entire city. We have letters from district 1 and district 9 for people wanting to preserve their Eichler communities. We have parts of Alviso that might want to reserve, we have parts of District 10 that may have to preserve ranch houses. Us conservation for the neighborhood. We pass this again many years ago unanimously. I would just ask the council to make that consideration when they vote today. And I think all -- for all the feedback from colleagues on the variety of topics and their good thoughts and processes for the city. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. On the point of a couple of items, both 9 and 29 and memo that I co-signed with councilmembers Rocha and Pyle, we kind of just -- we had them listed together, particularly the issue of you know, what is to be done about the proliferation of some of the establishments that aren't certainly abiding by some of the rules that we put forth in terms of what we would like to see in an ordinance for the future growth of the -- of medical cannabis and where we would like them to be and that kind of goes hand in hand with those that aren't paying the taxes. Oftentimes it's the same ones, it's the same collectives that Councilmember Liccardo noted are the nuisance to the community, whether it's a legal nuisance or not that is something we have to now go forward with, on item 29 to kind of create what the definition of a legal nuisance is, so we can ensure that those who are operating out of line cease to operate and those that are operating responsibly continual to operate and until there is further clarity as to what the law is. so I was going to ask of staff on 9 and 29 is that something that also could be combined in a logical fashion?

>> City Attorney Doyle: My take is yes. The tax one is one I know the council has expressed in getting that going. But it is really related to enforcement.

>> Councilmember Kalra: So then I would ask if we can formally have listed in the mom for all intents and purposes items 3 is still going to be going to have to await further clarity legally before we 9 and 29 are the items for which -- 9 and 29? Well -- yeah.

>> Mayor Reed: It's always the same document we're referring to numbers so supplemental staff memo.

>> Councilmember Kalra: Oh, okay.

>> Mayor Reed: I think it is 29.

>> Councilmember Kalra: It is 29. That's what I thought I had here. So 9 and 29 --

>> Mayor Reed: We dropped one out earlier, remember? But we all and the public are looking at a supplemental staff memorandum. So by numbers let's stick with that.

>> Councilmember Kalra: Stick forward with numbers. If I were to put forward a motion that would as indicated in the memo to have 3, 9 and 29 with the understanding that 3 again is something that's going to have to be put on the back burner to some extent until there's some clarity in the law but just for consistency sake and to keep them together, ask is that something from the staff perspective, City Attorney perspective makes sense?

>> City Attorney Doyle: Yes, but I think we'll be coming back for enforcement to council. You can keep them together but we'll be coming back for enforcement.

>> Councilmember Kalra: Understand that there will be different aspects that will need different action. I would make the motion that is consistent with the memo that I co-signed with councilmembers Rocha and Pyle to have 3, 9 and 29 combined into one item, but staff's understanding as to the enforcement aspect and tax aspect as being the short term priority.

>> Mayor Reed: Okay, we have a second to that motion. So the question I had in terms of the processing of it, number 3 medical marijuana category, land use, et cetera, is waiting for some guidance on high.

>> Councilmember Kalra: That's right.

>> Mayor Reed: Wherever it comes from.

>> Councilmember Kalra: So by putting together --

>> Mayor Reed: That's going to have to wait.

>> Councilmember Kalra: Exactly.

>> Mayor Reed: The other two, 29 and 9 which is enforcements options basically can move ahead and the question is whether or not the council wants to prioritize those. So I think those should be dealt with separately.

>> Councilmember Kalra: The only thing I kept those together, we all understand on that one we have to wait on higher authority so to speak but 9 and 29 depending on what happens with the court cases will ultimately speak or can certainly ultimately speak to what the ultimate regulations will be based on what the hire court does. But either way 9 and 29 are immediate short term concerns for the now. That still are under the umbrella of regulations of medical marijuana dispensaries.

>> Mayor Reed: I understand that I get that but this is about priorities. So number 3 is going to wait.

>> Councilmember Kalra: Okay.

>> Mayor Reed: 9 and 29 could move ahead if it's the council's priority.

>> Councilmember Kalra: So for then I'd amend the motion and have 3 based on City Attorney advice have 3 set aside for the moment, have 9 and 29 combined into one item and have a motion to that effect and if Kansen can agree with that as the seconder.

>> Mayor Reed: Okay so that is the motion on that motion any discussion? Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, just I guess a question, a concern. I recognize the court cases may dictate an awful lot about our scope of options with regard to number 9. Number 29 is something we can move forward with, regardless and I guess I'm a little concerned about hauling in something that I think we can implement that's pretty low hanging fruit that will help us I think significantly help us take a bite out of the problem and really push enforcement of tax payment and wrap that into what is undoubtedly going to be a very long discussion that is going to be subject to lots of tugging and pulling politically and legally.

>> Councilmember Kalra: The only thing about not putting forward 9 is that right now it seems like we don't really have -- and we've discussion they had so many times, we don't really have a formal enforcement policy. We do understand kind of like which the near a school, they're causing issues, we'll address them. I don't think number 9 suggests that it's going to be -- that it's going to be an exhaustive enforcement type ordinance. But we need something now put in place so that we can hand in hand with the tax issue, it's not simply just about whether someone's paying the taxes or not.

>> Councilmember Liccardo: Allow me just to offer this. If number 9 could be really narrowed to something that is doable and implementable, in a relatively short period of time.

>> Councilmember Kalra: And that's what -- I think that's what the scope is. The language is very general it says develop enforcement options not create an ordinance. It's really to give us some options to address the issue which is an issue of today. Understanding that it may not be the way it's going to be written in cement you know five years from now when there's more clarity as to law. I think we're on the same page somewhat, I'm happy to make that clear with your comments going forward with mine.

>> Mayor Reed: Okay so we have a motion have a couple people want to speak to that motion just that motion I've got everybody lined up to talk about other items as well.

>> Councilmember Herrera: And Councilmember Rocha. On this motion. Councilmember Herrera.

>> Councilmember Herrera: I'm just concerned about taking off the focus of what we're trying to achieve with 29. I just think the other one is too general so I guess I'd want to hear what Councilmember Kalra is talking about when he narrows it because it seems very general to me and I'm not anxious to go back to the debates and focus on what we tried to do earlier. I think there is a reason why this memo which I co-signed on came forward from Councilmember Liccardo. And that's to actually get something done. And I think the intention of this as was already suggested will narrow the number of dispensaries. Or clubs. It will narrow that by virtue of weeding out those who are not paying their taxes. Not a to expand that.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, councilmember. I think this was actually my item at Rules and I appreciate you carrying the item. the reduce the cap and the number of collectives we have. that's it. The tool we use is not important to me, important part is stopping the proliferation. Whether this one is low hanging fruit or this one is low hanging fruit, is not concern of mine. I don't care at the end of the day of who gets credit. I'm asking staff to look at which ones they feel are going to be most effective, which ones we could do waiting for who knows. So.

>> Mayor Reed: City Attorney wants to speak.

>> Councilmember Rocha: And I had a very in-depth conversation with the City Attorney about this and I believe he had some feedback to me as to what he thinks might or might not be able to do within the context of this direction. And it can be as general as you want it. Doesn't have to be specific, again I was asking staff for help as a councilmember, what the problems I'm having in my community with how many collectives are opening, since we last took action on this and in my mind telling the residents that we're doing nothing is not acceptable. So I'm

asking staff for help here and to give us some opportunities here to move forward and try and reduce what's happening.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: Yes, I take the request from or the motion by Councilmember Liccardo on the tax issue to be a specific sort of rifle aiming at amending the ordinance to come back as soon as possible with a method to enforce against those clubs that do not pay the tax. The more general one may or may not require an ordinance. May be a budget issue. And there maybe just administrative ways to deal with that. So if they do get in mind the focus and the specific would definitely come back independent and that's something that we would take and then we would look at a broader range of what other things are available whether it requires an ordinance or just administrative remedies or additional budgeting.

>> Councilmember Rocha: That's fine.

>> Mayor Reed: On this motion only Councilmember Herrera.

>> Councilmember Herrera: I just need to say I absolutely support what Councilmember Rocha is saying about wanting to limit these clubs. In fact I was a proponent of banning them so I'm no fan of them, I would like to reduce them. But I want to do something that's going to actually get it done. I don't want to see us enacting something that's going to get undone again. That's 80 was supporting what Councilmember Liccardo was saying in terms of the tax anything i'm absolutely supportive.

>> Mayor Reed: The motion is to combine number 9, medical marijuana collectives and 29, nonpayment of city fees or taxes into one item. That's the motion. On that motion, all in favor? I'm sorry. Councilmember Oliverio.

>> Councilmember Oliverio: I would still like it to be more specific. A example, if we residential, that's very specific that's very land use. I mean so City Attorney is that one of the options that could be presented that's more narrow and specific to your form?

>> City Attorney Doyle: It could be, it could be. But I think at this point we have a specific option which is to go after the tax issues and find out a way to do that and within the amendment to the ordinance. I think the other options we would have to work with standpoint and work with the City Manager's office and work out options for the council. But the one we can definitely come back. Whether it's radius restrictions or some other type of restriction that's definitely something we could bring to the council's consideration. But I do know we have a specific request to come back with a change to the tax language and we can do that.

>> Councilmember Oliverio: Being more specific in this specific case is actually beneficial because we know exactly what it is, which is too broad and ungeneral on this topic means hours of discussion.

>> Mayor Reed: On that motion are we ready to vote or have you got something else to add Councilmember Rocha?

>> Councilmember Rocha: I felt I was trying to put something over on staff and trying to get a 2 for 1 here. If they are going to do both and it only counts as 9 items, I was glad to pull one over on staff but I guess they're going to see right through that thanks.

>> Mayor Reed: All in favor, opposed, I count none opposed, those two are combined.

>> Councilmember Liccardo: Mayor point of order.

>> Mayor Reed: I'm sorry. Councilmember Liccardo.

>> Councilmember Liccardo: With regard to the formation that we're getting I think it's going to get real confusing, the numbers proofing around, may I suggest that there be a blank, and everyone is looking at the same number when we're voting. It could get missy as we're consolidating.

>> Dennis Hawkins: As you're making changes, we've made a reeivedded one, there is a strike own there, modify as we go through the process.

>> Councilmember Liccardo: You're two steps ahead of me as usual. Thanks Dennis.

>> Mayor Reed: Back to the more general discussion, Councilmember Kalra had the floor.

>> Councilmember Kalra: I appreciate that and thank you Councilmember Rocha for allowing you to step on your toes. I just want to get everything together. I do as indicated in the memo support the public retail reuse that was autoCouncilmember Rocha we can see in his district the dramatic impactists had with the large retail store going in, and without having the proper review. And I think this is one that was on the short list last time, I think it's absolutely appropriate, appropriate for us for neighborhood quality of life to have had the capacity of being able to review new retail uses going into neighborhoods. And then the wood burning appliances memo, I certainly want to thank Barbara Color speak on this item and for those that don't know you nor know particulate matter from wood burning smoke is, the fine particulate matter that causes by far the leading plelts Public Health risk from air pollution in the Bay Area. And also something that we may not know is San José does have increased risk due to our location, topography, as we know, we're in the southern part of the bay, the wind blows the pollution over us, particularly in south San José and Morgan Hill and South valley. So the particulate matter contains a number of very dangerous chemicals. And interferes with normal development, infants and children, if you have particulate chest feign and so on. And modern homes and buildings don't block a lot of this particulate matter. So that's why at the air district we do have the winter spare the air prohibitions that are critical. So that essentially, it's when it's actually a cool night and it's not windy because what happens is it becomes like a top of a pan that the heat kind of keeps all the cold air below, and the particulate matter really spreads. And so there's no question about its harmful impact on wood smoke. There's no question that this would serve to better protect the health of our

residents and similarly to Chuck Councilmember Chu's item the heal campaign item, where he has a lot of resources coming in and incidentally I will be supporting Councilmember Chu's health ordinance for its Public Health benefits and leveraging a lot of other resources in order to accomplish it, similarly we're learning air district has done this in many jurisdictions many cities throughout the Bay Area are ready. It is already doing enforcement will continue to do so and at some point certainly San José if we had the resources and the capacity to do so can be involved in enforcement but in the bottom line here there is enforcement in the information, as to enforcement, the necessity for enforcement in San José. It helps dramatically in terms of education to the public and that both the air district and breathe California have overed assistance in and ultimately, you know, this ordinance is critical for us to help prevent the quality of life, the air in our city. It essentially law will require not just the enforcement mechanism by having the city also sign onto -- sign onto what's already existing in so many other jurisdictions in terms of air quality ordinances, but it also prohibits gas to wood burning conversions which is something that's very easy for us to do right now. It's a simple tool right now that we can use to allow us to prevent a further spread of this really dangerous type of air pollution. So it asks for the support of this idea for my colleagues and other than that, I've already mentioned support for heal, the medical marijuana combination. I do think that riparian corridor policy is way overdue. Regardless of the habitat plan that's a separate issue. We have to have our own riparian corridor policy. It's been years that we've known we've needed it and it's about time and it also does nothing and takes nothing away from our homeless encampment issues, we need to do it all in making sure our creek ways are probated and riparian 6 and 13 I'm glad that was done I'll be supporting that as well. Thanks.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Just had a couple of questions for staff and some of these predate me and I'm looking for a little cliervetion beyond the sentence or two. I appreciate the limited space you had to explains it. The landscape ordinance water efficient. Can you talk to me a little bit more about what that would do?

>> Laurel Prevetti: Thank you. Few years ago the state legislature adopted a water efficient landscape ordinance as a model ordinance and required cities to either adopt that model or adopt their own regulations san

José has been a leader environmental services to determine what specific changes would be needed for our particular ordinance. We've been meeting for quite some time. This is something that we probably need to address regardless because of the state legislature's action that has happened since the this was originally put onto the priority list but given all the other priorities in the attorney's office and in our office we watchetted the council to have another opportunity to see if this was now a top 10.

>> Councilmember Rocha: So when it says 50% complete but still a major effort can you explain a little bit how that works?

>> Laurel Prevetti: Right. We're looking at some different options in terms of the drafting. So we've done a lot of the critical thinking work which is why we bring it up to 50%. But we still have work to do in terms of choosing an option and just driving it home and bringing it forward and doing public outreach that's required.

>> Councilmember Rocha: Let me still do it anyway, I could get another twofer and comeep?

>> Laurel Prevetti: Well, this is one of our processes that we wanted priority list but we also have a state mandate so at some point we feel we need to make sure we're complying with the state.

>> Councilmember Rocha: Sorry for the little teasing but I'll be voting for that, just because of your absence and taking my teasing. Thank you. My other question was on the tattoo and other business organizations, how did this awjt is what I'm asking for?

>> Laurel Prevetti: This originated that either sell drug paraphernalia or offer tattoo services or similar businesses are not located too close to schools. So again, this was an item that came forward through the Rules Committee.

>> Councilmember Rocha: And there are no regulations in place for such as head shops, tobacco stores?

>> Laurel Prevetti: Not distance requirements, no.

>> Councilmember Rocha: Thank you. And then another item I had was, the tow-car ordinance to be consistent with vehicle code 22-658?

>> Ed Shikada: I believe that's number 28 on the list.

>> Councilmember Rocha: Yeah, depends what list but yes. And as far as that one, what is absent here that we're missing that would make it consistent? I'm looking for the impact I guess if we don't do this.

>> City Attorney Doyle: I'm going to ask PD if -- this has to do with the tow car ordinance and the changes, the proposed changes. I know it's to make it consistent with the California vehicle code but exactly which provisions?

>> Good afternoon, Lieutenant Chris Monahan of the San José police department. There are some issues tow authorities in the vehicle code and I think the ordinance just need to match that vehicle code so it's consistent with the state.

>> Councilmember Rocha: Can you talk a little bit about the implications should we not move forward with this?

>> We would be in an awkward position where the officer would have the vehicle code saying one thing and the ordinance saying something less than the vehicle code.

>> Councilmember Rocha: Is in something.

>> --

>> Sometimes where the vehicle code is maybe a step ahead of us just updating an ordinance.

>> Councilmember Rocha: Thank you.

>> Welcome.

>> Councilmember Rocha: I think those were the four questions I had. Thank you very much.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I also wanted to speak on a couple of priorities. While I appreciate a couple of folks mentioning that we should move item 32, my memo to the study session on October 29th, I urge my colleagues to keep it on the priority list, obviously of the issue of homelessness is of great importance to all of us. And we talked extensively at the time joint city-county session last week, and I thought it was important enough to keep it on the priority list, obviously, I believe that there's going to be more information deriving from the study session on October 29 and we will discuss and address those issues on the 29th. But this is just so important, that I think it's just really important to keep it as one of our top priorities. And then I also wanted to talk about the tattoo and the other business regulations. I wanted to thank Councilmember Rocha for bringing it up and asking questions about that. This is a huge concern that were brought up by families school officials community leaders, particularly there's a site in my council district across from Bridges academy I think that now is the time, it's long overdue for us to address this. And I want to thank Councilmember Liccardo for signing on the memo with me when we brought these to Rules. And then the last issue I wanted to talk about is the issue of medical marijuana. Obviously I support Councilmember Kalra's suggestions to put the item 29 and 9 together. The proliferation of marijuana establishments are something we're all concerned with with. Dmr talked extensively about that and advocated for this. It is time we look at this and do something about this in terms of regulations and not having to wait for the courts to give us direction in terms of what we are able to do. The those are the three items that I urge my colleagues for your support. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. Because homelessness and the riparian corridor are somewhat interconnected. I wonder, was any of the work that was done for the Coyote valley task force something that would be helpful for the riparian corridor studies? In other words, does that have to be updated or is it pretty much something that we've learned a great deal from?

>> Laurel Prevetti: We learned quite a bit when we were going through the Coyote valley planning effort and more when we did our San José 2040. And because the envision 2040 is very strong with respect to the riparian we would also like to make sure that we've got complementary regulation and ordinance form for our city as we move forward.

>> Councilmember Pyle: So because the Santa Clara water -- I mean the Water District has said they would pitch in and help as well, this is almost like something we really need to do, water quality, I don't see how we can duck out of that one. And then in reference to -- this is the wood burning, could you please tell me elucidate a little bit about what can be burned? Are those logs that you buy in the drugstore, can those be burned? I have no idea, but I get questions and I would like the most accurate information.

>> Can you not burn any kind of solid fuel. So you can't burn logs, Duraflame logs or anything of that nature, during a winter spare-the-air alert, okay?

>> Councilmember Pyle: Thank you very much. In reference -- that was it, those are my questions, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. So getting back to that same subject, I have a full of residents in my -- a number of residents in my district, they're struggling and winter's coming up and they're going to have to choose between paying huge PG&E bills or figuring out other methods to keep their homes warm. And one of them is you know a lot of these homes were built in the '60s and they have wood-burning fireplaces. So during spare-the-air days when someone has a choice between you know staying warm, or you know, having to burn

wood they're not thinking -- unfortunate they're not thinking it's not good for our air quality and so forth, they're just thinking about how do we keep the family warm? Are there any provisions have we thought through that, you know what happens then for folks that have hardships? I guaranty you, they are going to burn wood in their fireplace and do they get fined or what happens?

>> Councilmember Kalra: If I could, I know a little bit about this mayor.

>> Mayor Reed: Let's hear from the air quality board.

>> Councilmember Kalra: There are a couple of things for example first of all if it's their only source of heat there is an exemption. And there are other you know, the goal of this is really education and to make sure they know because the reality is that wood burning, you know if you are burning a fireplace or a wood burning stove it is a really very inefficient way to heat the home. And the amount of pollution, if you get 2.5 particulate matter which is a certain measure in the air which is a very dangerous level, usually it is ten times worse in the home that is burning the fireplace. The air district there are exempts in terms of earning level, but the trouble meeting their bill, low income as well. So if there needs to be accommodations, they know what their options are in terms of the electricity bill but there are certain exemptions that would allow those for example that don't have any other option to not be penalized, with these hefty fines.

>> Councilmember Campos: So one of the things as this goes through and it becomes a priority, hopefully it becomes a priority, I do want to support it but I would like for staff if there could be those triggers to be able to you know, allow folks that are in hardship it gives them options. Even educating them on options, what their options are. So again, many don't -- they don't know what their options are. Unfortunately some folks that are living in garages resort to lighting barbecue pits. And they end up paying the ultimate price on that. So you know, it's a difficult problem. But it's something that I think we need to put a lot of thought into it. So that folks know what, you know, what their options are. I do have a question on page 4 of the staff memo. Not page 4, page 3. The top 10 priority list on page 3, and 4, those are already in motion, right? We are not taking any of those off for -- so those are good?

>> Yes, those are underway.

>> Councilmember Campos: Okay, that's it.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just had a question on the sign code, update item 16 on attachment B. So that's -- how does that relate to the sign code ordinance that's already going to be completed at the end of this year?

>> Laurel Prevetti: As you know we've been bringing sign code modifications to the council in periodic increments just a couple of weeks ago you considered some other modifications, our sign code is very dynamic, I would say. Every day we have new businesses come into our permit center asking for some other signs, so while this priority identifies very specific items you discussed two years ago with respect to billboard relocations and other alignments with new laws, there continue to be new needs. I think this may be sort of like the quarterly zoning code amendments where we just have to keep, make sure our codes are current in allowing businesses to do the type of advertisement that they feel is best for their operation. So we do have another group of sign code changes that we hope to bring to you by the end of this year. But I expect in 2013 there will be something else that also needs your attention.

>> Councilmember Herrera: So sign code is just kind of an ongoing category? With what happens if it didn't make it on the priority list on this priority list?

>> Laurel Prevetti: Well, again because of the economic development significance of the signs this is something that we believe with our two General Funded positions doing ordinance changes in our office that based on the other conversation that council has given us that this would remain a priority.

>> Councilmember Herrera: Great. And so a lot of these others that if they are not chosen as one of the top nine, what happens to them, then?

>> Laurel Prevetti: They stay on the pending list and will come back to you in 2013 to see if you want to bring them again forward.

>> Councilmember Herrera: Okay, I just wanted to say I support the riparian policy. I support a lot of other of these that have been discussed but I just -- I do think that we need to not only you know not only deal with our habitat plan, which I know does contemplate some of the riparian issues but I think as part of the 2040 plan I think really do need to move this forward as well. I think it's very important. I also support the wood burning issue, as well. Because I think that's a real health and safety kind of concern. And that is one of the types of things I think we should consider if it's going to make a difference in people's health. Immediate health. And as someone who suffers from a periodic asthma attacks I can tell that you particulate matter does make a difference and I think that especially children who are subject to that, it's very, very challenging for them. I also though really appreciate Councilmember Campos' discussion in bringing up the issues about what the realities are with people living in this community and struggling with economic issues and using wood burning stoves for their source of heat. I think that's really important as we move forward with this, that we -- that there are some exceptions and you know, I'm not sure what kind of conversions there might be out there. I know that groups that are working to make sure our air is cleaner, that if they have a wood burning fireplace, I know that gas is better. But you know, maybe there's some kind of programs that can help facilitate those kinds of conversions. So I think that's very important. The liquor store conversion is very interesting to me. Being a product of the Eastside and it seems like we have a whole lot of liquor stores over there and we don't have RDA anymore to help us with economic conditions, having changes that would incent and change a liquor store into something else, I think that would benefit all over the city but especially in places where we have an over preponderance of those liquor stores, anything we can do to facilitate those without having to put General Fund money into it is a good idea. So those are some of the ones. Obviously I support the combination of 9 and 29. I think it's very important that we move forward on the things we can do immediately to deal with reducing the number of collectives. And especially those who are not paying the tax that they're supposed to be paying. Thank you.

>> Mayor Reed: Before we go through the council again I just want to make a couple of comments and ask for council support on a couple. First is number 4 which is the public entertainment business permit fee methodology. We've been cage carrying this for a long time. It's important because we don't have enough police officers and we don't have enough money and this is the way to get more of both by requiring people who are generating the demand for police overtime downtown to help pay for it. We've talked about that in the past and it's just been too hard. But we really need the money and we really need the police officers. And that's a way to get both. And then one economic development item. The development agreement policy which is number 15. We have a lot of development activity. We previously amended the development agreement ordinance but we just want to facilitate it so people understand what they have to do, and a policy will do that. As we have many, many development things that are happening over the next couple of years we'd like to capture as much of that as possible and this would help us do that. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I just wanted to offer one clarification, really a mea culpa, to the advocates related to the item of homelessness, my funding and about launching an effort to explore what we do with empty buildings. Requiring us to do probably a considerable amount of thinking and have pretty extensive conversation that I expect that we would be having at the study session and expect that that memorandum would be an important basis for conversation at that meeting. Recognizing with the empty buildings you know we don't have money to buy them. We don't have spare section 8 vouchers to house them and we don't have Redevelopment Agency. We do have a policy on surplus city lands but not what we do with private sector or privately owned buildings. It seemed to me this was a start of a discussion and what I suggested to several advocates was this would be an important study session conversation without actually having a specific ordinance. Now if there's a specific ordinance, we may make sense to wrap this into the SRO discussion if there's a pathway here relating to empty buildings for instance but it just seemed to me this was more of a beginning of a conversation than an end. So if there was communication from advocates one way or another I just wanted to indicate where sort of the source was.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. First of all thank you very much for including the heal campaign as part of the priority list. It's been a very difficult task here. Even though we combine many of the items together, and it's still very difficult to choose the final, the 9 of them. And I have to give up some of them, my preference under the environment, category to the economic development. And will thank the mayor for bringing up the development agreement policy. And it's very, very important to San José especially in district 4 because we're seeing a lot of development there. And have the flexibility that allow the staff to negotiate millions and millions of dollars, or benefit, to the City of San José. So I encourage my colleagues to consider the development agreement policy. I don't know, Laura do you have anything to add to this?

>> Laurel Prevetti: Just that what we would like to do is have some guidelines in a policy form to supplement what's already an ordinance which is essentially the law. So by having some additional guidance, then, the development community will know what to expect as they consider offering the benefits that you described.

>> Councilmember Chu: Thank you very much. And also the employment development streamlining, that is very important, because in District 4 the North San José area I do see an increase of employment opportunities. So having a policy to streamline the employment development I think is very important to the success of our city. That up.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I just wanted to correct a misstatement that I made in my memo. The -- in terms of the numbers of homeless individuals cited in the memo is actually 4034 individuals in the City of San José who are homeless and 7067 individuals in Santa Clara County that are homeless so the numbers that I cited in my memo was actually incorrect so I just want to make that correction. I also wanted to echo the councilmembers support for the development agreement policy this is really important in terms of economic development. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I had a question, I don't know Vice Mayor if you or someone else, the tattoo and other business regulations and looking at the very brief description at least in the attachment. It refers to business retail or shops that consume or smoke tobacco. Am I to assume under this proposal that it includes also the shops that almost exclusively sell tobacco, the cigarette shops basically? They have some there aren't that many of those, but there are sort of the cheap cigarettes, basically all they sell is are greth, it's consent with what's being suggested here, that to have that distance from areas populated by youth and so on. So I don't know if that was part of the intention.

>> Vice Mayor Nguyen: Yes, that is part of the intention.

>> Councilmember Kalra: Okay thank you. And it will be interesting going forward kind of how to define areas, you know that tend to be populated by youth, because there's a tattoo parlor at valley fair mall now. So it's pretty prevalent but it's very different than a tattoo parlor that is low caicted in other parts of the city. They are not all necessarily the same and I don't have any tattoos or anything nor am I advocating for the tattoo industry but I think it's going to be interesting how staff comes up where a general guideline for that. I'm certainly supportive of it and voting as one of the priorities and also will be supporting the development agreement policy, the mayor has suggested. And appreciate some of the comments in regards to wood burning smoke, thank you.

>> Mayor Reed: I think that concludes the council discussion. I have no electronic requests to speak. We have pink ballot which is 33 lines. Those that we have combined or otherwise have taken out are marked out, don't vote for those.

>> Dennis Hawkins: Correct.

>> Mayor Reed: City Clerk.

>> Dennis Hawkins: Mr. Mayor, we have blocked out the voting area for number 13 which has now been merged with number 6 and we've blocked out the voting area for number 29 which has been combined with number 9. And we've added number 33, the healthy eating, active living initiative. So all of the changes made by the council are reflected.

>> Mayor Reed: Okay, vote for 9, is that correct?

>> Dennis Hawkins: That's correct, Mr. Mayor.

>> Mayor Reed: And those 9 will then join the 11 or 12 that we already have in the top 10.

>> Dennis Hawkins: And just to --

>> Mayor Reed: There is a waiting list. Okay.

>> Dennis Hawkins: When the ballots come in we will read the names of each councilmember and which items they vote for. And then once we total, any item receiving six or more votes will be considered for moving forward to the top 9.

>> Mayor Reed: And if somebody votes for 10, we're just counting the first 9, correct? Just to double-check.

>> Dennis Hawkins: I think I'll check and make sure there's no more than 9 checked.

>> Mayor Reed: Okay.

>> Dennis Hawkins: And I would ask that councilmembers please put your name on the upper right-hand corner so we can identify your votes. [Council voting]

>> Dennis Hawkins: So I'll read off the councilmember and then the items that they have voted for. We'll keep a hard count and then John will mark them on the overhead and we'll keep a running tally on the spreadsheet above. Councilmember Campos votes for number 2, number 4, number 6, number 9, number 11, number 24. Number 26. Number 32. And number 33. Councilmember Herrera votes for number 4, number 6, number 8, number 9, number 15, number 18, number 25, number 26, number 32. Councilmember Pyle votes for number 3, number 6, number 9, number 11, number 16, number 25, number 26. Number 32. And number 33. Councilmember Liccardo votes for number 6, number 9, number 10, number 11, number 15, number 21, number 25, number 26, number 31. Vice Mayor Nguyen votes for number 3, number 4, number 6, number 9 -- oh, I'm sorry -- number 6 and then number 9, okay. Number 11, number 15, number 25, number 26, number 32. Councilmember Rocha votes for number 2, number 9, number 15, number 23, number 25, number 26, number 28, and number 32. Mayor Reed votes for number 4, number 6, number 9, number 11, number 15, number 16, number 26, number 30, and number 32. If I could go back for a second to Councilmember Rocha. I missed one. And Councilmember Rocha voted on number 30 also. Councilmember Oliverio. Votes for number 1. Number 8. Number 9. Number 10. Number 18. Number 19. Number 21. Number 23. And number 30. Councilmember Chu votes for number 2, number 9, number 15, number 18, number 22, number 23, number 26, number 32, and number 33. Councilmember Constant votes for number 4, number 6, number 8, number 9, number 12, number 15, number 16, number 27. Councilmember Kalra votes for number 2, number 6, number 9, number 11, number 15, number 25, number 26, number 32, and number 33. So just reading off what we have, with at least six votes. Not in rank order as of yet. Number 6 has 8 votes. Number 9 has 11 votes. Number 11 has six votes. Number 15 has eight votes. Number 25 has six votes. Number 26 has nine votes. Number 32 has seven votes. So that's seven items with six or more votes.

>> Vice Mayor Nguyen: Mr. Mayor, I believe number 32 has nine votes.

>> Dennis Hawkins: We'll check and verify.

>> Mayor Reed: Well, on these screens the print is so small, it's almost impossible for us to see it.

>> Vice Mayor Nguyen: It is actually eight votes.

>> Dennis Hawkins: Yes, it is eight votes.

>> Mayor Reed: So does that give us eight with at least six votes?

>> Dennis Hawkins: Number 32 still had over six so it was still in the consideration. We'll just correct the vote total to reflect eight votes rather than 7. So at this point, based upon our calculation, we have seven items with six or more votes.

>> Mayor Reed: And we were trying to get 9?

>> Dennis Hawkins: Correct.

>> Mayor Reed: So should have a second ballot, vote for two? As the clerk's viewpoint. This is almost as complicated as the butterfly ballot but we can handle it. I mean we don't have to have nine because we already have 12. Plus seven. Or eight.

>> Councilmember Constant: So Mr. Mayor.

>> Mayor Reed: Yes, Councilmember Constant.

>> Councilmember Constant: I would just suggest if we're going to vote again, I think seven's plenty if we are going to vote up here again that we leave this up here as a reference so we can see which ones have established votes gives us an idea of whether we can swing one way or another.

>> Mayor Reed: Council, okay, have another ballot vote for two? Give us the 9? I don't see any objections to that. So we'll give the clerk a minute to see if he can sort that out with a blue ballot or another colored ballot to

vote again. He just happens to have blue ballots ready, all right, in this case we'll vote for two. So you're going to leave these up on the screen, to make sure we know which one has already been accepted. We don't want to vote for the same one, that's the whole purpose. So what I would suggest after we get the blue ballot circulated can you go through the list, and indicate which ones already have enough votes so we can mark that off and that way I won't have to read this very fine print on the screen and try to get it right. All right. So everybody should have a blue ballot. Blue ballot. I'll ask the City Clerk to go through and tell us which ones already have enough votes so you can mark them off your ballot and you don't waste your vote.

>> Dennis Hawkins: So at this point, number 6, number 9, number 11, is that right? 15. 25. 26. And 32 have six or more votes.

>> Mayor Reed: So that is seven of them.

>> Dennis Hawkins: Correct.

>> Mayor Reed: Means we need to vote for two of the remaining.

>> Mayor Reed: How many did you combine, Councilmember Kalra?

>> Councilmember Kalra: I can't vote six times?

>> Councilmember Constant: Did you move to Chicago or are you still here?

>> Dennis Hawkins: We're ready. Councilmember Oliverio votes for number 8. And number 30. Councilmember Herrera votes for number 4. And number 8. Vice Mayor Nguyen votes for number 4, and number 16. Councilmember Rocha votes for number 2 and number 33. Councilmember Rocha votes for number 4 and number 30. L Councilmember Liccardo votes for number 10 and number 21. Councilmember Constant votes for number 4 and number 8. Councilmember Campos votes for number 2 and number 33. Councilmember Chu votes

for number 18 -- I'm sorry, that was number 18 and number 33. Councilmember Pyle votes for number 2 and number 25. We're going to return Councilmember Pyle's blood to her. Number 25 was already on the list. John, I'll go with Councilmember Kalra. Councilmember Constant votes for number 2 and number 33.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Could you please put me down for 33.

>> Dennis Hawkins: Mr. Mayor, none of the items received more than five votes. So we have no item with six votes or more.

>> Mayor Reed: Okay, let me suggest that we already have nine items because you remember we consolidated four into 2. Seven plus two is nine. We have met our goals. We have plenty already so we're just going to quit for now and move on to the next item on our agenda. Which is the study session he process as noticed in our agenda we're going to review the current process for setting study sessions, have council discussion. And let me just start this by saying that the Rules Committee agendized for council review of the current policy process for setting study sessions and council discussion as opposed to making decisions about study sessions. And that was because we have a policy in place about how we handle study sessions and we didn't want to change the policy until the council had a chance to discuss it. So with that I'm going to turn it over to the staff, we'll talk about the current policy, what currents things we have pending and what is the process. Ed Shikada last the lead.

>> Ed Shikada: Actually I'll handled it to Ashwini.

>> Thanks Ed. We're in the study session section of the agenda, how study session topics are discussed. So study sessions can really be used to ensure a common level of understanding of a complex or time sensitive subject they can also inform council of issues that should also be considered in future council decisions without the need for mead council action and they can provide a unique opportunity to have external stakeholders or technical experts participate in the discussion. So again just continuing that theme, here are some considerations

in terms of topic selection and scheduling of study sessions. So typically the issues discussed in study sessions span multiple council committees and the topics themselves are complex and do not lend themselves easily to regular council meetings. Again they can be time sensitive or urgent community priorities. Just like to point out that significant planning and staff time can be needed to frame the issues for thoughtful council discussion. So this does limit the amount of study sessions that can be scheduled in a given year. And it should be also be noted that council budget hearings are actually study sessions and actually take a significant council as well as staff focus for the months of May and just each year. So as Mayor Reed just noted there is a council resolution 76184 which establishes the conduct of study sessions and a result 8 describes study sessions for the way study sessions are set. For this rule rules committee set study sessions. And the study session topics have for the most part over the years been proposed by staff. Hour, council does periodically advance topics as was the case with the recent study session which was the update on police response to crimes and gang activity which was held on September 18th. So the graphic here just tells councilmembers, staff, council committees as well as external stakeholders and the general public can request a study session weekly through the Rules committee, council committees may also request study sessions through rules committee as part of the annual biannual committee work plans and then councilmembers may set study sessions as part of the annual budget adoption process. And missile dates for study sessions are set in advance by council for twice a year for two six-months periods, August through December and January through July. So this slide provides a summary of the council study sessions that have already taken place thus far in 2012. And then this provides a summary of study sessions either just very recently held including the one today and then the ones that are scheduled through the calendar year. And then then this slide really provides a summary of potential study sessions in the first half of 2013. And so as you can see besides the budgets hearings alt other topics are tentative or to be determined. place holders there are kind of two slots scheduled for most months. We haven't put anything in June given the amount of discussion that goes on related to the budget. And so that really concludes the staff presentation and staff's available to answer questions. Thank you.

>> Mayor Reed: Thank you. We're just because we're following the existing process before we change it. And it seems to me that there are a couple of things that we could do differently from our existing process. And what comes to mind is, there are things that aren't on the study session list, that I just got a feeling we're going to have

a marijuana study session. We just don't know when. And I know that staff has you know a forward-looking rolling list of things they think might be coming to the council and there are probably some other probable study session topics on there. Some of the work we just did today on ordinances, once staff gets into working on them, they may need to have a study session before we take action on it. But I don't know if there's a list of all of that that you know, sort of candidate or probable or requested study session items, so if a councilmember requests a study session, we sort of get that in a vacuum and don't really know how it might fit in. Or if a council committee has some work that should be done as part of a study session, I think it would be helpful prioritizing study sessions if we kind of have an idea of what's in the pipeline potentially for study sessions. Other than that I think there is quite a few opportunities for councilmembers or committees to get a study session going. And I think that what we need to have some discussion on at the Rules Committee is how do we allocate the study sessions? Councilmember Rocha has been an advocate of having a real study session, as opposed to scheduling the study session during council session and not having much time to study. I think that's something we can handle in the scheduling, today for example it's just a study session and the 16th we agendized the study session before we get into the regular council agenda, that assures we would have plenty of time before we get into the council meeting it works councilmember Rocha you had asked that this item to be agendized so start with you.

>> Councilmember Rocha: Thank you mayor and appreciate you adding this item to today's study session so we can talk about it. My interest and my intent initially was for us to have a discuss, at least I was interested in hearing from my colleagues on interest of theirs as to what items we could work on as a council, as a full council. We spent a lot of time and resources and energy on fiscal reform and retirement reform and now that those two are generally behind us in terms of policy work there's still plenty of administrative and legal work to be done. I was curious to hear what this council had an interest in working on. That's the reason for my direction to do this. It wasn't about process for me. I did ask some questions about process in terms of how they're decided upon and who's making those decisions but looking at the agenda at the time, I noticed that they were the TBD as we see in February March, March April. So I think if we had an opportunity as council, and there was also an interest of staff looking at the memo, there really weren't any suggestions as far as what's listed here. I go back to the list and I see the January one it looks like this is a standing meeting. The future retirement cost I believe was a referral I believe maybe at a council meeting or it may have been staff initiated, the homeless encampment and

housing plan, those are the ones I and we have been pushing this one out based on the circumstances with the Redevelopment Agency and the lack of our housing dollars there. So we move on to the one today, which is the one that I requested. So again, I'm looking backwards looking for some staff initiated staff issues that we can talk about as a council in terms of policy work and resources. In my opinion I feel there's a little bit of an absence in us in terms of focusing our attention outside of any of these standing items. That was my interest, I had an interest in maybe suggesting some. But the larger issue was my work on. I've got two years here left in office and I was hoping to work on something outside of retirement reform in those last two years. So and I'm hoping maybe some of my colleagues have some interest in working on other issues that may be of benefit to San José outside of scam reform. So I had put a memo out to my colleagues suggesting some ideas. Those are just suggested topics, I'm not bound to any of them. I'm interested in hearing from my colleagues to see if they have any assumption. With that, that's what got me at this meeting today. I will leave it at that. At a certain points I would like to make some suggestions on future meetings, I think medicinal marijuana would be one of the topics, one of those the other ones I had a memo out and it had to do with a couple of items but I think I'll just leave it there and open the floor for any further discussion and if no one has anything to say because they want to go home then I'll jump back in.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. On the topic of the process, my experience here being on council is that some were staff initiated and some -- one of my colleagues on council wrote a memo and said this topic is compelling and important and we should have a study session on it and shortly afterwards we had a study session on that topic. As far as that goes seems fine. I mean there are more topics and given meetings based on staff ability. And at the end of the day we have to sort of prioritize what you want to have an in-depth study about. With the current process I'm fine. There are topics I might want to see come to council it's my prerogative to write a memo send it to rules and after today's meeting I will probably do that .

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I just wanted to thank Councilmember Rocha, as you indicated, this is something he has certainly brought up as far as the value of study sessions but also I signed on to the tot memo that he put forward because I do think it's important for us to think about what kinds of things we'd like to talk in more depth other than the standard standing items that we've had so thank you Councilmember Rocha and you know I also look forward to hearing the rest of the discussion from council.

>> Mayor Reed: It occurred to me there's another study session in our future, I'll ask, sign ordinance, we've made changes to the sign ordinance, I don't know if the work the staff is still working on is going to require another study session or not, but it has in the past and that's not officially on the list. And I would say that the pacing item in all this is the staff's capacity to do a study session, as useful as the police response to criel and gangs was, I know it took a lot of staff time and effort at the very top of the police department as well as the manager's staff. So even though they are already working on all that material, it does take a lot of extra effort to get it prepared so they can put it into a public setting and be operator to answer a question. So all of them have staff cost and that's the pacing item on our ability to take on new matters. So I wanted to give the City Manager a chance talk about that. I know we talk about different topics but it seems to be the same people doing, like Ed Shikada, doing the work and we have a limited number of people that can be used for undertaking you know broader initiative and discussion. So I'll have City Manager talk to that.

>> City Manager Figone: Thank you, mayor. Yes, definitely there are capacity issues and also your capacity as a council to focus. So I think whatever ends up on the list should be value-add from both perspectives. The other is, the study section inevitably leads to follow-up work or focus which again if it's a council priority, so it would be it. But I wouldn't want the council to get frustrated with too many iterative cuts I guess at things that are important to you. My experience has been that we bring study sessions forward more in kind of a just-in-time from a just-in-time perspective either because we're sensing that an issue is becoming bigger, or has more importance, or it's also a good time for us to take a pause as the mayor indicated, perhaps it's the sign ordinance where there's been a lot of incremental work, and that's a good time to do a check-in and see what more might be left or perhaps something like in the development area, where you've taken incremental moves to change your policies

in order to stimulate or to help incentivize development. So that is one reason why we just don't have a list that is a laundry list but maybe have some ideas, on our internal horizon report as we move forward.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I'm fairly comfortable with the current process. I think that this doesn't really exclude any councilmembers from submitting a memo illustrating the interest topic or issues. I think when you bring it to the Rules Committee we have members of the public who can weigh in, we have at least four councilmembers -- three councilmembers and the mayor actually weighing in, it gives the staff an opportunity to weigh in, in terms of if the topic is relevant to the current circumstance or if it's something that we can revisit from a topic that has been discussed in the past. So I'm fine with the current process. I think it's working fine and again, the most important thing is it doesn't really exclude anyone from submitting a memo on the topic that he or she wants to discuss.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I appreciate the concerns that were raised by Councilmember Rocha. And I do also agree that we should be more strategic in how we use the scarce time of staff and council. I wonder whether it really you know the propose that's suggested having a single time when perhaps Rules Committee or all of council votes to decide what sessions we're going to actually commit to that year, and when, just seems to be a more sensible approach than sort of throwing it on the calendar which seems like a good idea every couple months. So I would like to see sort of a Rutinized approach, where we do this once a year or once every six months, to evaluate several options, several of us are going to suggest rather than sort of taking the one that comes up where folks seems to affect us that moment.

>> Mayor Reed: There is no reason we can't do that within our existing process. It's a matter of collecting whatever they are and bringing it to the council on a regular basis to help prioritize within that. Because you could make a list and there's going to be two of them that you have to do whether you like it or not.

>> Councilmember Liccardo: Right.

>> Mayor Reed: Two that are within the work plans and maybe a couple that are option at, council can prioritize among those, I don't see why we can't do that. Weighing in of these which are the most important given limited staff resources just like with woo did with our ordinances. Hopefully we didn't have 33 of them to choose from, probably a much smaller number but we can essentially do the same kind of a process on some regular kind of a basis. I don't think that would be too difficult. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Quicker than I expected it to come back. Couple of comments, have been made about the process that the councilmembers have the ability to bring forward items and we're not excluding anyone from suggesting that to rules. I don't recall in the memo that I wrote or any public comments I felt like I was excluded to do that. I any given Wednesday that I could do that. To repeat myself I was looking for a larger dialogue on potential items that myself councilmember Liccardo raised a great point, maybe part of the priority-saiding could be just as we agendize today, item 1 is the priority and item 2 is just generally to look at the work plan we have set up for the study session to see what's planned out what's not and if any suggestions come out, just as we're having a discussion today, to me that would be the best opportunity to do it. I don't need a formalized job of ranking, I'm sure the public doesn't want to watch us do that again, again if we went over the work planned and had an informal discussion about anything about the work plan that would be a wonderful idea the capacity and staffing issues, coming into the limited resources I know I've been very sensitive to that for quite some time now. What is it, 15 cities in Santa Clara County, I'm sure we're the envy of every other city in this county in terms of resources. We can continue to say we don't have the resources or the capacity to tackle an important issue for our community, whatever that issue is, it's running a little thin with me. We have the capacity to do some work. And to ignore the conversation, because of that point, I'm not comfortable with. I'm happy to have the conversation and then point out which ones we do have the capacity for. But I don't want to preclude that discussion, based upon that issue. And I'll continue to be sensitive for the resources that we have and the staff time and the dollars. But I would, again, appreciate the opportunity to at least once or twice a year to talk about the work plans. So with that I'd like to recommend maybe adding a couple items to this work plan that we have

listed here. One would be medicinal marijuana, the other one would be the Green Vision implementation. And I'm going to exclude the item number B, in my memo and just go with item number C, based on the conversation we just had of the priority. Again that's recommending we agendize Green Vision implementation, parks and recreation library prapg and medicinal marijuana .

>> Mayor Reed: I think that's beyond the scope of how we agendized this meeting. What I would suggest is you bring that list to Rules, have the forecast list and figure out how many we have and bring that all back after we have a chance to tee it up at rules to bring it back to the council then to add to the list.

>> Councilmember Rocha: I think that's great idea. At that point, I really encourage staff to also have some feedback as to what they think the capacity is for these. We can include stakeholders to relieve some of the workload or have other folks could come in in the panel format we've had with HCP. But again those are ideas I would like to hear from staff and if we don't have capacity, absent any suggestions from my colleagues, I threw those out as bent on them being any part of direction at a later date. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I know I have ideas for study sessions too so I think if there could be some direction so those of us who do if war going to create a list here, I guess submit it to add to this list for rules then?

>> Mayor Reed: Yes, you could do it right now or you could submit a memo, collect them all at Rules and try to bring some -- give staff a chance to analyze them, figure out with what the capacity is and bring it back to the council if there's priorities to be set because undoubtedly I doubt that we have the capacity to do everything that everybody wants to do.

>> Councilmember Herrera: I'll mention one then if we're talking about them. I'm very concerned about before we go into budget in which year, before we go into -- maybe even before the maibs, that we take a look at the amount of debt that the General Fund is responsible for. Early 2013. I think the auditor recommended a study

session next year. And taking a look at whatever accident we have, what are the General Fund to funding source. We saw in recently when we had a down grading by credit rating agencies, Moody's and Standard & Poor's, one of the things they cited was the city's General Fund obligations I think the general lease bonds and any and all other debt for which the General Fund is responsible. And I'd be happy to put that in the form of a memo to Rules, too.

>> Mayor Reed: You can do that or we'll just take the referral here. But if you want to explain it further in a memo you're certainly welcome to do that.

>> Councilmember Herrera: I want to talk more about that.

>> Councilmember Constant: We do get a debt report on a regular basis at the Public Safety, Finance and Strategic Support committee so I would suggest if we are going to do that that we coordinate it with that report, so there's no extra work and just maybe make it an expanded discussion at the council level. Because it is a pretty exhaustive report that we get. And then I would also say not necessarily limiting it to General Fund but to look at the whole picture.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Actually the one memo I had pictured writing after this meeting was a topic Councilmember Herrera actually brought, so I would prefer to do that than have to write a memo thank you .

>> Mayor Reed: Any other topics to put on the list than these so we can refer to Rules, figure out how to organize it and figure out a time to bring it out to council. Maybe we'll work it with the timing of our ordinance priorities, not necessarily tied together.

>> Ed Shikada: Mr. Mayor, members of the council, if it works through a timing standpoint, and we might need to work with the logistics, work with the committee work plans, come back to you either in December or early

January. So we could to Councilmember Constant's point, align the committee work plans with the comprehensive debt report or whatever the particular topics are and we can ensure they're coordinated.

>> Mayor Reed: Okay. There's also the cycle I think it's the same cycle where we set the dates for study sessions twice a year. I think that gets done at the same time as the committee schedule gets set. So probably fits into that. Because the study session question is something that really gets handled at a committee level first. So I think moving those together is probably a good idea. Anything else to refer to staff on this? I have one request from the public to speak, I'll take that now, Mr. Wall.

>> I would like to thank Councilmember Rocha for his bringing today's session to hand. You came to Rules and you presented what Mayor Reed often recalls as a persuasive argument. And here today, we see the fruit of that very persuasive argument. I, too, think we have plenty of staff, and the argument that they POA POA themselves that they are running thin let the public look at their paychecks and that should solve that issue. As far as what I see at the rogue councilmembers coming in to bypass serious discussion on issues, that's noteworthy. But what is even more noteworthy is the fact that Rules Committee is going to become a lot more interesting. Because members of the public might want to come in, and add an item or two for your study sessions. And these study sessions are very valuable because it puts you on the public hook for what you were voted to do. And I would add a couple of items. The sewer service and use charge and the storm sewer use charge, items are very much important to be discussed because of how basically it's realized thievery with how these funds are collected and the fund structure and once again, great ac owe late \$for Councilmember Rocha and as far as the refs you, you are supposed to have thicker hides with reference to what you have today with reference to the six voting members of the people that sit before me today. Thank you .

>> Mayor Reed: That includes public testimony on this educated item. Are there any further discussion on this agenda item before open forum William open forum, Laurine Collins and David Wall.

>> A special thanks to Mr. John Brant and Ms. Susan Davis, our City Clerk, Mr. Hawkins and you're assistant City Clerk, for their kindnesses and graciousness for allowing me to have this portable mic with reference to my sore

right hip. I would also like to include another member of the clerk's office Ms. Brenda Charles. Her routine kindness when she time-stamps my documents in reference to also answering the phones and also helping other people in the Clerk's office at the same time, is nothing but a class act of multi-tasking. Lastly I want to make certain that you also discuss protecting the City Manager and other city officials in their residences. I find it atrocious that these occupy-type terrorists could go on the property of the City Manager or the mayor, for that matter, this year, and I'd like, personally I'd like to see these people severely beaten but that's my own personal opinion. To hold hostage a public official is nothing more than a hate crime and there should be a swift ordinance being directed to prohibit this type of conduct. Because other people of high caliber may not want to serve because they'll be held hostage in their homes, threatened as they walk to a restaurant, and madam City Manager you should not have to undergo that. And I only wish I was your neighbor because I'd take care of it for you. Thank you.

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