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>> Mayor Reed: Good morning, we have a quorum. Welcome back, everybody. And we're going to start as usual with the labor update then adjourn into closed session and we'll be back at 1:30 for the rest of the open session agenda items. So labor update, Jennifer.

>> Good morning, Jennifer Schembri, assistant to the City Manager. During the month of July we continued negotiations with the Association of Legal Professionals. And you have before you a comprehensive package proposal that they provided to us. It is very extensive, so I'm just going to highlight a few of the items in it. It is for a five-year term through June 30th, 2017. It has guaranteed 2.5% wage increases in the first two years and then wage increases or decreases tied to Cpi for the years after that. They are also proposing an additional up to a 10% wage increase if measure B goes into effect. Right now most of the employees represented by the association of legal professionals are at-will employees. They are proposing layoffs by seniority, as well as a reinstatement list. They proposed also a grievance procedure and disciplinary proceedings, and that concludes our presentation.

>> Mayor Reed: I have no request to speak, so we're going to adjourn into closed session. We'll return at 1:30.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order. This is our first meeting after the recess. Although I haven't had any council meetings for a month, a lot of work got done. And some of it has filled up our agenda today so we have a lengthy agenda. I know a lot of people are excited to be back. I'm excited to be back, not as excited as I was at the end of June nevertheless, there is plenty of work to do and interesting things in front of us today. As usual starting with invocation, Vice Mayor Nguyen will introduce the invocator.

>> Vice Mayor Nguyen: Thank you, Mayor Reed. Good afternoon. I am delighted to welcome Pastor Danny Sanchez, from Calvary Chapel, to provide today's invocation. Pastor Sanchez has been a full-time youth minister at Calvary chapel for nine years, member of the mayor's gang prevention task force for several years. A former gang member, pastor Sanchez has a special offer care, compassion and hope. This past April, pastor Sanchez was one of the 12 advocates recognized by the White House as the champion for change please join me in welcoming pastor Danny Sanchez.

>> Let's begin with prayer. Dear lord, thank you for this day that you provided for us and the many blessings you have bestowed on us. We recognize we have been abundantly blessed, freely we receive, freely we want to give. We cry out together for peace in the city, and that we would stand United to back this community for the greater good. I pray for our marry and at various levels for city officials I would ask that you grant them, with conflicting interests in issues of our time a sense of welfare and the true need of the people. A keen thirst for justice and rightness. Confidence in what is good and fitting. The ability to work together in harmony even when there is honest disagreement, percentage for our mayor because wisdom strength humility and love to oversee this city I pray for the agenda set before them today, please give them an assurance of what would be blessing to you. In Jesus' name amen. Thank you.

>> Mayor Reed: Thank you, pastor Sanchez. Please stand for the pledge of allegiance. [pledge of allegiance]

>> Mayor Reed: First item of business are the orders of the daw. We will have certain changes from the agenda. We're going to defer 1.4, the commendation to the San José earthquakes. And and kneads, we're going

to adjourn this meeting in memory of the victims of the tragic mass shooting inside the Sikh temple in Wisconsin. So those are the requests for the changes to the agenda. Anything else?

>> Debra Figone: Mr. Mayor, I believe staff needs to have 2.22 pulled so we can read something into the record, is that correct? Okay.

>> Mayor Reed: Not at this point, we can do that later, we'll come back to that. Okay? Any other changes to the agenda? Is there a motion? Motion is to approve the orders of the day. All in favor, opposed, none opposed. As I mentioned earlier, we will adjourn this meeting in memory of the 2012 in oak creek, Wisconsin. We have many, many members of our community who are connected to the san José and the rest of the country as well. I know some councilmembers wish to add some colts. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. And I want to acknowledge members of the Sikh community from Evergreen here today, joining us. As we again have to deal with an incomprehensible act of violence that occurred over the weekend. We join the members of the Sikh community from across the country. And across the world. In honoring the memories and lives of the victims of the shooting in Wisconsin oaf the weekend. One of ways we are honoring the victims is by lowering the flag outside City Hall and our flag will remain lowered until Friday, August 10th. Our flags are lowered across the country and in India as well. These victims' lives were cut tragically short, and we celebration of life not the mourning of death of the deceased. So again we are joined by members of the Sikh Gurdwara in Evergreen. The Sikh community is and will remain a vital part of the broader community here, in San José and across the United States. They come today in honor of their members that were stricken down and also to show the greatness of our Sikh community here and around the country. They've invited the public to a candlelight vigil at the Sikh temple in Evergreen tomorrow night and all day Sunday August 12th. Faith -- interfaith council has joined with them in a show of solidarity and support and to come together to say this should not happen in our country. We have to come together. True to the generous spirit of Sikhism the Gurdwara will offer free vegetarian meals to everyone who attends. Today we reflect on the ties that Wisconsin victims have to our local community. Four of the victims had significant ties to the seek temp in Evergreen. Three of the priests that were killed or critically wounded, two of the priests that were killed and one of the priests that

was critically wounded in Wisconsin had worked in the Gurdwara in Evergreen in recent years. Another priest was part of the extended family here. It is a very close-knit family of the Sikh community across the country. On Sunday morning Wade Michael Page walked into the Sikh temple and opened fire on worshipers attending Sunday services. Tornlings and inclusiveness in O&M done. And though the attack was focused on a Sikh temple halfway across the country this is a loss shared by our community in San José and by all Americans. In fact some of the victims weren't Sikh but public officers 51, and he was critically injured while tending to the wounded. This is an important reminder of the bravery and sacrifice that women and men in law enforcement demonstrate every day to keep us safe. We are truly grateful for the dedication of these public servants who could be called upon any day to make the ultimate sacrifice to save their fellow citizens from harm. And we are all more proud of our law enforcement officials as we don't go to encounter. Proof that Americans, we come together to protect each other and understand the values all Americans hold in common. Sikhism shares many tenets with other religions in our country. Seeks pay for love peace and benefit of the world. Today in that spirit let us come together to remember the lives of these victims and their contributions to our society, as mothers, as fathers, as children, and as fellow Americans and now I invite my colleague Councilmember Kalra to say some additional words.

>> Councilmember Kalra: Thank you, Councilmember Herrera and thank you mayor for allowing me to say a few words. I think it is a tragedy. Certainly for the Sikh community and the Indian American community but it is a tragedy for all of us as Americans especially on the heels of the tragedy in the movie theater and now we have a tragedy in a place of peace and worship. I want to thank the president for ordering all flags at half-staff throughout the nation in all public buildings. For his recognition of the tragedy, for all Americans. And certainly, as Councilmember Herrera referred to the police personnel that were there to protect the innocent, the innocent Americans that were inside the Gurdwara including lieutenant Murphy, was shot as many as nine times and waved off help insisting the medical personnel go in to help members of the congregation. Many of us group, going to our churches and our temples and it becomes part of our life, part of who we're. I think that's the tragedy where I think all Americans can relate to what happened in the Gurdwara is that we've all been in these situations where we've been in our family, prepared to worship and to pray and to spend time with our families on the weekend. And the last thing you would ever expect is to have to protect your family, protect your children from

imminent death in that situation. And so I do hope that we take this opportunity to learn and to continue to learn about each other, about each other's faiths, about each other's culture and family, take this opportunity to do so, we're very lucky where we are now, for understanding, there is still not full understanding [Foreign language] was the founder of the Sikh temple in Wisconsin and was president of the Gurdwara and really helped to grow that congregation. And when the individual who led this vicious attack invaded the temple and opened fire it was Kaleka was the one that first you jumped into action defending his congregation. Understanding from what we've been able to read in the media sources at least that his only weapon was a butter knife. And he confronted page, claimed that his community is not cower and, shot many times in the scuffle. The scuffle lasted a few minutes. There is no doubt his scuffle safety, in that time. And this was someone that was very proud to be American who had a very large American flag that he had flying in front of his home, the first in his neighborhood to do so because he wanted to make it very clear that this was the land of an opportunity. And the other day on CNN I was watching his son talk about the tragedy not with the hatred, not with anger but out of respect, respect to his father was telling all of us to step outside our homes and meet our neighbors, if there's someone in the neighborhood that looks a little different than we are go meet them. Or if you're the one that looks a little different than those around you, go knock and your neighbors' doors. And I'm hoping that you know people will heed the son's advice and I think that the positive if we could take anything from this is that we're seeing an overwhelming amount of support for the victims and I think an overwhelming amount of respect and understanding and value of the Sikh community in this nation. And certainly, for those in Wisconsin. So I hope that we can all continue to send our prayers, send resources. I know a lot of the families there need some help, need some money because of the loss of lives and because of the medical bills that I'm sure will continue to mount in the weeks to come. But I think most importantly, as Americans, to send our love to the Gurdwara in Wisconsin and all the victims.

>> Mayor Reed: Thank you, Councilmember Herrera, Councilmember Kalra, we appreciate the words. Our next item is the closed session report. City Attorney.

>> City Attorney Doyle: There is no report today.

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to invite Councilmember Campos and Tiffany Maldonado to the podium as we present a commendation for HACE scholarship recipient Maldonado.

>> Councilmember Campos: Thank you, mayor, good afternoon. Today we get the opportunity to celebrate a story that is truly inspiring and one that moved me in a way that reminded me how important it is to never give up. Joining us today is Tiffany Maldonado. Tiffany is a full time psychology student at Humboldt State University. Aside from studying Tiffany spends a lot of her time volunteering in her community. She works as a mentor at an at-risk 12-year-old girl in Humboldt county. She volunteers with the leadership education adventure program. She is a director of two student-run nonprofit programs and she is also the treasurer of the psychology club. As you can see she has been a very busy person and this drive reflects her passion. Part of her motivation to pursue her education and want to help children is due to her own personal past. Tiffany is the youngest of three children and was raised by a single mother who has had to overcome many obstacles to provide for her children. Although she is graduating later in life Tiffany is using her life experiences as an advantage to be able to relate to children who experience setbacks in life the way she has. As a school psychologist she will be able to help children move forward in life by providing them the proper tools to succeed academically, socially, behaviorally and emotionally throughout their lives. Tiffany is close to graduating from Humboldt state to go on and become a psychologist to help her attain this goal. selected Tiffany as the 2012 scholarship recipient recognizing Tiffany's achievements and her commitment to her community. Would you please give her some applause. [applause]

>> Councilmember Campos: Something to be very proud of. I want to recognize HACE for providing this scholarship to Tiffany and allowing her to pursue her dream career. Also, a special thanks to Teresa Ramos, president of HACE for making this all a reality. Thank you, and congratulations to Tiffany. Now, Mayor Reed I ask you if you can present this commendation. You already have. And Tiffany, if you would like to say a few words. Not to put you on the spot.

>> I just want to say thank you for all the support. It's been an amazing journey, and it has helped so much. Thank you. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Chu, Vice Mayor Nguyen, Councilmember Kalra and Councilmember Herrera and Robert corpus, honor the legacy of the World War II generation, by restoring a spirit of community, can-do attitude, willingness to sacrifice for others, and a sense of national unity in the City of San José. Councilmember Chu has more words.

>> Councilmember Chu: Thank you, mayor. the spirit of 45 effort, honoring, and supporting the legacy of world war two generation. Keeping if spirit of 45 is a national friefer day intended to restore the courage, self sacrifice and national unity. August 14, 1945, marks the day president Harry Truman announced the end of World War II. In 2010, Congress voted unanimously to support the observing the second Sunday in August as national spirit of 45 day. This year's spirit of 45 day theme is honored unsung hero of World War II. Which will pay tribute to the unknown groups and individuals who serve during the war, including the Chinese Americans, Filipino Americans, Japanese Americans, African Americans and Mexican Americans. I had the honor of sponsoring the spirit of 45 days event in San José this year, one of the highlight of this past weekend's event was meeting Nell Calloway. Nell is not only the but he is also the granddaughter of General Chennault. The leader of the famous flying tiger which I'm very proud to say my father is one of them. This is a fighter squadron formed by the American volunteer group AVG in China. Jenld Chennault established which eventually have one of the most remarkable come-back record in the history. At this time Kim would like to recognize and commend spirit of 45 for its effort to inspire commitment to volunteerism and civic engagement by reminding communities across the nation nation the sacrifice of America's greatest generation. Here today to accept commendations our spirit of 45 advisor Joe Gonzales and national youth director Robert corpus. Any other my colleagues in the council would like to add a few comments.

>> I'm Joe Gonzales. And I want to thank the city council. Their staff and mayor Chuck Reed for this beautiful -- for this beautiful award that they gave us. And keep supporting the spirit of 45. And the festival hasn't ended yet. We still got the film festival going on every day at the Mexican heritage plaza. So everybody's welcome to come and see those documentaries of different ethnic groups. And tonight we have the African Americans. And every day, different groups. So everybody's welcome and thank you for your support. This Sunday we'll have a

baseball game at giants stadium here in San José and everybody's welcome. It starts at 7:00, and spirit of 45 will be there. Thank you very much. [applause]

>> You might want to give Joe another round of applause. Joe went on a binging diet. Joe didn't eat for a week. To fit into the uniform. Great plug. I want to thank the council. In 2007, it started in San José. Now no longer with us, joined us, now, 2012, that's five years, seven years, I'm not a math major, but anyway.

>> Seven years.

>> Thank you Joe, today it's in over 500 communities, museums, cities, counties, senior living communities, had spirit of 45 events. One thing we should all be proud of, it started here in San José. To be frank, I've lost track of the number of communities. Today in during World War II, I think Joe, some of his family members are in it. That's happening on the anniversary of the end of the war and that's going to be a week from today in times square. So a major can accomplishment for Joe's generation, what some of his colleagues have done. Their big message are going to be on times square jumbotron. Thank you to Joe for your support and thank you to the councilmembers. [applause]

>> Mayor Reed: First item to take up won convening the joint city financing authority to deal with the recording of the subordinate leasehold truss on the Orvieto family apartments matter. I don't know if there's any staff presentation.

>> Debra Figone: No staff presentation.

>> Mayor Reed: No one from the public to speak on this? We have none. Motion to approve the staff recommendation. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed, although a small amount of money, I just want to understand, are these a changes that are occurring under the dissolution?

>> Thank you. Councilmember, Leslye Corsiglia director of housing. This -- what we're doing with this action with the orvieto family apartments is they've received a \$910,000 affordable housing loan and we're just subordinating that loan because we own the ground lease. This project's already complete. It's already received this loan. We're just make -- this is a technical action.

>> Councilmember Oliverio: Thank you for the clarification.

>> Mayor Reed: We have a motion to approve. On the motion, all in favor. Opposed, none opposed, this happens. Next item is we're going to take up 5.1 out of order. That's the acceptance of a donation for the construction of soccer fields in Almaden valley. \$4 million. Gets a little out-of-order treatment. So Julie Edmonds-Mares will lead off.

>> Julie Edmonds-Mares: Thank you, Mr. Mayor. Julie Edmonds-Mares, acting director of Parks, Recreation, and Neighborhood Services. In 2006, the city council approved the citywide sports field citywide. Since that time we've been fortunate and able to add fields at Leland, Watson, soon to be Shepherd middle school and the Coleman soccer complex. Yet a citywide soccer shortage still exists. It is my pleasure to bring you this item in coordination with Councilmember Pyle of course. To accept a donation that would be used specifically to benefit soccer in the Almaden valley. I would like to add my thanks to the donor for this act of extreme generosity for really and to expand fitness opportunity for youth and adults. And with that I'd like to turn it over to Councilmember Pyle for some details.

>> Councilmember Pyle: Thank you, I appreciate that. This is truly a great day for soccer for San José. It is an exciting opportunity as well. I'm so pleased to bring this to the council. The \$4 million donation is the largest donation San José has ever received from a local resident. And that one person would step up, and address this issue of field shortages is amazing. With this unprecedented donation can, we will be able to add a second field to the joint use project with the school district at Allen at Steinbeck and have an endowment fund set up for the turf replacement which would greatly benefit the Almaden valley youth soccer administration. This means there will be

at least 26 years of playing without worry. I hope this gift will inspire the generosity of others in San José who believe they can help to make a difference in our city, and do one that would be in the best interest of everyone. While the donor wishes to remain anonymous for the time being we will have the opportunity to personally thank the donor at the grand opening of the soccer fields at Allen and Steinbeck sometime in 2013. I will definitely be back for that celebration. With that I would like to make the motion to accept this donation for the construction of soccer fields in Almaden valley.

>> Mayor Reed: Motion an second to accept the funding. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Really, really brief. I think this is a testament to a citizen of the city that sees that if there's one thing that keeps kids moving in a positive direction, surrounds them with coaches, and other adults that can instill positive skills in their lives, and can help guide them, many of you that have played family sports or individual sports, as you know that you go to your coach for advice and coaches are always directing you to make the best decision. And I think this, a lot of folks can learn about this donation, that this is really giving back to make sure kids are being taken care of in our city. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Just wanted to extend 4 million thank yous to the donor, thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Also want to extend my thanks and express what I think this says about the San José community particularly in such tough times. People still continue to believe in San José and in the future of San José and I think we should all be proud of this.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I want to say thank you to the donor and I hope this is the beginning of a trend so this will be the first one but many will follow and many congratulations to Councilmember Pyle too.

>> Mayor Reed: Thank you, I have one request from the public to speak. Take that at this time. John Jessen.

>> I'm John Jessen. I'm representing the Almaden valley youth soccer league and I thought it would be fit that somebody from our league would be here to say thank you to the donor that donated the money for our kids. We really needed something like that in our area. And I want to say thank you, 100 times over to Nancy Pyle for working on behalf of the children of Almaden from when she first came, and became our councilperson, until the time she's left, she's been focused on the kids in Almaden. And to go out with a bang like this is incredible. And it's due to her hard work and not just for Almaden kids, but all the kids in the city, by doing all that work, and recognizing the need and the importance of soccer fields. So thanks.

>> Mayor Reed: Thank you. [applause]

>> Mayor Reed: I'd like to add a couple of notes of thanks in addition of course are congratulating Councilmember Pyle. I know she's been working on this soccer field project since before she took office. And this is a great thing for the community. We of course are very appreciative of the donor but I don't want to forget to mention the San José unified school district because it is that relationship we developed with them for the joint use project on their property which makes this project possible. Because even with the money without the land you can't do things. To build these relationships, to develop these joint-use partnerships, they weren't always easy to put together and we do appreciate San José unified for being our partner in this. Being able to fully recognize the donor when we cut the ribbon and Councilmember Pyle you will be back for that. We have a motion to approve. On the motion, all in favor, opposed, none opposed, what a surprise. Passes unanimously. We'll now take up the consent calendar. I have one item to note on the consent calendar. We need to change some language on item 2.2, staff to read that to us in a minute. Councilmember Rocha.

>> Councilmember Rocha: I'd like to pull 2.7 and 2.15 please.

>> Mayor Reed: I have no requests from the public to speak on the consent calendar. Any others that council wishes to pull for discussion? Okay. So 2.7, 2.15 and 2.22 we'll pull. On the motion, is there a motion on the balance? Motion on the balance of the consent calendar. Motion is to approve. All in favor? Opposed? None opposed, let's start with 2.22 and get that language clarification of what we need to consider in the agenda language and the recommendation, Matt Cano, director of PRNS adopt a resolution authorizing the City Manager to negotiate and execute a memorandum of understanding with the Santa Clara Unified school district setting forth a framework for the possible acquisition and use of the Agnews site in North San José and to turn to the San José final terms have been negotiated.

>> Mayor Reed: Thank you. And just as a parenthetical, we would be open to a \$4 million contribution on this project as well, just in case anybody's getting any ideas. Okay. Anything else on 2.2? Is there a motion? Councilmember Chu.

>> Councilmember Chu: Move to approve.

>> Mayor Reed: We have a motion to approve 2.2. On the motion, all in favor. Opposed. None opposed, that's approved. 2.7, Councilmember Rocha. You wanted to speak on that one.

>> Councilmember Rocha: I did have a briefer conversation with the City Clerk and City Manager on this matter some and wanted to raise it maybe for future reemph and consideration. Where an election is within a certain percentage point where there would be an automatic recount, I don't know if it was funded by that jurisdiction. I'm not suggesting that by this election any means, anywhere small amount like .1% difference, memory served me that there was some jurisdictions that just did an automatic recount. I hadn't heard back from either one of you if you had found if that was the case. I don't know who wants to jump on that one.

>> City Attorney Doyle: Dennis, I don't know if we've had a chance to speak with anybody or the registrar. I'm not aware of any at this point.

>> Dennis Hawkins: I'm not aware of any either, Councilmember Rocha. However, the -- we did have quite a bit of consultation with the registrar of voters regarding the election results for the June primary. And based on those conversations and I elected not to request a recount in any of the elections in the city. I was unable to find any reason that would support a recount. However, the elections commission is compiling a list of issues in terms of the municipal code that we will be looking at for the 2014 election cycle, if the council were to refer this to the elections commission they could certainly take a look at it and determine whether or not there are any automatic recount provisions or what other recount provisions there might be.

>> Councilmember Rocha: Yes I was just thinking in the future if it's somewhere within .5 that's a small number and sometimes some candidates don't have the means to fund a recount. If it's really anywhere within a small amount, the cost of the city is obviously there but it might be more amenable for the city to fund something election rather there was any reason it's just for future consideration. If we were to consider that. And again, I'm not asking for 1%, 10%. I mean, a small amount, it might be helpful, in some future race where we don't have an issue that we want to deal with after the fact. Thank you. I'll move approval.

>> Mayor Reed: All right, we have a motion to approve. Councilmember Oliverio.

>> Councilmember Oliverio: Just wants to say this. Elections in some cases show that every vote counts so maybe that will encourage more people to vote. Thank you.

>> Mayor Reed: We have a motion to approve. On the motion all in favor, opposed, none opposed, that's approved. Item 2.15. Councilmember Rocha.

>> Councilmember Rocha: Just a question of clarification. In looking at not knowing whether or not this was in a formal city role, Councilmember Constant was attending this event, or if this was an exclusive invitation just to this councilmember, and then using the source of funds from our side as opposed to the person that's in the

association that's inviting them. If anybody was at that Rules Committee meeting where maybe this was discussed? They could help?

>> Mayor Reed: This was not discussed at Rules Committee meeting but I think I can respond to your question. I believe that all councilmembers are invited to go on the trip. Although because of the Brown Act limitations, the City Attorney doesn't want more than five to go. But this is one of the trips that has been for I don't know how many years subject to this special travel fund that includes, I think, the funding for item 2.16 which we just approved, league of cities travel. Threats two or three or four categories that come out of this fund. This is one of those.

>> Councilmember Rocha: The chamber never pays for any of these trips, it's always been our side?

>> Mayor Reed: I don't think.

>> Councilmember Rocha: Was curious I wasn't going i'll move approval.

>> Mayor Reed: Second, on the motion, approved, all in favor, opposed, none opposed, that's approved. That that concludes the consent calendar. Next item is a report of the City Manager item 3.1. Dmp thank you, Mr. Mayor, men's of the council, welcome back and since we've been on recess in July I wanted to at least recap a few of the things of the many things that have been going on in July. As you know, staff is typically -- works very diligently during the month of July. And so this is only a relevant sample of the many complexities that have been going on. First of all the area of redevelopment wind down and the successor agency. There are many, many things that are underway. One of the things I did want to highlight for you is that staff is taking all necessary technical steps to clarify that the successor agency does not owe any residual amounts to other local taxing entities pursuant to the provisions of AB 1484 that was adopted by the legislature in June. We are working closely with the county of Santa Clara and the Department of Finance, the state Department of Finance that the city's General Fund is not exposed to the risk of having the state intercept tax receipts due to an incorrect perception of what might be due to the state. So this does remain a very complex and extremely technical and highly volatile

issue that could have huge impacts on the city. And so staff will continue to work hard on this and to update you as things evolve. In the area of commercial solid waste implementation, on July 1st, republic services began to roll out for the new commercial solid waste system to approximately 7500 San José businesses. The transition has been fairly smooth, and most customer concerns have focused on rates and charges. While three out of five business customers are now getting lower rates as a result of this system the rest are experiencing a rate increase. Given the size and complexity of the service transition both the city and republic have had far fewer calls than we expected and they have tapered off by the end of the month. Our staff and ESD and republic have worked very hard to make this transition smooth and successful and we thank them for it. Continuing with our creek side encampment cleanups has continued in July we conducted another cleanup along Kelly creek partnership with the Water District and we are working through a series of protocols to ensure that we not only efficiently handle these operations, but are restoring personal possessions properly. As we work hard with all of our partners to protect our creeks, provide services for homeless people, protect our neighborhoods, and are continuing to try to find additional resources to continue these efforts in the future. Again, many, many things in play. These are just a few. And that does conclude my report. Welcome back.

>> Mayor Reed: Thank you, City Manager. Our next item is 3.3, actions related to the minimum wage initiative. Before we get started on that, I'm going to have to step out for a meeting with United States patent and trademark office representatives and Congressman Zoe Lofgren in about ten minutes for about a ten-minute meeting while I welcome everybody to San José. Then I'll be back. I don't anticipate trouble getting the 6 votes on this, although if we do I'll be back. I do anticipate some public testimony on this. I do need to take Kim Walesh with me to the patent and trademark office. We'll get with the presentation.

>> City Attorney Doyle: I don't believe there are any presentations.

>> Mayor Reed: That's good. we've had this, we've discussed it, there's really not many options today for us to talk about after the lengthy discussions we had in the last. My apologies, I have to step out, we need to get the patent and trademark office located in a place we want I.T., namely San José. Please come down when I call your name so you're closer to the microphone. Scott Meyers Lipton, Ross Signorino, Nancy palmer-Jones.

>> It looks like I get the honors. Mr. Mayor and the members of the city council, I am the reverend Nancy palmer-Jones. I'm the senior minister of the first Unitarian church of San José. I'm here as part of the raise the minimum wage campaign to urge you especially to the printed arguments on the sample ballot in November respect compassion, ethical principles call you to do this. Respect for our beautiful people of San José. You have the power by determining what goes on to that sample ballot to help create an informed electorate with hopefully a fair and wise vote in response and compassion. That ability to feel with another. Raising the minimum wage will lift workers' lives and spirits and yes, it will also cheer business owners with the additional \$70 million that the increase can pump into our economy. So I'm an equal opportunity respect and compassion faith leader, respect and compassion for everyone. Please join councilmembers Liccardo, Rocha and Kalra in doing the right thing and vote to allow the printing of those rebuttal arguments for raising the minimum wage. Thank you so much.

>> Mayor Reed: Scott Meyers Lipton.

>> My name is Dr. Scott Meyers Lipton. I live in District 3. In 92 days the citizens of San José will be asked to make an historic decision, and that is whether to increase the minimum wage to \$10 an hour. In order to make an informed decision, on such an important ballot measure, the voters will need to know about the various perspectives surrounding the issue. The opponents to the minimum wage increase have announced that they plan to spend \$1.5 million to get their message out to the voters through a massive campaign that will include multilanguage television, direct mail, and outreach. Clearly, we, the proponents, don't have that kind of money to get our message out. That is why it is necessary that the proponents have the opportunity for rebut in the sample ballot. As it is the only time we will be able to get our message out to nearly every voter in San José. Citizens need information to make an informed decision. The only way they can evaluate the arguments is if they hear from both sides and the rebuttal in the sample ballot provides this opportunity. It is my opinion that if the council denies the proponents of the minimum wage the chance for a rebuttal, it would lead to voter suppression. Since it will hold back information making it difficult for voters to make an informed decision. Thus, to ensure the San José voters have the necessary information to make that informed decision, I encourage the council to support

councilmembers Rocha, Liccardo and Kalra's memo which calls for printing of a rebuttal argument for the minimum wage measure. Thank you very much.

>> Mayor Reed: Ross Signorino. Sandy Perry, Bill Leninger.

>> Good afternoon, Mr. Mayor, members of the council. I, looking over this minimum wage proposition you have here, I like it a lot. The only thing I'm curious about is how the cost of living index is going to effect this. I think \$10 an hour isn't really outrageous for this valley. But I just wanted to know how business people are supposed to adjust what they're supposed to pay people minimum wage every time and according to the index. Of course you're going to have people yelling about this all the time the same thing when Franklin Delano Roosevelt when he was governor of New York made a law then that women and children were not allowed to be worked more than eight hours a day. And did they yell then! Think it was a great disaster. Then Roosevelt came by again with Social Security, again the yell came through. But we survived all these things. We do survive them we're good enough to survive them. And I think this minimum wage has been a long time in coming for San José. I hope it works well for businesses and the recipients of that ordinance of \$10 an hour. I think that's not exaggerating. I don't think it's too much to ask for in this valley where we're living right now. And certainly, you know, the home and rent and everything, they keep going up. There's nothing, there's nothing, there's no way to stop them from going up. So it's the same thing as blaming the president of the United States for the economy. You know, the president doesn't have anything to do with the economy, yet people keep blaming him. And they're going to keep blaming you for this so don't worry about that. Let them blame you. Do the right thing. Thank you.

>> Mayor Reed: Sandy Perry. Bill Leninger. Emily Gatfield.

>> Hello, good afternoon, mayor and councilmembers, my name is Sandy Perry. I'm from Cham deliverance ministry and I'm here to support including the rebuttals and the fullest information possible on the ballot so voters can make the most informed decision. Our ministry is founded on principles from the Bible and also from Dr. Martin Luther King Jr.'s ministry. I'm going to read a little quote from Dr. King which is appropriately from a speech or a writing he made which is appropriately called where do we go from here, chaos or community. He said

America the richest and most powerful nation in the world can well lead the way in this revolution of values. There is nothing to prevent us from paying adequate wages to school teachers. There is nothing but a lack of social vision to prevent us from paying an adequate wage to every American city -- citizen. Whether he be a hospital worker, laundry worker maid or day laborer. It is nothing but guarantee an annual minimum and livable income for every American family. So what I would like to do today is just urge you as a council today, you have the opportunity to help this initiative to pass, and also, you have the opportunity to demonstrate the kind of social vision for what kind of a city we want to become. Thank you. [applause]

>> Vice Mayor Nguyen: Bill Leninger Emily Gatfield.

>> Bill Leninger, interfaith council for economic justice. Obviously from what has been spoken already, the measure is clear as to what we want. There's so many people that's virtually living in slavery, it's almost impossible for us to deal with this. If I had the chance I would raise it to \$16 an hour but we don't. The best we can do is give at least the minimum. And to have some fair way for people to understanding this, if the opposition is going to put \$1.5 million into the kitty to take it over, we don't have that money. And no way can we put that. So it has to be a fair rebuttal that goes on to the ballot that people can read and make their own honest decisions about it. So I would encourage you to put that rebuttal onto the agenda and onto the item. Thank you. [applause]

>> Vice Mayor Nguyen: Emily Gat fled.

>> Hello, my name is Emily gatfield. I'm here kalra and Liccardo and to say, this is the right thing to do. This is our community we're talking about. We want the people in our community to have jobs, to treat them with respect and part of that respect is, paying them what they've earned. What they're worth, what their labor is worth. It's an important issue. And as a lot of other people have said here, it's important for the voters to have the full picture to hear both sides. The other side of this is going to have a great deal of money to put out there. I think I want my city to give the opposite side as well. I want to make sure that my city respects the voters enough to give us full information. Again, I support this memo, thank you very much. [applause]

>> Vice Mayor Nguyen: Greg Miller, Fred Hirsh, Peggy elwell.

>> First let me say that I support the minimum wage increase ballot measure because it addresses to a modest extent the wage inequality, the wage inequity and increasing inequality we see in our society today. It would also greatly benefit San José businesses by injecting millions of dollars of demand for goods and services that local business offer. Regarding the issue you are considering today, it is a matter of fairness and the public interest. I hope the council will support the memo by councilmembers Rocha, Kalra and Liccardo to include rebuttal arguments about the minimum wage measure on the sample ballot that voters will receive prior to the election. The opposition to the measure has a lot of money to spend to defeat the measure. And the supporters have little. Allowing rebuttals by both sides is a way to level the playing field a bit. It's in the public interest to have access to detailed information for both sides to have voters decide the issue and that access to information should not be determined by who has the biggest bank account. Thank you. [applause]

>> Vice Mayor Nguyen: Fred Hirsh, Peggy elwell and Don Payne.

>> Good afternoon, councilmembers. I'm all in favor of putting this in the sample ballot of the recommendation of the three councilmembers. I think it's a way to inform and educate the electorate. I only wish that we were talking not of going from an \$8 minimum to a \$10 minimum. I would love to see the minimum be set at least at the poverty level which would be \$17 an hour. I think that without this kind of information on the sample ballot, it's really suppressing the vote, suppressing the information that's necessary for a voter. And surely we should respect the words of one of our founders, I've got three separate quotes. The cornerstone of a democracy rests on the foundation of an educated electorate. Thomas Jefferson. Whenever the people are well informed, they can be trusted with their own governance. Thomas Jefferson. Our democracy demands an educated and informed electorate. I would think that surely since most of you are registered as democratic party supporters, whatever you may be, we ought to get a very full vote from the council in favor of democracy. Thank you.

>> Vice Mayor Nguyen: Peggy elwell, Don Payne, Matt savage.

>> I'm Peggy Elwell, I'm here in a multitude of capacities invariably they're always dismayed how low the offerings are but they feel like they have no choice. Life on minimum wage is severely limiting. It's not enough to survive let alone thrive. And people are forced to scramble from agency to agency looking for ways to plug the holes if they can. It's like a whole 'nother job trying to find what they can't buy, trying to find it in some other way. And if people can't make a decent living in some other way they are going to turn to other waives of surviving, and I don't blame them. As a librarian positive minimum wage ordinance and I encourage you to help the initiative pass and print the rebuttal.

>> Vice Mayor Nguyen: Don Payne, Matt Savage, Shelly Foy Jr.

>> My name is Don Payne I'm a board member of the Gilroy Board of Education's for the City of San José, this is an overdue action for not just San José but actually for the entire State of California. But this city has an opportunity to act instead of wait for the state to act. Our state government center is in Sacramento. We shouldn't wait for them, we should lead the way. The truth is the minimum wage has Arizona, Colorado, Florida, Oregon and Washington and all of them have arrived at the novel and perhaps noble idea that hasn't in many areas clicked ours. So California does lag behind ignoring those factors like the economic reality of inflation even with having some of the most expensive cities in the U.S. which includes San José. San José has not ignored another fortunate reality which is innovation. Innovation is important and that leads the way to prosperity. So we have prospered in technology, arts and culture to name a few things and San José has prospered because they have led the way. Let San José lead again including the rebuttals, let the citizens know it's time to raise wage. Thank you.

>> Vice Mayor Nguyen: Matt Savage, Shelly Foy Jr, Garvey. I'm here in San José, as a grocery worker I can say this measure will help lift many of my fellow workers here in San José out of poverty. But in order for San José citizens to carefully weigh in, voter suppression our opposition will spend over \$1 million to fight this raise for my fellow grocery workers. We don't have a million to spare but we have the merits of our argument. That's why I urge the council to support the memo by councilmembers Rocha, Lick and Kalra, in support of printing rebuttal arguments. Thank you. [applause]

>> Vice Mayor Nguyen: Shelly Floyd Jr, Carol Garvey.

>> Santa Clara Valley NAACP. The San José city council will decide whether or not to allow rebuttals to be printed on the sample ballot. I personally can't understand why the city council wouldn't want the radio built on the sample ballot. In order complex complicated and complex terminology of ballot initiatives it is imperative that people like myself are able to make an informed decision. I don't think the council would even want to give even the slightest impression that a voter suppression. Since it is the duty of the county to make sure that the voters have access to the truth. They should have clarity when reading the ballot. This vote is important. Not because there is not enough funds to spread the word of the rebuttal to people who most need this information. And the ballot is one of the most direct ways to share. Raise the wage, San José, with all the voters. I want to urge the council to support the memo by councilmembers Rocha, Kalra and Liccardo in support of printing rebuttal arguments. Thank you for your time.

>> Vice Mayor Nguyen: Carol Garvey, Samantha sang, Carol.

>> Dawn, democratic activists for support of printing rebuttal arguments on the sample ballot. And urge you to vote the same way. People need to have both sides of an argument in order to make an informed decision. It's logical, fair, democratic and the thing to do. In terms of the minimum wage, it's no secret women ages 25 to 40 are the biggest low-wage earners in San José and they perform some very difficult task force. My father is in a care home now. He's 94. And he has dementia. And one day I brought girl scout cookies to share with everybody. And one of the staff members said that he really liked those cookies but he couldn't afford them. And so just you know, it's very important for us to support all members of our community, and to make our community as best as it can be. And so you know, I know that -- and I have confidence that all of you are fair-minded people. And so I trust that you will do the right thing to put the pro-arguments on ballot. Thank you.

>> Vice Mayor Nguyen: Samantha sang, Mike Cassa, Annie Sayelle.

>> Thank you for your time today councilmembers. This past summer I taught a class to the California election process how does everyone know what to vote for if everyone doesn't have a computer at home? And so I assured my student that all voters get the information they need to make an informed decision from the voters guide which they receive in the mail. I'm here today to ask you to ensure that the voters guide does indeed contain the information that voters need to make an informed decision. And when the same council voted in May to put this ordinance to the voters instead of adopting it outright according to the mercury you stated your reason was to ensure you were following the right process for such an important issue. Whether to increase the minimum wage is one of the most important questions that San José voters will get to decide this November and following a right process does mean that the voters should have a full opportunity to evaluate the arguments on both sides. I want to urge the council to support the memo by councilmembers Rocha, Kalra and Liccardo in favor printing rebuttal arguments. Thank you. [applause]

>> Vice Mayor Nguyen: Mike Cassa, Annie Sayo.

>> City college and I'm here to speak on behalf of the students of our college and the students in the community of San José. I'm here in opposition of the proposal to not put the rebuttal onto the November ballot. I feel that it would be a -- how would I say it -- you know it would really be detrimental to not add it oto the November ballot because it would actually be a form of order suppression, in my own you know the way I feel about it, it would be like say for instance, if you are running for an election and not having your information on the ballot. You know as a city council member you'd want to have your information out there. So the voters can get to know who you are. And by suppression, the voters of not getting them the information that they would need to make an informative vote on the November ballot I think it would be a dismay to the whole community of City of San José. So I'm here in favor of the rebuttal, and to -- I want to thank Councilmember Rocha, Liccardo and Kalra for taking their time and writing their support of putting the rebuttal arguments. Thank you. [applause]

>> Vice Mayor Nguyen: Annie Sayo, Robert F. Signo crm Ronald core.

>> Good afternoon, my name is Annie Sayo, I'm a member of which is also a member of the national alliance of Filipino concerns. To us, advocacy equates third largest ethnic group that has low voter turnout and based on our Powe and issues. What where I'm standing before you here today to request for you to be proactive in assuring that our voices are heard by doing the following: Provide an opportunity to evaluate arguments on both sides. Make voter guide -- make the voter guide complete and understandable. It is your duty, as city council, to implement a fair process for your citizens of San José, to have this equal access to information. In the spirit of democracy. Please support the memo by councilmembers Rocha, Kalra and Liccardo in support of printing rebuttal arguments. Thank you.

>> Vice Mayor Nguyen: Robert F. Signo, Robert Corro, Agnes Nagash.

>> Good afternoon council my name is Robert Sigalla and I'm here to support a rebuttal statement on the ballot. I coached athletics for 40 years the James Boyd ranch and I coached numerous sports. And whf you coach sports you go by rules. The reason you have rules is to give each side an equal chance and equal opportunity to win. But not allowing a rebuttal you are favoring one side. Is that the chamber of commerce? You're not supporting work families and that's why I'm here today is to support working families. I'm a retiree. I have a decent retirement. But it's hard for me to live in this county. The difference between an hourly worker and a salary worker is, the hourly worker is impacted by everything. They're impacted by gas, food prices, housing. Channel 11 did an article about a month ago saying that rates in Santa Clara County are going to go up because the foreclosures. And the people that are going to rent, their rents are going to go high, higher. This really impacts the hourly employee. Also, the hourly employee is barely 75ing. They have no medical benefits, majority of them. if you look back in history, somebody earlier talked about Roosevelt. When he started the new deal, who was the group that was against him? Who was the group providing the money for them? Who was the group trying to hold on working families? It was the chamber of commerce. By you not allowing the rebuttal, you are favoring one group, and it's not the working families of this county. Thank you for your time. [applause]

>> Vice Mayor Nguyen: Ron Acoro, anas Nadash.

>> Hi. San José has a chance to be a national leader in good policy making by increasing the wages of tens of thousands of working families. Hi, my name is Ron Alcory. Thank you for your time. I am a product of San José. I'm also an American citizen who immigrated from the Philippines. witnessing my dad who is a single father working diligently, consistently and providing for me myself our family rent paying for food, helping me with my homework and tolerating everything that I may throw at him as a young child. We immigrated from the Philippines hoping to experience the American dream and the values like voting. As a voter my father would read the arguments on both sides. To pick a wise decision that could potentially affect his only child, me. His son. As I know the choices that he makes as a voter, he needs clear, precise facts and rebuttals. Denying a rebuttal argument equates to a form of voter suppression. Holding back information that will allow a voter to make an informed decision. I want to urge the council to support the memo by Councilmember Rocha, Kalra and Liccardo in support of printing rebuttal arguments. Thank you. [applause]

>> Vice Mayor Nguyen: Amas Magash, Victoria Madone and.

>> Hello greatly opportunity for San José to be a national leader. In good public policy by allowing people to make an informed decision and assuring that and letting people know that they are smart enough to make the right decision. Why should they makes this decision? Because in Santa Clara County you have nearly 22% of the population cannot make ends meet. Too many residents of Santa Clara County struggle high cost of housing, transportation and health care. Our community is in need of jobs that pay livable wages that enable them to build assets and saving for their children, education, home ownership and retirement. The wage gap continues to widen as Santa Clara County cost of living center continues to increase. For a family of four to achieve the minimum receive sufficiency rate of 68,430, a single person has to work four full time jobs at a minimum rate to make ends meet. Who pays for this price? Children. Children of families in poverty have heard the most. They struggle in school with many dropouts, those who persist in high school never really make it through. I urge you to support the memo by Councilmember Rocha, Liccardo and Kalra. Let the people make the decision. Thank you.

>> Vice Mayor Nguyen: Victoria bardone, Camilla Bashila. Claudia Shope.

>> Good afternoon. Currently absent mayor, reply name is Victoria bardone, I have spoken about this issue before. I am in support of raising the minimum wage in San José. You know my deal. Hopefully you've been listening to everyone else in public comment, the truth is here, the facts are here. I want to keep it short and sweet and urge you all to urge the printing of rebuttal arguments and the minimum wage measure knowledge is power and we as civilians as workers as students as neighbors and co-workers as people in power we all need to do our part to ensure our city has the voter population that is as informed as possible. Right now is your chance to do your part. Please get this rebuttal on the sample ballot. Thanks again to Kalra, licked, and Rocha for getting the memo out. Thanks.

>> Vice Mayor Nguyen: Jamilla hashima, Claudia shown, Martha O'Connell.

>> Thank you for allowing me to speak, my name is Jamilla hashima. I'd like to state that in 18 to 24-year-olds voting in American history. With that being said electoral jargon is confusing enough. We need to have these rebuttal arguments from both sides on the ballot because a balanced ballot means that it's about enough that people are saying that the chamber of commerce is not playing fair. We tell our children to play fair all the time. It's not equivalent to spend \$1.5 million, on something that is so big. I was born in valley medical center. I'm proud to say that I was raised by San José. Not only because I was raised here, but because I was a foster kid. I made it through all kinds of statistics. San José has been a forerunner in so many things. Number 1, when the police get their equipment, we're number 1 when it comes to fighting crime. We're number 1 in so many things. We should be number 1 in making sure that the rest of the nation follows our lead, in making sure that our people can eat and live. In 1991, I made \$7 an hour pushing a stroller as a 17-year-old. I had my first child. I did not have enough to make ends meet. Luckily, I was in a foster home so that I could afford my newborn child. Today, 21 years later, people are still making \$8 an hour? My heart is bleeding right now! I'm begging you. It's already too late for you to just he g go ahead and given it to the people. But at least, put a balanced ballot out there. Because there are too many people who don't understand the lines that are written. Put something out there, for laymen's terms, people. People who haven't finished education. You all know --

>> Vice Mayor Nguyen: Sorry, your time is up. Thank you.

>> MLK school is not doing its job today, thank you.

>> Vice Mayor Nguyen: Claudia Shope, Martha O'Connell.

>> Hello my name is Claudia Shope and I live in Sam Liccardo's district. I want to urge you, the council to support the memo by Councilmember Rocha, Kalra and Liccardo, I'm glad you participated in that. I really think that you knead to print the rebuttal arguments, because I don't even understand why you wouldn't, except for that the chamber of commerce thinks that it's bought you off. And that is just plain wrong. People need to have all the information. Not everybody has a computer. I don't even have a computer. Most people do but not everybody does. And that sample ballot makes a big difference. Let's make a big difference here. Let's be leaders, and make sure that we have all the full information out there for people to read. Why are you -- would you be afraid of doing that? I cannot even understand, if you would vote against this. It just doesn't make any sense. Why not give people the information, please do so, by allowing those rebuttal arguments and support the memo that was put out by Rocha, Kalra and Liccardo. Thank you very much. And I really hope that you will be leaders doing the right thing, giving people good information. Thank you.

>> Vice Mayor Nguyen: Martha O'Connell.

>> Martha O'Connell, chair of the senior commission and citizen. I'll speak first as chair of the senior commission. By majority vote, the senior commission is against the minimum wage ordinance as written. As written. By a explanation by the City Clerk followed by a presentation from the chamber of commerce followed by Catholic charities who were given equal and uninterrupted time, the senior commission volted to oppose the ordinance. I'll get off as the chair and get on to being a citizen. I can tell that you I think it's critical that the rebuttal argument be on the ballot. We all need to see full information on this proposed ordinance and it's critical. We need to give the citizens the same thing, the same rights as the commissioners had. Which to carefully listen to all arguments before casting a vote. Thank you.

>> Vice Mayor Nguyen: Thank you, and that's the last public speaker on the issue. We'll now return to the council discussion. Councilmember Rocha.

>> Councilmember Rocha: Thank you, vice mayor. I did have a question for staff. It's related to language here on the agenda, in the memo. And is this taken verbatim from the initiative? City Clerk or City Attorney would answer me?

>> City Attorney Doyle: Councilmember Rocha I don't know exactly what language you're referring to at this point.

>> Councilmember Rocha: Well, from the agenda shall an ordinance be adopted that requires under certain circumstances minimum wage in the City of San José to be \$10.

>> City Attorney Doyle: That is not on the initiative, that is language that we put. We have an obligation paved open what the initiative proposes, to put in 75 words or less a ballot question. So that's our language.

>> Councilmember Rocha: Okay, as far as the folks who submitted the initiative they are comfortable with this comment. Are you familiar with that?

>> City Attorney Doyle: I'm looking that requires in that beginning phrase under certain circumstances. There's been some concern about that. And adding to some confusion. I have no objection whether that stays in or comes out. We would, our impartial analysis will contain a more proposes and that's always part of the ballot book as well.

>> Councilmember Rocha: To help me understand better in terms of making a motion or supporting a motion in the future can you explain why those words were put there?

>> City Attorney Doyle: Because it's not youthful, it doesn't apply in all circumstances. There is a definition of can employee, there's a definition of employer. It was intended to qualify sort of using shorthand but understood how it might add to confusion. As I mentioned the impartial analysis will be a little bit more specific. The actual petition that Website out that was circulated I be contained the definitions of employer and employee as set fort in the nisk. But this is a little different. We're bound by a 75-word limit .

>> Councilmember Rocha: Do you have a recommendation how we should proceed or in order to be clear for staff ?

>> City Attorney Doyle: I think issuance of whether or not to allow rebuttal arguments, authorizing councilmembers to write on behalf or against the measure, those types of things are all separately as the clerk has laid out in his memo. I would suggest you may want to discuss it and whether you take it up as a package and proceed to a emotion, you could do it that way.

>> Mayor Reed: Somebody could do, put together a motion. I haven't sensed any so-d.

>> Councilmember Rocha: Whoever makes that decision I'd like them to consider removing under such circumstances if possible.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. The memo that Councilmember Rocha, Liccardo and I filed essentially speaks to a number of the points. The, we're here and many of notices who felt that the matter should go before the voters, a large part of the reasoning was that so everyone could be fully informed on the issues, have an opportunity to evaluate all sides of the issue. And so that's why I certainly joined with my colleagues in that memo, and from -- for those that were here, back in May, you'll note that the three of us were at different points on the spectrum. In regards to the actual initiative. But this is not really about the initiative as much as it's about ensuring we have a fully informed electorate and make sure the proponents have an opportunity to make

their case and regardless whether any one of us individuals or whatever groups in the community, however they feel about it, you'll have plenty and ample opportunity to state their case or their thoughts or opinions based on the available information. Nothing really has changed much in the last ten weeks. I imagine those that were in the community that were for it, are for it now, those against it are against it. Only difference is over \$1 million will be spent, to, rebuttal arguments made. And so that was the reasoning behind my support of the memo. I had no objection certainly to the suggestion that Councilmember Rocha to remove the language under certain circumstances. I think that makes it at least a clear -- more of a clear question. I had no problem with doing that. However I would like -- I would hope that the majority of the council could support the motion. I don't know if Councilmember Rocha would put a motion, I'd be happy to do that right now then, to put forward the memorandum signed by Councilmember Rocha, Luccardo and myself. Allowing for rebuttal arguments to be submitted and published for the minimum wage initiative, as well as adopting the recommended language striking, under certain circumstances.

>> Mayor Reed: All right, we have a motion, and a few more people that want to speak. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. From my time on the council whenever we've had ballot measures come '08, 2010, the council has always been no rebuttals. That's different than a for and against argument. And I think that's -- we had a lot of confusion when we had measure B come up this year because people made the assumption that it -- even Mercury News did, having nothing on there just the measure. The fact is the rebuttal is a secondary argument pro and con. At the time it was said to us in 2008 and 2010 that it's sort of a council policy we're here to save money and not put rebuttals on. And then when measure B was a little bit more controversial and there was the confusion in trying to be fair we put that on there. All I ask is that we just don't pick and choose the ballot measure. That we either have rebuttals the secondary argument or we don't for all measures citywide but not just one. And I'd really feel much more comfortable supporting this if we are just going to make a decision one way or the other. I could go either way, let's be consistent and that's what I'd ask for my colleagues.

>> Mayor Reed: All right, we have a motion. I have no other requests to speak. Councilmember Liccardo.

>> Councilmember Liccardo: Just a point. I do recall that discussion, in 2010. Councilmember Oliverio, I frankly agree that I think going forward, we ought to be drafting some kind of council policy that does set the basic standard. Because I recognize there's a real problem playing sort of ad hoc with how we do this. Frankly I was under a misunderstanding from that 2010 discussion about whether rebuttals were the secondary or tertiary argument, it wasn't clear to me and ultimately the clerk's office corrected my misunderstanding. I think -- I just want to encourage you after this vote we ought to come up with a uniform policy and I'd be happy to support it.

>> Mayor Reed: I have one question to the maker of the motion. There was another issue regarding allowing councilmembers to do the argument and the for-and-against. Do we need to include that in this motion or is it --

>> Councilmember Kalra: I have no problem, allowing councilmembers if they choose to either for the arguments or for the rebuttals, if they so choose. I don't -- I have no problem with that.

>> Councilmember Rocha: Does that require an action or is that just part of the process already?

>> City Attorney Doyle: That's part of the items to be considered. The reason for that is, it gives councilmembers a priority in terms of a -- if a councilmember submits an argument in favor or against they have priority in terms of getting it into a book.

>> Councilmember Rocha: Does that require an action or is it already --

>> City Attorney Doyle: It requires an action if you want to make it a priority.

>> Councilmember Kalra: It just gives us the opportunity?

>> City Attorney Doyle: That's right.

>> Mayor Reed: Mr. City Clerk.

>> Dennis Hawkins: An additional item that needs to be considered by the council is whether or not to print the full text of the measure in the sample ballot book.

>> Mayor Reed: Councilmember Kalra you've got the question.

>> Councilmember Kalra: What's the.

>> Dennis Hawkins: Election cycles we've not put the full text of the measure in primarily as a cost-saving measure.

>> Councilmember Kalra: What, do we have any sense on what the cost would be for this particular measure what the length is?

>> Dennis Hawkins: The -- yes, Councilmember Kalra I issued a supplemental memo and we estimate that the full text of the minimum wage ordinance would be three pages, which would be approximately \$54,000.

>> Councilmember Kalra: Oh, yeah, I see it here. And at this point we're saying whether yes or no, it's no like -- in other words we can't just say, like similarly give the option, we have to decide right now, make that choice right now?

>> Dennis Hawkins: We have to file the resolution by Friday.

>> Councilmember Kalra: By Friday.

>> Dennis Hawkins: I need to have the resolution to the registrar by then.

>> Councilmember Kalra: Has there been any request to publish the full text by any party?

>> Dennis Hawkins: I was asked how much it would cost which is one of the reasons I issued the supplemental memo but I haven't received any specific direction or requests on either side.

>> Councilmember Kalra: I'm inclined to not to have to print the full text.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Again past elections there's pro and con on this topic. We decided it was a cost issue and not to do it every time. I know some people don't have access to the Internet, but more and more people have access to the Internet, it's always available on the clerk's Website. I'd be inclined to not do it. I was hoping we would have consistency today. We're going to be voting on one ballot measures. It is the choice of every councilmember. I want to understand on the arguments submitted it's calling out that a councilmember should have a higher priority on submitting an argument over a person in the public? Lisa.

>> Lisa Herrick: Either. If the council whether it's for one of the direct arguments or the rebuttals, whether the arguments if more than one argument is submitted, then the legislative body of the city council would have priority. That's just set out in the elections code.

>> Councilmember Oliverio: And that's not by right. So if we didn't do any of that and we had a ballot measure and residents put in one measure and a councilmember or mayor put in the other it's not automatically out-ranking, the council has to make --

>> Lisa Herrick: That's correct.

>> Councilmember Oliverio: Just to understand, we're saying a councilmember but not a specific councilmember?

>> City Attorney Doyle: That's what the proposal is.

>> Councilmember Oliverio: Okay, thank you.

>> Councilmember Kalra: Yeah, no, no, those are -- those are appropriate clarification questions. And as I was finishing up on the issue of the text, I don't think we need to do it in this case. The issue of having uniformity, the reality is every measure is different. There are some measures we can anticipate there is going to be need for more of a full discussion both here and in the public domain. There are some measures that come before us that we have to put on the ballot that we frankly don't -- that might not be controversy or routine or ordinary that we have to do based on law but have no formal opposition. I think each scenario poses a unique set of circumstances. I don't think it comes up that often. Today we're going to have a discussion of it but it comes up once or twice a year where we have to make these kinds of decisions. Because of the unique nature of each individual ballot measure I don't think it's too much for us to kind of take a look at the unique circumstances and decide. And in this case I think that we're in agreement that there should be rebuttal arguments but there hasn't -- there doesn't seem to be any need for the cost of putting the text out there.

>> Councilmember Rocha: Mayor if I can ask a clarification question. You raised an issue about the memo from Liccardo and Councilmember Chu, is that correct?

>> Mayor Reed: That's a memo --

>> Councilmember Rocha: That's another item, but did you ask that on this item?

>> Mayor Reed: No.

>> Councilmember Rocha: Thought we got into that discussion, forgive me.

>> Mayor Reed: That's one of the things we need to decide. The motion as I understand it, there are four items mentioned in the staff memorandum. The first was the resolution with the ballot language 75 words, the motion is to approve that with the deletion of under certain circumstances. Not to print the full text. To permit councilmembers to submit arguments having a higher priority and then to include rebuttal arguments. I believe that's the motion. On that motion, Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to state whether we put the rebuttals or not, it is a policy decision. But whether we put the full text or not for every ballot measure is a judgment of cost. I kind of agree with Councilmember Kalra on his previous comment.

>> Mayor Reed: Okay, I think that concludes the council discussion for now anyway. On the motion, all in favor, opposed, I count none opposed so that is what we will do, motion is approved concluding our work on the minimum wage item. Now we will return to another ballot measure item 3.4 actions related to the card room gambling initiative. [applause] So item 3.4 is there additional staff presentation beyond the staff reports?

>> No.

>> Mayor Reed: And let me explain the memorandum that I put out, dated August 3rd, and that was to modify title and language that really was done at the request of the proponent to try to be fair and balanced, I guess, is the best way to describe it in light of our previous actions with a card room related measure. Although we did not - I do not recommend making all of the changes that they thought were appropriate. And the reference in the very first line of the measure, shall gambling be expanded by municipal code, I believe is required by the state business and professions code.

>> Lisa Herrick: That's correct.

>> Mayor Reed: So beyond that it's kind of up to us to do that within the constraints of being impartial.

>> Lisa Herrick: Yes, there are other requirements that the question has to substantially conform to but I think that this does .

>> Mayor Reed: Okay, Councilmember Liccardo had a memo. Councilmember Liccardo do you want to speak to your memo?

>> Councilmember Liccardo: Sure. I just had one quick question relating to the proposed language change, mayor. And this I guess would be for the City Attorney. Lisa would the numbers of the existing number of card clops or card tables as the 98, 128 and 158, would those be somewhere in the ballot material so people had a reference?

>> Lisa Herrick: Yes, I'm sorry, we have 500 words for an impartial analysis. Obviously that's a lot more than the 75 words we have for the question. That would be made clear. It was clear in the title and circulated petition as well .

>> Councilmember Liccardo: That's fine. I'd be happy to make a mowing that incorporates all three of the memos from councilmembers Kalra, Chu, Mayor Reed and myself. Certainly, and submit for additional discussion. That would be my motion.

>> Mayor Reed: All right, we have a motion, I have a question about the third memorandum dealing with the recommendation that we urge continued commitment regarding the AACI contract, dealing with problem gambling. We're not giving direction, we're not taking action, urging is allowed within the Brown Act?

>> City Attorney Doyle: We have a settlement that provides for these type of payments it's based on a formula and I think we can continue to have those conversations with the card rooms.

>> Mayor Reed: But that is controlled by the settlement agreement, that's how we got started on this?

>> City Attorney Doyle: That's correct.

>> Mayor Reed: Was some years ago with the settlement agreement. Councilmember Liccardo do you have anything else?

>> Councilmember Liccardo: No.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor and perhaps this is a question for Lisa. Just to confirm the memorandum from Councilmember Liccardo, it does state in here that this would merely be the ability for a councilmember to give an opposing argument but that wouldn't be the opinion of the council or the position of the council this is just vud, correct?

>> Lisa Herrick: That's correct.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you Mayor Reed. I don't know if this ends up being a third councilperson that might want to join the argument and you're only limiting it to two, so if we just had you know the council may submit an argument I'd be more comfortable with that. And then the other idea I wanted to mention as, I mean it's a public record that there was some questions asked about AACI and what they were doing with the money and the wrults and those types of thing. I'd certainly like, it's a fair question to ask, what services are being pried for that A money. That's a fair question. I don't know Rick Doyle is that a today-thing or is at a an urging much like --

>> City Attorney Doyle: I think staff probably needs to regroup here and talk through. Because there are some issues that are out there and maybe come back at a later date and give more specific direction. I think this is urging continuity consistent with what the settlement agreement is knowing that the formula, the number has come down and may come down and we need to work with that. There is more information I think that the council needs before it can make a real clear directive, at this point this is just urging us so continue sort of the status quo.

>> Councilmember Oliverio: Just pointing to the first item I spoke to so in the last item we said that the council can submit an argument but we didn't say specifically who. In this case it is different, specifically calling out my preference, it's consistent. But I'll let someone else talk now.

>> Mayor Reed: Someone else will be Councilmember Kalra.

>> Councilmember Kalra: Thank you. On my what is point I don't know if it really makes a difference naming the specific councilmembers or not. We clearly have a couple that may be interested in doing it. If there are others kind of a blanket statement like in the past item would be appropriate. And as the mayor indicated and as Rick indicated, speaks to the sentiment of the importance of assuring we do recognize the importance of the issue of the problem of gambling and that resources be allocated for it. I know discussions are happening right now, between AACI and the card clubs. I know they will continue, I know we don't have complete information today and that's not the item specifically before us but it's just a statement of recommitment of the importance as we're expanding the capacity potentially for more tables, as we of course have a new facility opening that we still recognize the importance of ensuring that there are resources being placed regarding the issue of problem gambling and the details will continue to have to be worked on with the -- our nonprofit partners and the card clubs with the city, the city hopefully helping facilitate those discussions. But I do understand that the prior arrangements were due to a court settlement and this is -- and that's why the wording was quhoasen of urge as opposed to mandate.

>> Mayor Reed: I have a question for the maker of the motion. I think the motion does not include anything on rebuttals or full text.

>> Councilmember Liccardo: Yeah, I'm not inclined to request rebuttals or full text unless there's a strong urge from someone from the council or public. I haven't heard those.

>> Mayor Reed: Is motion does not include those, just so everybody's clear. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I just wanted to agree with Councilmember Oliverio in regards to designating councilmembers rather than a particular councilmember or councilmembers to provide an opposing argument. I'm sure Councilmember Liccardo and Councilmember Chu are more than qualified to write the opposing argument on this initiative but I think if we can be consistent and allow other councilmembers to chime in and if they wish three can provide the opposing arguments. That would be the friendly amendment to the motion.

>> Councilmember Liccardo: I'd be happy to allow any other councilmembers who want to join us in that argument. I think that would be perfectly fine. We obviously had Brown Act restrictions in terms of how many councilmembers we could reach out to. And so Councilmember Chu and I are currently on the memo but I'd be happy to invite anyone else who wants to join us on the memo. We just have to get -- I'm sorry on the response. Opposition argument which has to be filed I believe within a week and a half.

>> Mayor Reed: Anything else Vice Mayor?

>> Vice Mayor Nguyen: Yes, City Attorney how many councilmembers can we have on this maybe five like the Brown Act rule?

>> City Attorney Doyle: Yeah, I think it is five. How many people can sign the ballot measure?

>> Lisa Herrick: As a practical matter no more than 5 will be printed in the sample ballot.

>> Mayor Reed: Maybe there is more. Is it a Brown Act issue if you have five signers and others whose names are in the text, now you have more than 5, is it a Brown Act issue?

>> City Attorney Doyle: I think it is if it happens outside this meeting or noticed meeting.

>> Councilmember Liccardo: Could I offer a possible accommodation? I don't know if it's possible or not. I don't believe we had six votes to take an opposing position. We have six votes to take an opposing position, contemplated inherently in section 9282.

>> City Attorney Doyle: I think that is something you would definitely have to notice and the council between now and November the election day can agendize and take a position in favor or in opposition to the measure. But it's not noticed for today.

>> Councilmember Liccardo: Okay, would that then, I guess I'm happy to take the friendly amendment to invite any other councilmembers who want to join Councilmember Chu and myself, if we get the sixth then obviously that may be a signal for us to come in to take a motion to oppose by the whole council.

>> Vice Mayor Nguyen: Just for a future question then for supportive argument, that councilmember can put out a memo and say that I hope the council will designate myself for me to be the person to write the opposing argument or supportive argument?

>> City Attorney Doyle: Yes, I think the council has to call to do it generic gullet or to name a specific individual.

>> Vice Mayor Nguyen: Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: I wanted to disclose that I or my staff had communication with Ed McGorch and members of AACI.

>> Councilmember Rocha: And I'll second that.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: To the Vice Mayor's point pro or con argument but I start to feel you may have somewhat favoritism based on the particular issue of the day and the council. So again I'd support the Vice Mayor I'd rather just have the council and you know if you want to write it ASAP and do that that's fantastic or gather any amount of people to do it. But I'm uncomfortable again what it looks to future. Second back to rebuttals for consistency, Mayor is there anyone who has pulled a card to speak on this topic?

>> Mayor Reed: I do have people who wish to speak, so we'll certainly take that testimony before we vote on the motion.

>> Councilmember Oliverio: I'm curious to see if those people want rebuttals or not.

>> Mayor Reed: You'll have to wait and see but we'll be there in just a few minutes. Councilmember Liccardo.

>> Councilmember Liccardo: I just wanted to point out this is specifically the process that is outlined in state law, that the legislative body can designate people to respond and as a legislative body we have priority in terms of determining who gets to be first on the argument. This is not an attempt to squeeze anybody out. Certainly if we have a situation -- the problem is we can't take a position as a body on this measure in time. And so I propose this as an approach, again, we welcome anyone who wants to join. This is not intended to be exclusive. About the this is the process that the state law explicitly lays out.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: On the point I certainly didn't and don't perceive this as a way to I think we're all figuring out what the proper process is. The prior item we had a blanket item that councilmembers may. I think this should stay same thing with the understanding that on the opposed side we have Councilmember Liccardo and Chu have already formed together to start preparing that. I think that if we have a blanket staple kind of overriding all of it and then under that we have clearly the clear intent now of two councilmembers that are joined together to write an opposing position because for example in the prior minimum wage one we just left it open. If there are councilmembers want to write one in favor or opposed they can. it's open but we have a little more information because we have opposed position and as Councilmember Liccardo said as long as it's within the Brown Act others may join. I don't know if that's where Councilmember Oliverio was going but that's kind of how I was seeing, we needed this a little more open-ended. And then if there's further specificity in a particular case like in this case then we follow that specificity.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I just don't want to explain -- I reached out to Councilmember Chu because these card clubs happened to be located in district 4 and District 3 as of tomorrow. There seems to be some reason for us to be concerned because of gaming in our district.

>> Mayor Reed: Let's take public testimony to see what people have to say on this topic. Please come down when I call your name so you're close to the microphone. Jorge Wong, Patricia chow, rains.

>> Good afternoon councilmembers and Mr. Mayor. I'm Jorge with AACI problem gambling Alliance. This is a consortium of four agencies, AACI. Ours, and brief California and the youth for the last three years. I wanted to share some of the findings that we have done, with the council and also individuals so that they can understand where the funding and what the services that we have provided. As you know, this type of service has never been provided in San José. And on year 1 the consortium actually conducted a first-ever community focus group and needs assessment related to problem gambling. Respondents basically stated they had no knowledge of

community's resources affecting problem gambling. Access barriers were provided and ability to pay for services, that's why the shame and stigma of seeking youth service on the Eastside unified school district did not consider problem gambling that they were actually doing as potentially addictive and problematic behaviors. At the end of year 2 which is 2011 we conducted a second community survey surveying over 1400 respondents and it shows that actually the knowledge of increased problem gambling services increased by 50%. San José residents surveyed reported significantly higher percentage of gambling about 24.5% as compared to past reports in the Bay Area at 16.5 and California at 18.9% respectively. Card playing in particular in the City of San José was reported at 17% by the respondents, which was significantly higher than the Bay Area and California at 2%. This shows that in San José, card playing is at a greater magnitude than California and the Bay Area by 7.5%. We also have actually sent reports in regards to the services provided in the financial to the designated individuals at the bay 101 and Garden City. Given that we also want to thank councilmembers and the two card rooms for the funds that they have played available for the groundbreaking work possible in particular that they should continue to fund the collaboration efforts at the same level so that the residents of the greater San José area continue to benefit from the continuum of services that problem gambling has developed to date. So thank you.

>> Mayor Reed: Kelly chow. Patricia reins, iris din.

>> Hi, I -- good afternoon. Would I also like to echo what Dr. Jorge Wong has said, would like to thank San José and the two card rooms for our problem gambling alliance prior to the problem gambling alliance and the problem gambling project, there were only three certified problem gambling experts in driving range and they were located in South Bay and Santa Cruz. Since the problem gambling alliance has begun, licensed counselor and now within about a year and a half, two years we have increased that to eight more certified counselors. Our services are provided in Vietnamese Mandarin spanish as well as English and many other languages that are needed in our diverse community. We are also currently training industry staff. I myself for actually the past two years have been training bay 101 stwri staff as well as police officers in regards to the problem gambling signs and symptoms as well as resources in our community. In addition, effective about an throing community specifically in the San José area so our youth project have created ethnic media programs that have been recognized by the office of problem gambling. They have also used our PSAs in San Francisco Bay Area as well as ESPN during the NFL playoffs

and we have also been recognized this year, through the office of problem gambling. And they have requested to use some of our PSAs developed by the youth for educational and prevention services. So I echo what Dr. Wong has said to urge the city to encourage the card rooms to continue to support our services at least by the level of funding that was given to us for the past three years.

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

>> Thank you.

>> Mayor Reed: Patricia Ramos, Iris Din and Ross Signorino.

>> My name is Patricia Ramos prevention services and that includes education and awareness. We really want community members to gamble at an entertainment level but to be aware that that level can be at risk or problem or even pathological. Then we provide services for those already affected, for those already problem or pathological disappoints to parents who are all impacted by gambling. These services we provide in-home as well and we want to make sure that we bring the services where they're needed. So all of these services, for the past two years, we've actually worked with over 20,000 community members in San José. And so what we want to do is be able to continue these services at the same level. Again we're urging the city council and the card rooms to contribute to the PGA in the same level that they have been in the past two years. Thank you.

>> Mayor Reed: Iris Din, Ross Signorino.

>> Good afternoon, my name is Iris Din. I grew up in Vietnam. I saw people gamble anywhere, looked like fun. I have been working into people's homes, where I saw different picture. The gambler was totally lost into their dream of winning or dream of trying to recover the money they lost. The rest of their families was left struggling with the aftermath or the ongoing battle of financial legal or emotional destruction. At the clinic I have been providing support to the gambler and their family. Clinical treatment, community outreach workshop and especially the culturally intensive case management. I have been on public trained with them for court

appearance also service housing appointment and to other agencies. They might not get these services from traditional mainstream treatment program. As a referee I am the standard trauma in their past and if hardship in the new land. I understand the customize Viet community. All the family I have been working with are at crisis point even though they want to stay together, they could fall apart without help. Some kind attempt suicide, some youth in custody, the rest are struggling. Our program helps them to manage the crisis, to reduce the effect of the problem, and to help them to find alternative ways to survive. Clients are very happy with my culturally sensitive and respectful service. Our customs will last and our norm will still be there because they are our life. And we trusted them. As a community based organization, I also want to educate our community to keep gambling at the level of celebration.

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

>> Thank you, Mr. Mayor, members of the council. This is a good thing to bring before the voters. Of course this thing has been kicked around for so long, years and years, when Mayor Gonzales was mayor he was trying to close down the card clubs because of the social implications that it had on the community here in San José. Especially the Vietnamese community at the time. And probably, still the same. But nonetheless, I was opposed to gambling at the time but I have to change my mind. Because now, we have gambling all over the country. Card rooms are opening up all over. Indian gambling and so on. And even mayor Jerry Brown at the time in Oakland tried to get a card room there, card games going there in the Oakland army base. Somehow he didn't last that long, now he's in Sacramento. But nonetheless it is a reality that we need the income. Even you Mr. Mayor one time once told me that the one there on -- card room there on Saratoga gets about \$13 million a year for the city to have its services. But at the time we were arguing of the social implication that it had and what it cost to maintain good orderly working order, with the card rooms. And that's been very expensive. The police have had to go out there many, many times and they have been burdened. And even now with our police department going not the way we want, of course, laying offs and people going to other police departments, I think that, too, should be considered what is costing us socially and in services. I see my time's almost up Mr. Mayor so I'm going to leave off before I hear those dreaded words, sorry, your time is up.

>> Mayor Reed: You had two seconds to spare. Way to go.

>> I want to go come back. You want to use those words on me.

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

>> Councilmember Campos: Thank you, mayor. We had long discussion and the confusion grows. I just wanted to make sure as Councilmember Liccardo's memo is included in the motion, that does not preclude a councilmember signing on, or adding a pro opinion on that. So it covers everyone. Okay. Thank you.

>> Mayor Reed: All right, let me just clarify the motion and ask perhaps for a friendly amendment just to make sure we've got everything covered. On the agenda we have items A through F some of which are not included in the motion. So we need to accept the certificate of sufficiency. We need to accept the report. And then we need to adopt a resolution, and that resolution would include language that's changed, with regard to the 75 words, and the title. And then, item D, full text, is not included in the motion. Item E, on the agenda, is designation of Councilmember Liccardo and Chu, or the ballot argument in opposition. Item F, which is rebuttal, is not included in the motion. Then I guess we've added item G which is the urging regarding the AACI funding. So Councilmember Liccardo, have I got the motion right with all of the little parts?

>> Councilmember Liccardo: Yes.

>> Mayor Reed: Okay. I'm going to support the motion and just regard to the AACI funding I would urge AACI to spend some time some quality time with the funders of those programs to make sure that they understand the impact, the results, and what they're getting for the money that they're paying. That does not come through the city. The city doesn't monitor it. And I think you'll have a much better time convincing them of anything, if you can demonstrate the results. So I would urge AACI to take this opportunity to have that conversation with the two card rooms who are both funding the programs. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor for accepting the item G. While I support the contribution from the card rooms, to address the problem of the problem gambling in San José, I'd really like to see an audit of how funding has been being distributed and the effectiveness of the program. So -- but I know that's probably not the City Auditor's responsibility. So I would add to the mayor's call for AACI to really be able to go public, the -- how the funding has been distributed, and so we have a chance to know that really, it is -- AACI is the right agency to be the lead agent on this, thank you.

>> Mayor Reed: Okay, with that I think we're through with the council discussion. We have a motion with all of its many elements. Was there any other questions or comments before --

>> Dennis Hawkins: Excuse me Mr. Mayor.

>> Mayor Reed: City Clerk.

>> Dennis Hawkins: Thank you. I just wanted to clarify on the issue of councilmembers submitting arguments. What I -- Councilmember Liccardo's memo I think limits on the arguments opposed but I heard the response to Councilmember Campos question that it would permit any member of the council. I'd just like to get clarification from the council of its intent relative to gullets for or against submitted by councilmembers.

>> Councilmember Liccardo: So Dennis it is my understanding if we don't weigh in on the issue it's essentially the first one to the clerk's office gets the argument, is that the way it works?

>> Dennis Hawkins: Well --

>> Lisa Herrick: As long as the council has authorized a member or members to submit an argument.

>> Councilmember Liccardo: Okay if we authorize a member then obviously we get priority.

>> Lisa Herrick: When I say authorize any member or members, that can be done generically account, not specifically. When I answered the question, can someone still submit an argument, I understood the question to be broad enough that a councilmember could submit an argument if he or she wanted to do so.

>> Councilmember Liccardo: That was my understanding.

>> Mayor Reed: Let me clarify. In this case, we have people who circulated a petition, do they have no priority of the arguments in favor of the measure and is that also the case for the previous.

>> Lisa Herrick: To Smith an argument .

>> Mayor Reed: Let me clarify with Councilmember Liccardo. Your motion speaks to only authorizing Councilmember Chu and yourself to spit in opposition. I was trying to understand what Councilmember Campos was trying to clarify with his question.

>> Councilmember Liccardo: I'm not trying to preclude anyone doing anything as a proponent. Maybe if Councilmember Campos wants to take that up perhaps we should take that up in a separate motion because that may in the audience I don't know.

>> Councilmember Campos: If I may, Councilmember Liccardo, it sounds like your memo is precluding any other opinion, except nor an opposition opinion.

>> Councilmember Liccardo: No.

>> Councilmember Campos: I understood it being it's allowing councilmembers to submit an opinion, whether it's opposition or the whether it's support. And if that's the case then I would support the motion.

>> Councilmember Liccardo: Yeah, and that is the case. I'm simply not weighing in on the issue of who submits in support.

>> Councilmember Campos: I just think that's fair.

>> Councilmember Liccardo: Okay.

>> Mayor Reed: Okay, with that I think perhaps we're ready to vote. Okay City Clerk?

>> Dennis Hawkins: Yes, thank you.

>> Mayor Reed: On the motion, all in favor, opposed, I count none opposed. Motion is approved. We'll submit that to the registrar. Got a couple of days to get it all together, I guess. That concludes our work on 3.4. Taking things a little bit out of order. We're going to finish a few items before we get back into ballot measures. As we've noticed, the retail sales and use tax measure and the service restoration priorities for last. Few things before that. So next item in order would be 3.7, the sewer service and use charge and storm sewer use charges for 2012-2013. We have a motion and second. We have one request to speak, Mr. Wall.

>> I'm very much concerned about how the sewer service and use charge and the storm sewer charges are calculated. For example, single family residents are to pay \$33.83 per month for sewer service and use. Where multifamily residential pays \$19.35 per month. Now, I've had this conversation before over the years. And I think Mr. Mayor the discussion is going to have to transfer over to Federal District Court. Because of things that have happened of late with reference to the water pollution control plant, from which these funds are to support, due to your actions in part as mayor and your collective actions in part as council, you have made the water pollution control plant on the verge of collapse. Collapse in the sense that you can't maintain employees. Specifically there's a request Thursday, last Thursday at TPAC, for an appropriation of fiscal year 2012-2013, for three industrial electricians. In fiscal year 2013-2014, the pay for the 2,246,400, albeit the increased work is noted. Now, single family homes are having to pay for your grand Mal in.

>> He is out with surgery in case anybody wanted to know. He's recovering. I'm sure he's watching this program. so that concludes 3.sen. We'll move to 3.8, the fiscal year 2012-13 property tax levy for general obligation bonds. Councilmember Oliverio.

>> Councilmember Oliverio: I understand we've done past G.O. bonds and then this anticipates future bonds. I guess the question for City Manager is are we only issuing bonds for items when we have the ability to pay to operate the facility?

>> Debra Figone: The staff can help answer that question, in terms of the kind of the phasing of these series which are backed by the property tax seamentsdz that the voters improved a while back.

>> Honorable mayor and councilmembers, an 'andrews the remaining balance from the approved from the electorate back in I believe 2001. When we do come forward with that new issuance and it's for additional capital projects we will probably also consider refundings, interest rates continue to remain quite low in the marketplace and when we come to market for that last piece we'll probably look for refunding that will provide a little bit of relief on the entire G.O. debt issuance.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: I have no requests to speak on this item fm we have a motion to approve. On the motion, all in favor, opposed, none opposed, that is probed. 4.2, rezoning of property at the southeast corner of Winchester and Stevens Creek boulevard occasionally known as Santana Row. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I believe there maybe a staff presentation. Okay, great, we'll go to the staff presentation and I'll speak.

>> Laurel Prevetti: Laurel Prevetti, assistant director of Planning, Building, and Code Enforcement. With me is Manuel Pineda and for the project. This will facilitate the construction of an over 200,000 square foot office building on Winchester boulevard. It also makes some technical changes to the project really facilitate the blend and mixing of uses. You have received quite a bit of correspondence from the Hopkins and Carly law firm. I want to assure the council that those correspondences raise no new issues. The initial study and the environmental documentation stands, as describing fully the potential impacts of the project. And there are no impacts for this project. Staff is now available to answer any specific questions that you have regarding the proposal. Thank you.

>> Mayor Reed: Councilmember Oliverio. I do have about a half a dozen requests to speak.

>> Councilmember Oliverio: Right, well I'd just like to put a motion forward to put the staff's representation forward and hear public speakers.

>> Mayor Reed: We have a motion to approve. We'll take some public testimony. Come on down when you hear your name so you're close to the microphone. Peggy Coe Hebe, Bill Cohen, if I've got the last name incorrect I'm sure you'll correct me. And then Doug Lessard.

>> Good afternoon and welcome back. My name is Peggy Keon, I'm president of theville La our residents love Santana Row. Its vibrant restaurants upscale retailers and unique life tiles style. And our 22 homeowners have invested over \$25 million in their success. But our investment came with zoning ordinance protections. Not only has this changed but the rezoning before you radically changes our vision of an exciting, mixed use development. To that of a life on the Las Vegas strip. Currently on three out of seven days a week our members encounter late night crowd of at least 50. Hanging out in the common space across the street, a virtual scream fest over the throb of amplified dance music until 1:30 in the morning. Traffic noise is especially unbearable at these hours, with passing cars and motorcycles revving their engine and blaring their own amplified music well past closing hours. We've been unable to get the applicant to address the existing noise and disturbances. In fact we could get better noise protection and a better night's sleep under the flight path of the Mineta airport. We've become a high crime area at the same time our police resources are stretched to their max. The applicant's

addition of four private San José police officers on these nights just heightens our concern about crime and safety. They are not noise police. The urban village concept is a wonderful one which we embrace but the current rezoning application before you goes too far without adequate consideration of the residential portion of this equation. Thank you very much.

>> Mayor Reed: Before we continue the testimony I got a little ahead of myself. I just noticed the cards. We do have the applicant here. I'm going to let the applicants take five minutes and then come back to the two-minute public testimony. If that's okay with the applicant or you can wait until the very end. We usually have the applicants go first on a rezoning. My mistake and then we'll finish whatever public testimony there is. So we'll give the applicant five minutes to use however the applicant wishes, lawyers, consultants, barningers, spouses, whoever you want.

>> So far just me. All right good afternoon. Mayor and councilmembers. Thank you for the opportunity to present our proposed rezoning of our Santana Row project. My name is Jan Swedenam. I'm with federal realty, the developer of Santana Row and I've been involved with the project for the last 11 years. Staff has done a great job laying out what we're asking for. There are a couple of items that I want to touch upon and why we're asking for these changes and first our request to add 108,200 square feet and re maybe may be able to build more restaurants. Let me start with the initial 108,000 square feet. We believe the proposed office building size in particular and the architecture and floor plate are a perfect fit for the market. This design and the amenities we have to offer give us a key advantage in our efforts to procure office users office building that opened up in '09 and finished leasing last year, we're 100% leased and every one of those office employers came from outside of San José to be with us. This is why we are asking for the additional commercial space. We have learned a lot operating Santana Row for the last nine years and we have learned that our restaurants play an important role in the vitality and success of Santana Row. They are a key part of what makes Santana Row exciting and retail. We've also learned that the vitality of and the breadth of this offering is a critical part of what attraction our guess for rental apartments our customers want to be part of the action and the highest demand that we have are for units fronting Santana Row. As we grows we believe it is important to expand this offering to keep the vitality alive. This is why we are asking for the relation of 30,000 square feet. Putting exact type of use the City's general

plan calls for the proposed office building would be an incredible asset to the city adding to the stakeholders that want to be part of our urban village. We look forward to building the success and vitality of Santana Row and thank you for your consideration.

>> Mayor Reed: All right, you have a few minutes left that we can save to the other end after we have heard the public testimony. Back to the public testimony, Phil Koen and Lazzard and Phil Aikens.

>> Good afternoon, mayor Reed, councilmembers, my name is Phil Keon regarding this proposal, I think it's a trick. However, safety is a major concern. We should not be increasing bar and restaurant square footage by 47% in beat F-2 when crime exceeds the average by 67%. Noise is also a serious issue. For example, on Thursday through Saturday blowfish sushi morphs into a night club paragraph 6A of their permit prohibits music from being audible outside the premise. Thursday through Saturday music is always audible after 11:00 p.m. Paragraph 11, prohibits drunken groups exit screaming and yelling. Paragraph 9 prohibits loitering which occurs routinely in the common area after 10:30 p.m. The ABC license prohibits entertainment from being audible beyond the area of control of the licensee yet we have recorded music in excess of 75 decibels on our patio at 11:30 p.m. Repeated requests to fix this have been ignored. And the city has advised me they don't have the officers to enforce the permit conditions. Imagine the effect of adding another 46,458 square feet, additional entertainment use. Please protect the residents of Santana Row and assure Santana Row remains true to its original vision. Thank you.

>> Mayor Reed: Douglas Lessard, Douglas Aikens, David Wall.

>> I'm Douglas Lessard I'm here to represent our company as well as 140 senior citizens who live at our assisted living community right adjacent to Santana Row. We are opposed to the rezoning, and particularly, the size of the proposed office building which would be right next to our community. The rezoning affects our residents' quality of life as well as we have some concerns about safety. The rezoning would allow an office building that is massive, it's twice the size as what's currently allowed under the master plan, 226,000 square feet, as proposed it's six stories in height. Which is the same height as our building. But the square footage is double the size of our building. We have half of our residents' windows are on that side of the building and they would be looking at a

very contemporary building right outside their office -- right outside their window. The plans include removing a tree buffer that is currently between our building and the surface parking lot and replacing it with bamboo plants. And we would prefer to see trees as they are now. As far as safety, there is a back driveway on the proposed office building that would be right along our in and out driveway. And while it's primarily for fire access and service, it's unrestricted, and our concern is that a lot of our residents do walk over to Santana Row and enjoy the shopping and the restaurants. And with that additional driveway, our concern is that people will cut through to get to the parking garage and there will be a steady flow of traffic. Especially in the morning --

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

>> Thank you.

>> Mayor Reed: Douglas Aikens, David Wall.

>> My name is Douglas Aikens with Hopkins and Carly new bars clubs and restaurants and the difficulty here in a nutshell can is that the negative declaration being used as the CEQA compliance device contains literally no analysis whatsoever of the noise or land use incompatibility on residents as a whole. We ask that a proper CEQA analysis be done and then allow mitigation of the adverse affects of noise and land use before you enact this rezoning. The long term success of Santana Row will depend on maintaining a balance among the different types of use. Intensifying use and noise in land use impacts on the residents will be a mistake that could take years to correct. Thank you.

>> Mayor Reed: David Wall and then we'll come back to the applicant.

>> There's really only been two good things that I've seen come out of Santana Row. First, when it almost burned to the ground during construction. And second, the advances in fire regulations that flowed from this project. This project is a utopian dream. Should never have been built for the mere fact that highway 880 have become an incredible parking lot because of this facility. Going on to Stevens Creek boulevard is also nightmarish. And now,

we hear the stories of nuisance. I think the council should really consider, if you are going to go forward with it, to offer to buy out the residents who purchased into this farce, at market rates so they don't lose any money. I for one say that this project shouldn't go forward because this city is a failed city. You don't have the services to support this type of endeavor. In addition, this rampant lawlessness is going to get worse just have a comment with a beat cop or two and they'll tell you. What I'm sitting here before is no surprise to me. A developer of the project gets five minutes where a resident gets only two minutes which shows where you're going, you continue to sell out to support this utopian dream I say Santana Row is a nuisance but the greater nuisance sits before me.

>> Mayor Reed: That concludes the public testimonies, back to the complicate, I've got a card from Andy favor but I'm assuming that the applicant will finish up the way he started.

>> Thank you. You know, Santana Row is a mixed use project and by definition it's going to have noise. It's a known issue and we have noise there during the day. We have noise there in the night and we have noise there in the morning. And that's something that we've all known about and certainly something we've disclosed. But it's important to us, it's important to us one, because TTYs right thing to be concerned about, two we have our obligation under our CC&Rs and third, we are always reliant on our next customer, our next residential customer coming in our next retail customer our next office customer and it's very important to us. We work very hard for the safety of Santana Row and we work significantly hard for SJPd to help us out on that. As I shared with Mr. and Mrs. Keon that we would speak with SJ PD and vice which we've done earlier today, the next thing, Mr. Trayer to help with the noise but we're committed to keep that as best as we can and keep the uses at Santana Row. And lastly for Belmont we really do look forward to working with them on their issues on safety and what we can do to help what their customers see in terms of our development so thank you.

>> Mayor Reed: That concludes the public testimony and the applicant's presentation so it's time for a little council discussion. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. Staff whether it be planning or D.O.T, Public Works, do you have any comments based on some of the things you've heard? We're sort of deflected by the Planning Commission meetings, give you an opportunity to answer.

>> Laurel Prevetti: Thank you, Councilmember Oliverio. We have reviewed the testimony and we have been working on our code enforcement complaints that you've heard this evening. We are in the process of an investigation by our police department. We do take these complaints seriously so we are in an investigation right now. We're also pleased to hear that the applicant is working directly with its tenants to also address the issues. So community livability is really important. I do want to emphasize for the city council that while some of the testimony emphasized an increase in the amount of restaurant uses, the share of restaurant is essentially saying the same. It's going to remain at about 15% of the total commercial space. The office component is increasing significantly to approximately 30%. And the retail is the part that has gone down to about 55%. So in terms of the relative share of the commercial activity, the restaurant piece remains the same. Again, staff team is here to answer any specific questions that you might have.

>> Councilmember Oliverio: Thank you, Laurel. I'll just start off by saying, Santana Row is reaping its 10th anniversary. It's been extremely successful. I don't hear a single development in the city whenever we have density in any of the council districts so can I get a piece of that Santana Row experience? It's extremely hard to duplicate, perhaps never will be duplicated, what makes it special is all these experiences together, residential, office, restaurant space. We all know probably people that maybe lived in their bubble communities just outside affluent areas of San José and they didn't frequent San José, Santana Row has been moving, from those areas. To be there, to be in this exciting unique place. And we've often talked about you know the revenue that it brings the city, and the pay, and part pay. distance of commute from their employees but what they're all struggling to find is something that gives a quality of life aspect for their employees, where their clients and employees can enjoy themselves quite readily. And when you're a company that might be growing in Palo Alto or Mountain View and you have an option where you go and all those northern cities or western cities to us built office parks it sort of impeded our ability to get new companies. And now with Santana Row it offers a differentiator so you might get a company that will take a 280,000 square foot building off the 280 freeway and

that's great for them I think we all know we see the amount of business going on in Santana Row, the business difference, et cetera, and the decision's been made a long time ago about having Santana Row, that's sort of where we are and we've had that benefit. But I do want to thank the staff for processing a very complicated application that the mayor often quotes, at the speed that allows you know, these developers to build a building, an office building quickly, to get the market. Because if we had taken more time they might not have been able to get a lessee, et cetera, I think that's a real benefit. Overall we're looking at we as a council passed 1998 the conditions of what would go on at Santana Row. And now we're here allowing them to have a variety of uses because we don't want Santana Row to come back every time and file an application because they have a unique store. We got a unique store for Santana Row about a year ago. It was called Tesla, Tesla store at Santana Row is the second highest foot traffic store for Tesla in the world out of 20 locations. It is the second in sales. Every time that point of sale is done at Santana Row that sales tax to the city of San José and Tesla is a good thing so those are all nice. To the Keons family we have chatted. Many people in the city have issues of noise for whatever reason, whether it's by a park, by a neighborhood business district by the airport, et cetera. And in the case of Santana Row they have the ability to act as a private property owner on that tenant. Should that tenant cause you know their business cause an effect, then there is that ability for them to clamp down on that individual tenant and not hurt the rest of the development. There's approximately a thousand residents at Santana Row. Every surface parking lot we see at Santana Row will be built. That was the plan. So for the seniors, Belmont facility next door on Winchester, usually when we hear things about height it's about a single family home, not wanting something to be you know three, four stories. In this case that's a six-story building. And that parking lot is spec'd for 120 feet. They're actually building less height. And the distance between the senior facility and this new building is actually much farther than the other office building on the other side which house Chevy's that has that modern art picture for several years. Union jobs in San José we understand there's going to be you know as we say in the villages or in the CC&Rs this is a commercial area that's going to have urban noise, it's going to have urban factors. So with that said I think this is a good thing. I look forward when Santana Row is completely built out. Obviously 280, 880 is not all Santana Row. There's history there, there's something called Westfield valley fair, both combined are adding 5, 6 million to pay for things. I would just santana Row's ability to add an office building.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I agree with many of the sentiments my colleague Councilmember Oliverio, that this is certainly, these are natural land use conflicts we anticipate in mixed use development. And certainly, that's part of our vision for urban villages. But I am concerned about a couple of issues. One is, giving the expansion restaurant square footage I think it's 30,000 square feet, is that right? Laurel I guess recognizing we had challenges in the past, I'm not sure if it's blowfish or couple other establishments where there's been issues around noise or perhaps exceeding, do we have uses for not past midnight?

>> Laurel Prevetti: For the most part, Santana Row does not allow uses to operate between midnight and 6:00 a.m. The exception is hotel block where Hotel Valencia is. There there are allowances for businesses to go past midnight but they need a planned development permit to exercise that. The health club can open at 5:00 a.m. The remainder of the complex is intended to be complete with its operation by midnight.

>> Councilmember Liccardo: Would this additional 30,000 square feet also bear that restriction?

>> Laurel Prevetti: Yes, if they're outside the hotel block that restriction holdings.

>> Councilmember Liccardo: Given the residency in that area was any thought given to restricting the use to restaurant only and precluding entertainment or bars? L.

>> Laurel Prevetti: Well, the city council changed how we regulate entertainment uses a couple of years ago. They removed it from the zoning code, we no longer regulate it through the zoning code but through our police permits and entertainment permits. So the city still retapes its discretion how it may regulate any entertainment uses for any of the bars or restaurants that choose to have that. So you would have that ability through your title six provisions.

>> Councilmember Liccardo: But through land use we would still restrict whether a bar would be there, whether or not it was a.

>> Councilmember Liccardo: '.

>> Laurel Prevetti: Bars and restaurants are allowed as part of the Santana Row zoning. So that is something that is allowed and I believe any additional dwrirchging establishments would required a planned development permit. Yes.

>> Councilmember Liccardo: That would go to a director's hearing?

>> Laurel Prevetti: That's correct.

>> Councilmember Liccardo: And then to the chief for an entertainment permit is that how that would work?

>> Laurel Prevetti: That's correct. Drinking establishments larger than 9,000 gross square feet would require a planned development permit. So those are the larger ones. So there remains the ability to say no or to add a particular condition through the planned development permit.

>> Councilmember Liccardo: Okay but that's not within our authority today?

>> Laurel Prevetti: Well, there is existing zoning provisions for Santana Row that also regulate restaurant and bar uses which are very similar to this. What we're doing with this zoning is really updating those provisions to be consistent with the original intent of Santana Row, as you recall many years ago, there was concern about how Santana Row might interact with our downtowns. We wanted to make sure that Santana Row offered a complementary set of activities to our downtown. And that part of the provision remains.

>> Councilmember Liccardo: Okay. I guess I have a larger set of concerns around traffic impacts. And particularly, given the parking lot that Stevens Creek and 880 and Winchester become on many afternoons. And I saw that there was, in the document, I saw -- I think it was page 7 of the development standards, I saw a share for traffic improvements just looking at development standards from -- Manuel you're looking at me like I'm speaking Greek right now. So if there's an additional fair share contribution I'm not accounting for I'm certainly interested in hearing about it. Is there another fair share contribution?

>> Yes, thank you. Manuel Pineda deputy director of transportation we also looked at intersection of Monroe and Winchester where we'll be starting the interchange project this fall. And Santana Row will be making a fair share contribution towards that interchange. It's based on a per-trip fee with their maximum contribution being around \$600,000.

>> Councilmember Liccardo: So it would be \$600,000. .

>> Double left access to Santana Row but I will follow up on that one.

>> Councilmember Liccardo: I know you know Manuel that we're under construction on phase 1 of a major interchange project there with 880 Stevens Creek and 280 and I spent a lot of time at Metropolitan Transportation Commission to go fetch taxpayer dollars to fix that. I'm wondering if there's any amount of developers fair share contribution to that with respect to capacity to Santana Row?

>> At this point we have identified two different sources for that. Of course Santana Row would be contributing as we discussed. In addition to that as part of the valley fair approvals they are required to do modifications and we have been working with valley fair to enter into an agreement for their fair share of the contribution as well .

>> Councilmember Liccardo: The 600,000 is the fair share contribution to the entire entertaining?

>> That's correct, they are proposing 100,000 square feet of office space.

>> Councilmember Liccardo: Okay, do we have any sense what the historic contribution has been to that project?

>> As part of the original EIR they did have contributions. They ramp the access ramp that's currently out there when it went from a single ramp to a double ramp so they did specific improvements at that location. In addition to that they funded the study report as well as some environmental documentation. So there was a number of contributions so this is on top of the previous ones.

>> Councilmember Liccardo: So the big picture concern I have is this: Phase 1 of this project is about \$64 million and I know there's more coming in cost and I'm concerned about the taxpayer burden in expanding. Knowing we need to do that, we need to push forward but a significant source of the problem, I shouldn't say the problem, significant source of the traffic, traffic is often a good thing but significant source of it is Santana Row. Obviously I'm looking at the \$600,000 and looking at the \$64 million and saying it doesn't seem very equitable for our taxpayers. Am I missing something? Is there --

>> Yeah, I mean the significant piece of this is that as part of the new entitlement that Santana Row is requesting we cannot go back and look at the previous requirements and the previous entitlements that they had were really focused on the new entitlement and the new entitlement is for the 100,000 square feet of office. The way we looked at that is how many new trips the 100,000 square feet would be adding, we did a comparison with what valley fair was contributed which was their much larger expansion and we kept a fair share that was equitable based on their new development. We do not have the ability to go back to the previous entitlement or the previous scrogs that had happened. We focused on this 600,000 for 100,000 square feet works out to about over \$4,000 a trip so it's a pretty significant contribution.

>> Councilmember Liccardo: Okay, and thank you for that. As we look at the formula for calculating what the fair share is is that based on the EIR that was done back in '98 or the original project or --

>> No, this is when we had the FEIR in '98 the interchange was not in place yet.

>> Councilmember Liccardo: Right.

>> This is based on a cms total cost to the project as you mentioned is about \$65 million.

>> Councilmember Liccardo: Okay.

>> Then we looked at the impact that the project was having and where the impact was located then we also looked at that time capacity that valley fair required as part of their entitlement and combining to all of those and seeing how many trips of capacity Santana Row needed to mitigate their impact then we did an impact based on the cost amount of trips kind of where they're located in the interchange and what the value of the implement was to what was their share of that increment.

>> Councilmember Liccardo: Okay. Thank you for all this information. As we look at the level of service comparisons with the no project and project scenarios, I know both VTA and CalTrans raised questions about how traffic got better with the project than without. And it sounded as though from the response that I read from the city, that there was sort of an apples to oranges problem. But I didn't really understand why we don't have an apples to apples comparison and maybe you could help me.

>> Yeah, let me try and you're specifically talking about the freeway impact. So not the intersection impacts but the freeway impact.

>> Councilmember Liccardo: Right.

>> With regards to that, the way we did a calculation for freeway impact is based on dense by really looks at how many cars are on the freeway at certain time. From an existing scenario we really based our analysis on the conformance report that we do with the congestion management agency every year but once in a while because

the VTA is part of the conformance report does take other factors into account, the straight density calculation that's required per our TIA guidelines will provide somewhat different results. I think the key element though is that regardless of your level of service on the freeway for a project to have an impact they have to add at least 1% of traffic to that freeway. In this case all of the segments we looked at with the Santana Row project they all add well below the 1%. So even if we were looking at a different level of service on those freeway the 1% would drive whether you have an impact or not and.

>> Councilmember Liccardo: Thank you that's helpful as we look how we move forward with controversial projects like this, I don't think anybody is driving on 280 or 880 during those peak projects believes they're driving on a C level of service freeway. Let's face it, it's really rough and you know the existing levels of service, the Ds and Fs seem to make more intuitive sense. So you know I think we're going to have problems if we continue to sort of have this apples to oranges comparison issue.

>> And I would add that the segments that they specifically called out on the letter, they certainly did have levels of service like you mentioned. If you look at the report we do disclose some level of service reports that are E level on the corridor. We do study some more in the letter itself. I do agree that there is congestion in some section of both those freeways.

>> Councilmember Liccardo: Okay, thanks Manuel. I guess the last thing is, I just wanted to encourage our moving forward as quickly as possible on the non-auto alternative policy that is currently being cooked up between planning I know and D.O.T. and others. You know, we look at a situation like this and VTA says you know we don't even see bike parking here. This would be an ideal situation where we could mandate some car-sharing, where we could mandate some contribution to bike share or you know obviously basic requirements for VTA, ecopeace things like that that are routinely part of what we don't have a citywide policy. I just really want to encourage our planning team to move forward with that policy because I think it's critical as we look at continued traffic impacts from urban villages and density throughout the city.

>> Mayor Reed: I'm going to support the motion. I don't think there's any doubt Santana Row has been a successful business development. surprised there's problem with enforcement of the noise issues with the night clubs. We've had a lot of experience with night clubs on this dais and what I remember is there are good night clubs and there are bad night clubs and how do you know the difference? I don't really know except the bad ones cause trouble. So Santana Row I think is in a much better position to deal with problem tenants than downtown is, for example. But nevertheless there are permit provisions that the city can enforce, and if permit revocation becomes an issue or permit renewal becomes an issue with a night club that we can deal with them in the past as we have with problem night clubs that we've had downtown. As the the landlord, landlord also has powers that we don't have and I'd be surprised if there weren't provisions in the lease that require them to meet all of the conditions of their permit and to be a good neighbor et cetera. So I think that's a tool that's available at Santana Row that's not necessarily available. But still, the city we should be following and tracking and connecting, whatever these complaints are, because some day they're going to come in and want another renewal or something and we should at least have that file. Because I remember sometimes downtown, they would show up back to the Planning Commission, there would be no history. Even though a club had not a very good history. So I wanted to make sure that we are tracking that so that we can deal with it when it gets into our bailiwick. Councilmember Campos.

>> Councilmember Campos: Laurel, you're telling me that would not based on the zoning that exists now would not allow if there were restaurants that opened at the ground level of the new development they would not be allowed to expand into night club uses?

>> Laurel Prevetti: Well, the whole issue of entertainment is now regulated through our police department, through the entertainment permit. So the restaurant portion of the activity could occur under this planned development zoning. If they wish to operate a bar, that was larger than the 9,000 square feet, and in combination with the restaurant, they would need a planned development permit. So then the public would have an opportunity to comment on the size of that. If, in addition, they wish to offer entertainment uses, then they would need to work with our police department to get that -- those appropriate permits. But really, what we were trying to do in Santana Row is offer a mix of eating and other activities in Santana Row for the residents and for the daytime

population in the office so that way we've got a vibrant mixed use community. But those are options for future businesses, if they wish to operate. And city code enforcement, as well as you know, federal realty, I imagine, would want to make sure that all those uses could coexist successfully.

>> Councilmember Campos: So they wouldn't be able to do it by right, that they'd have to go through the PD process?

>> Laurel Prevetti: That's correct.

>> Councilmember Campos: And the PD process is how we would regulate it?

>> Laurel Prevetti: That's correct.

>> Councilmember Campos: The PD permit for the ones smaller than 9,000 square feet those would be allowed by right.

>> Councilmember Campos: So then some -- and I guess the only one I can think of right now off the top of my head in terms of size is it used to be the blue monkey which is a small little bar. If that size were to want to open up there they'd be able to by right open up and stay open until 1:30 in the morning?

>> Laurel Prevetti: No, only if they're within the hotel block and they stay can they be open past midnight.

>> Councilmember Campos: I'm asking the new development.

>> Laurel Prevetti: The new development would be outside the hotel block so they wouldn't be able to operate after midnight.

>> Councilmember Campos: Most of the restaurants most of them are bigger than the 9,000 square feet so that's good and right now they'd have to go through the PD process. And the eight years I served often the Planning Commission we never had this come -- actually we had it come before us once but it was for a dance hall in an industrial area. But I've never seen a notice to show cause hearing. And why are we not using that tool? I mean if we have a bad actor we don't have to wait till the permit expires and it comes back to us wanting to renew the permit to put clamps on them. We aren't using a tool that we have. Why aren't we doing it now?

>> Laurel Prevetti: We use it when we have the evidence that's been collected so we can actually hold that hearing. At this particular time it wasn't until this zoning was filed and we started to have community meetings that the homeowners who spoke before you this afternoon came forward with their noise complaints. So now that they have, now that they're taking it seriously, they're opening an investigation, I don't know what the results of that investigation are going to be. We have all the tools in our code enforcement tool kit, so whether it's fines or order to show cause, if it comes to that, then we'll use it. But we suspect that federal realty will want to make sure that they're also doing what they can internally, to ensure the success of all the businesses and the residences within the complex.

>> Councilmember Campos: Because I just want to reiterate, I remember when the one behind them, McCain, Rosie McCain's I remember every single Planning Commissioner, they were very serious, let's see if this works. We have our doubts but let's see if it works. And if there is an issue then you have this tool and this commission was serious enough to want to take action. And so I think this is a tool that we have. I mean I'm reluctant to support it just on that. But I don't think we do enough as a city to advertise to travelers and conventioners, Santana Row. That is one of our top destination spots. And we don't advertise it enough but that's a different issue. But this is something that you know we got folks that invested hundreds of thousands of dollars in a home and good neighbors it goes both ways. Especially if someone invested and the property owners, you know, that was part of -- that was part of the deal to make this thing pencil out. You were going to have homeowners buy property above this retail and it all works out. And everyone has got to open or stay to their end of the bargain, thank you, those are my comments.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. You know first of all I do appreciate the residents raising concerns. They did have a chance with my chief of staff and discuss some of them and I think until you know what the issue is and you can't work together to resolve some of those issues. At least we've been a little strapped on the code enforcement side so whatever patience as well as assistance we can get from the property owners, from federal realty as well as the residents, we'd appreciate, I'm hopeful going forward that we can resolve some of the issues. The reality is, there's a dense environment, certainly an experiment when it started. It's been on the whole wildly successful. You know Santana Row has become a destination unlike any other certainly in San José. But in the region. And it's become that way because of the vitality created by these mixed uses. And oftentimes there are some growing pains or there are some make sure that there's some harmony there. But at the end of the day it is a vibrant mixed use opportunity. Here we have an opportunity thankfully to add some office space which I think is really the unique component here that is one of the pieces that we've kind of lagged on in Santana Row which has been part of the overall plan that we're finally moving forward on as Councilmember Oliverio mentioned, you know, the ultimate plan is to have the property completely developed and built out, I look forward to the time when it is fully built out, we do have to be cognizant that those who live in, live and work in Santana Row, as well as those who visit or travel by Santana Row are affected. Valley fair and Santana Row have literally given us tens of millions of dollars in tax revenue over the years and created an area that is extraordinarily unique. As far as traffic impacts and what have you, they'll pay what they're legally obligated to pay. Keep in mind that traffic congestion has created is in some ways a good problem, it creates a place where people want to go for. Keep in mind 880 and 280, which are already heavily traveled freeway. certainly not all of the blame can be faced on valley fair and Santana Row. But at the end of the day, they are adding a lot of revenue to our city, a lot of tax revenue to our city, just as we did recently with actually and 101, part of the cmentd traffic infrastructure improvements necessary as we several for billions to bring BART into downtown. We're not going to go to the prior property owners, other than what do you need? phi vanity city and more vibrant downtown. I do agree that whatever we can do to get bus rapid transit there or pedestrian or bicycle access will only benefits all of us. We need to do that in all our developments going forward and I think Santana Row poses a unique I do appreciate over the years how the owners have created a pedestrian-first mentality once you're ton property and there have

been a lot of playing around with different movements of traffic flows and what have you, I kind of like the fly-up ramp on the third floor of the parking garage on Winchester. Constant effort to see what can be done better and I hope that trend continues in working with the neighbors and so that we can continue to have this greatly successful property and we can all continue to enjoy it not just those of us in San José but the many, many thousands that come from all around the bay to visit. And bring their tax dollars to our city, thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'm going to also concur on the investment by federal and the future investment and it's a fantastic project. In the past, currently and in the future and I really appreciate their willingness to invest in San José. That's the big picture statement I wanted to open with, but I do want to ask a couple of questions in terms of going forward on the additional rezoning and why isn't this in the evening agenda. I had an item in district 9 on the evening agenda, whether it's the public or anybody can you please explain why we're here on an afternoon agenda?

>> Laurel Prevetti: Certainly. As you recall, the Rules Committee has been discussing this throughout 2012, and it resulted in -- I think it was March of this calendar year that council amended by resolution their hearing notice procedures for land use items. And we've been asked to bring especially significant economic development items to the first available city council meeting. And so this one being significant economic development, since we only do one evening meeting a month now, this was the first opportunity to bring Santana Row before you. You will have an evening session later on this month that will also have land use items. But we're trying to be a little bit more sensitive to your calendar based on the Rules Committee discussion so that way, when we do have evening items, it's a good use of your time and the public's time. Clearly, when we have very controversial items whether they are rezoning such as things you've seen in the past or a new coat change that has significant public interest, those will likely remain in the evening. So I appreciate any feedback that the council has for us as we try and make these determinations. We're trying to respond to the Rules direction as well as be sensitive to the new restriction. If you feel there are additional criteria that we need to be considering for evening versus afternoon staff is always available for that input. Thank you.

>> Councilmember Rocha: Okay, in my mind I understand that but in my mind I can't imagine two weeks being a make or break on this project, if I'm wrong, if that's a wrong statement, I'd appreciate the applicant telling me the two weeks are considerable. I think this is a cold case being opened, you know if that were me, on the other side, kind of feel like, well some I think I've been raising this issue for a number of weeks, months, maybe it's years, I have no idea. All of a sudden, the property owner is going to be responsive and make statements that they're going to work with us. That's a little hard to take that seriously if I were on that side of the case and I'm trying to be in this side of the tie die as, it's because these folks really recognize that these folks have an issue here with living at this development. This sjtd about just tradition noise, they did buy in the project area and they should have expected this. It's about I think the tenants abiding by what the they are expected for or required to. I'm a little confused as to why it's the hotel block and not just the hotel. That are uses that go beyond midnight.

>> Laurel Prevetti: Again, that was the decision that the city council made back when that zoning was approved, that it would be appropriate for uses after midnight. So it was the hotel/hotel block. We're just carrying forward those provisions that are on the rezoning before you. Again there are provisions for new businesses that want to operate after midnight, to be able to get a use permit essential, so weigh in. I do want to say that the code case has been open now for several months. Once we became aware of the concern that came to us, code enforcement is doing its very best on these types of cases since it's not life safety. Life safety is really the priority for our city but we are investigating this as we do all other complaints that come our way.

>> Councilmember Rocha: I extremely appreciate that and recognize that and have been up here voacting for more staffing and understanding our budget situation. Again I'm going to play that side of the coin and say if I were these folks on the one hand when they do make a call there's an issue, they answer from our side of the table we don't have the resources or staffing. So then this case we're opening to me, house can we be sure that we're going to help address any issues these folks are disedge with? The moment we say we're going to do something, keep in mind we're only going to respond to three that means we're not going to really get to this case. I'm not suggesting this should be a priority over the other ones but I'd like these folks to walk away knowing exactly what they're going to get and I'd like to know what they're going to get.

>> Laurel Prevetti: Where we are now is we're collecting the data, we have off-duty officers, and a lot of times when my inspectors really aren't working. We're really parking answer the questions we just received, just before coming to council this afternoon, a noise report, that was done probably needs a little bit more scrutiny to make sure its siem tinfly accurate. Generally the noise levels are following very close to our noise policy standards. So yes when I door opens it's not uncommon for noise to blast out but once the door is closed then we're back to meeting our policy. So we're looking forward to gathering more data and seeing whether or not there are additional remedies that we can put into place working with blow fish and the home owners.

>> Councilmember Rocha: You might not know this, the blowfish and Rosie McCan, would you know what the approximate square footage? Would the applicant know?

>> Mayor Reed: Just for the record, I don't know if you could pick that up from -- on the mic so the answer to that was about 4800 square feet for each of those two restaurants I believe.

>> Councilmember Rocha: And being a patron of these facilities in the past and also Santana Row so then to your point about the 9,000 square feet sites such as that would be able to open up and stay open until 1:30.

>> Laurel Prevetti: They would -- let me just look add the condition again. They would be able to be open, past midnight without a PD permit. However if they wanted to offer the entertainment uses they would then need to get an entertainment permit from our police department.

>> Councilmember Rocha: Is entertainment music?

>> Laurel Prevetti: It's music.

>> Councilmember Rocha: Just having a stereo on not live?

>> Laurel Prevetti: I'd have to look at title 6. It's all spelled out, what entertainment is. If there's dancing, for example, live music or amplified music. That requires --

>> Councilmember Rocha: Tapping your feet? I'm kidding. I guess my concern is, the two places we're talking about that have been -- caused some concern for the residents are both under the 9,000 square feet. I'm not sure how that 9,000 square feet is really a number that's going to be helpful to the residents for any future bars, so to speak.

>> Laurel Prevetti: Well again as our legislative body if you feel that that number is not adequate to meet the needs of this particular complex, this is the time to modify the development standards for the zoning. So this is our staff recommendation. But again, we are open to other changes if the council sees fit.

>> Councilmember Rocha: And the patio uses are they within a certain hour?

>> Laurel Prevetti: The patio uses are part of the hotel block. And I don't see specific provisions limiting the activities out there.

>> Councilmember Rocha: In terms of time?

>> Laurel Prevetti: Again, that would run with the hotel block itself. So again, if the -- and I believe the patio was part of the original hotel Valencia permitting that happened. So that may be a detail within its PD permit. And I apologize, I don't have that.

>> Councilmember Rocha: That's all right, I guess for me I'd feel a lot better if we had restricted uses of patio uses after midnight initially how it was unless that was something part of the original approval. I've got two more questions here I'm sorry if my colleagues can bear with me. Generally it, I'm going to hold off now, and see if any of my colleagues have any more questions and I may ask for a friendly amendment or two.

>> Mayor Reed: Councilmember Campos?

>> Councilmember Campos: Thank you mayor. I wanted to disclose I did meet with the Keons and their representative.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I remember when this council passed sidewalk dining in Downtown San José. We had residents come forward and say, I'm in downtown, I don't want that noise. We as a council said, you bought a place in downtown, and not Almaden valley, you got to be part of urban noise and the council passed the foot loose. On whether or not we're going to allow dancing or not. Straits for example no longer applied for their entertainment permit so they don't have that and actually Ed Abelite who is one of our Planning Commissioners, lived right across hiring of police officers since they've done that since inception and outside of you know being a deterrent they walk and assist the security of Santana Row. In the end federal realty has the ability to manage their tenant. In the end, code enforcement has the ability to manage any individual noise that occurs in the city. But let me say this: This is not controversial. We have nearly a thousand residents living at Santana Row. You have one person. I'm very sympathetic to them. I've spoken to them on the phone when they returned from their trip to Italy. I understand they love where they live but they have an issue of late night noise. But we can't control as a city council the person who chooses to be silly and rev their engine outside of a hotel building or rive their motorcycle. There's a little personal responsibility here. This project is not controversial. If we did we would receive more public records against this project but we haven't. So I would just say we have a Planning Commission recommendation that was done at the speed of business. We have a Planning Commission that vetted all the issues we're talking about. Including noise. And passed this unanimously. And so I know we have National Night Out tonight and we can talk longer but I think this is a great opportunity for San José. And no, it's not going to make everyone happy but I've rarely seen any land use decision on the city council that hasn't perturbed one person.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. I'm not sure what that did to help alleviate any of my concerns. I don't think I disagree with anything you just said. And not being the district representative for this project, hard to know whether or not there was other comments on this. I got the impression reading some of the material in here that there were other folks who shared some of these same concerns and these aren't the first complaints I guess that I don't know if planning staff can speak to that, the first complaints that they've received in terms of noise issues.

>> Laurel Prevetti: These are really the first complaints that I'm aware of. And as I say we are taking them seriously. I do have the, actually, thanks to Mr. Favor, I have the patio restrictions for blowfish. It's very clear. No music dancing or entertainment shall be allowed on the outdoor patio, alcohol service shall cease on the patio by 11:30 p.m. Patio is not to be used as a drinking establishment food service must be available at all times. That's very clear and that's the base of our enforcement.

>> David Baum: .

>> Councilmember Rocha: Again 11:30 is the restriction. All I can go by from other folks, I've got the concern that that's not being adhered to. That should be a concern comparing dining to a bar that stays open to 1:30, I don't think is a fair comparison. You can go ahead and make that comparison but I think a muck and dancing and 1:30 and 2:00 so that's why I raised the issue. Based upon what I've heard from my colleague I'm not sure he'd be willing to entertain a friendly amendment but it may not be necessary given the 11:30 restriction already. But again this goes back to the 9,000 square foot issue and whether or not -- would any other use be -- have to adhere to that as well regardless of the size of the facility?

>> Laurel Prevetti: In terms of whether or not they would need a plan --

>> Councilmember Rocha: Over the 9,000 or under the 9,000?

>> Laurel Prevetti: That really only pertains to eating and drinking establishments. There are other uses that do require planned development permit essentially a conditional use permit, so offices that are larger than 10,000 gross square feet, various other uses. But in all cases, you know, again we're really trying to make sure that there is a great place to live and work. So construction noise is called out very specifically, in the mitigation. And all aspects of the development need to comply with our construction noise mitigation. So that's across the board for Santana Row.

>> Councilmember Rocha: Okay and I appreciate all your time spent answering my questions. I see my role up here as being an advocate for the public. That doesn't include just businesses. That includes people as well. I don't think raising questions or raising issues to make sure folks are heard should be discouraged. I'll just leave it at that. Thank you.

>> Mayor Reed: I think that concludes the council discussion. We do have a motion on the floor. Made by Councilmember Oliverio. On that motion, all in favor? Opposed? I count none opposed, motion carries. Concluding our work on 4.2. Taking us to 8.2, an application for 2012 staffing for adequate fire and emergency response grant also known as SAFR grants. And City Manager.

>> Debra Figone: I don't believe there is a presentation but the chief is here to answer any questions.

>> Mayor Reed: I think one of the reasons the Rules Committee thought this should come on the agenda and not just on the consent calendar, we get an explanation how come we're getting more SAFR grants and we're not seeing Department of Justice grants COPS grants for other things, was one question and the other question really was a budget question about how much commitment will we have to make if we accept this ultimately and how that fits into the budget issues. So those are the two issues that Rules Committee thought we'd probably want to ask.

>> Mayor members of the council I'm not sure I can answer the first one other than to say that our staff within the department has been very diligent. And worked very hard on securing SAFR grants. And I think that our staffing

levels that we have here in San José given the size of the organization the community I mean and the staffing levels that we have, I think the federal government agrees that we need more firefighters on the streets. And so I think that the support that they have shown us as a result of that has been indicated by the two consecutive grants they've awarded to the city. In the 2012 grant if it's received the approximate ongoing cost for the 27 firefighters that would be added to our -- four firefighters that would be added would be \$4.8 million .

>> Mayor Reed: City Manager.

>> Debra Figone: I did through e-mail chain chats about the COPS grant. Jen can jump in here. Yes, they are more restrictive, is what I'm understanding. We don't know if there will be another one, another COPS grant to apply for, if so it will be next may. And you know although we do have our problems in San José apparently the awards are going to cities with much greater problems than ours. So we will continue to apply. I also think and Jennifer you can nod here. But unlike SAFR, the allocation of the grant is becoming less and less on a per-position basis compared to what we've been used to in the past. Now, maybe this is an indication that we should have conversations with our legislators and see if they can do better. I do know to the chief's point that the union and our administration have been very active in working with FEMA. And maybe we can apply some of that same pressure, you want to call it that, with the COPS agency.

>> Mayor Reed: Let me just add to that. Because I did go talk to FEMA when we were trying to get an earlier SAFR grant. And they of course are constrained by the statute as is Department of Justice with their grant administration. And every year it's a little bit different. And there's differences between D.O.J. and the FEMA statutory framework. So it's been easier for us to get the grants. In part that's been due I think to excellent work by laff in Washington as these status of are being drafted so I know that we qualify more easily for the fire grants than we do for the police grants. And that's just been the case so far. I do remember one year when we didn't get a D.O.J. COPS grant because we weren't as bad as Oakland. And we don't want to be as bad as Oakland to get those grants. So we're fortunate to get something out of that. I do appreciate the chief's work and the department's work to qualify for these SAFR grants. Because we've gotten back positions for how many --

>> The first grant was 49 and this is 27 and Mr. Mayor you're correct the earlier versions of the SAFR grant even the one between 2010 and 2011 have always improved the opportunity for cities to be able to take advantage of the grants and to lessen the obligations on the cities to be able to accept those grants. Because they've really been trying to get the dollars into the City's hands and the resources back on the streets.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you mayor. You've raised the issue that I was going to make, that means the additional seems to be going to fire is there any way a couple of your guys can hop in patrol cars and help with the --

>> Mayor Reed: They tried that in Sunday. Councilmember Oliverio.

>> Councilmember Oliverio: Just want to thank you chief, a total of 76 firefighters it's a massive impact to the General Fund as far as the benefit. We know there's a level of commitment and understanding what the mayor's saying only certain grants offered for certain things and different criteria but I think we do have to be cognizant of the great success you brought forward, but cognizant to the City Manager to balance because in the end we do have more than one need in the city although a vital need I want to make sure we can balance it and not have too much encumbered. Thank you chief.

>> Thank you.

>> Mayor Reed: I have one card, I think, yes I do, Mr. Wall, I'll take public testimony at this time.

>> I would like to thank everybody involved in making sure that this grant move forward. Special thanks in part to the office of City Manager. However, this is borrowed money. Federal borrowed money and it lacks the leadership Mr. Mayor that this council has failed to adopt, long range financial planning, for public emergency services such as our fire department. What I'm talking about long range financial planning is a basic review of revenue streams

coming into the city that has failed to grab your attention. With reference to one pointed issue of reformulation parcel taxes to include these utopian villages. Every high apartment unit pay a certain fee. In addition that these financial instruments should be treated as annuities for firefighters so they don't have to worry about raising their families or getting hurt under the dark suspicious clouds of decisions made by people before me. There should also be a revenue sharing component to ensure that their retirements are also augmented from this because of the very nature of their work. They don't get to work as long as most people. Hauling fire hoses, going into burning buildings, they're lucky to be 50 years old or better before their bodies wear out. Why should they be cast to the dogs by a council that stabs them in the back. So in closing I'd like to thank our fire department, especially our chief and all the other fire folks that are here in attendance. I wish I could give the exuberant thanks I have given them to you.

>> Mayor Reed: That includes the public testimony. One more question posed to chief Moore who is here and give him a chance to talk about the COPS grants as we discussed it a little bit, I gave what I knew about the COPS grants but the chief knows a lot more about the COPS grants than I do because I know he spent a lot of time working on them 'and we're fortunate enough to have gotten some.

>> Mayor, members of the council, Chris Moore Chief of Police. I wish I had better news. The COPS office as many of you have known they had their budget slashed for much of their hiring money has gone away and they had to go reprioritize it. What is good news they took everybody who didn't get it last year including us and added to the pool of criteria they use unfortunately is crime rates and unfortunately we got nothing. We absolutely did not receive any of the COPS grant which is always frustrating when I look at the fire chief and very grateful for the federal government to provide all the firefighters but in our time of need it's unfortunate for me to tell you we did not receive any this year. The earliest date would be next may and from what I'm hearing from the COPS director himself personally the likelihood is, depends on the election I think is the true absence. We'll wait and see what comes out of the next budget so I'd hate to say given all the uncertainty in our budget issues we have nothing from the COPS office to help us only some technical assistance which I'm grateful to receive, which is not what we need at this particular moment. I wish we had better news.

>> Mayor Reed: Thank you chief. I don't think we have a motion on this one yet but I'm not sure. We have a motion to authorize the application. On that motion all in favor, opposed, none opposed, that's approved. Item 3.6, retail sales and use tax measures and 3.5 remain ahead of us, 3.5 is a service level restoration priorities. I think the staff presentation is probably going to cover both of those in some fashion. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Notice that these items were heard together. If I may ask for action to be taken separately or if we could defer action on 3.5 to another council meeting if you don't mind?

>> Mayor Reed: 3.5 is the service level restoration priorities. It's 5:00, National Night Out, there are dozens of dozens of community events. What I would suggest is we hear the staff presentation on the sales and use tax measures and whatever other priorities that they have and that we take the debate and get a decision on the sales and use tax measure and then as you suggested, defer action and discussion on the priority service level priority restoration until next week, is that -- does that work?

>> Councilmember Rocha: Fine, thank you.

>> Mayor Reed: I think that will get us out of here in time for people to get to their commitments. Staff does that work?

>> Jennifer Maguire: Actually, we have separated the presentation so we can just defer item 3.5 if you like and you can take up 3.6.

>> Mayor Reed: It just depends how you want to do the presentation, if you want them separated or integrated.

>> Debra Figone: I think in the interest of time, what are you thinking? You guys are --

>> Ed Shikada: I suggest we do the presentation on both items and we move as quickly as possible. mic on.

>> Ed Shikada: Staff would suggest we go ahead with the presentation, keep it as brief as possible, provide that overview and focus on the survey and potential ballot measure.

>> Mayor Reed: Okay. Councilmember Rocha, does that make sense to you? It was your suggestion. Councilmember Pyle did you have --

>> Councilmember Pyle: I have people that have been here waiting to speak for almost two hours. I had no idea I was going to be the last -- we were going to have this as last on the agenda. So if there's the easiest way to expedite this the happier I would be. I'd like to move my memo and then go from there.

>> Councilmember Campos: Second.

>> Mayor Reed: Anybody else on that?

>> Councilmember Oliverio: Mayor Reed.

>> Mayor Reed: Yes, Councilmember Oliverio.

>> Councilmember Oliverio: Yes I believe we'll be asked today to vote on the possibility of increasing sales tax and 3.5 is inherently linked to that because it's talking about how are we going to spend the next dollar whether it's a tax increase or increase in revenue. So I would at minimum like to hear the 3.5 presentation but I could not vote, be able to vote effectively on 3.6 if not hearing 3.5.

>> Mayor Reed: Well, we're going to get through the sales and use tax measure. We're going to take action on that. We're not going to adjourn until we're done. This is the last council meeting last opportunity to do that. The other matter can wait until next week. The staff presentation and reports are helpful. We'll get the staff presentation the further discussion and the voting on service level priorities. We'll take action on the sales tax issue, we have an hour before 6:00 to get it done. With that I'm going to turn it back to City Manager.

>> Debra Figone: Thank you mayor. I'll tee it up. My opening comments are really an umbrella to both items. Before I ask Jennifer to make her presentation on the service level priorities and before you begin your sales tax ballot measure discussion I did want to provide some context on these items. As you know we've all been working very hard, mayor council and staff to address our long term budget challenges. Four years ago in 2008 the council discussed a structural deficit elimination plan and last year you approved a comprehensive fiscal reform plan. Both of these were road maps to guide both cost saving measures and potential new revenues. And along the way we've implemented strategies to deliver services and new ways to lower cost and maintain services. With your leadership, the city has gone to the voters, a couple of times, both to modify the City's pension system, in order to reduce long term costs and to secure modest increases to city revenues. Although we have successfully managed to budget shortfalls this has come at a high price. We've made substantial progress to control and reduce cost. But this is also meant that we've had to make many, many difficult painful decisions. The city has had to cut services that are important for our residents, significantly reduce employee compensation for every city employee and laid off many dedicated city staff members throughout our organization. Out of necessity we've had to make deep cuts but I don't believe our current financial position is sustainable. We have a long way to go before we reach the level of fiscal stability that I think we all agree we would need. Even with the slight budget cushion this year we anticipate another shortfall next year and we continue to be exposed to more financial losses caused by actions of the state. We have much work to do before we can fully restore service levels for our community and we also have much work to do to ensure that we can be competitive as an employer. We have serious organizational needs and as the City's chief operating officer on your behalf I must continue to seek ways that we can meet them. So Jennifer will provide you a brief, hopefully, we have a lot of slides but I know she can do it, high level overview of how we would approach setting priorities for any restoration of services. First of course we won't be able to restore much of anything if we don't have the resources to do so. Your economy is a factor as grow the economies and provide jobs and tax revenue. Second our framework for setting priorities as we will see. We must consider also the priorities of our infrastructure and our facilities and then finally, consider the long term ability to sustain service levels and restoration. It really does no good to bring services back if it means that we have to cut them again. So with that I do believe as your City Manager that we have kept the faith with the people of San José. To get the City's fiscal house in order to reduce our costs and to

make painful sacrifices in order to reach a point that we might be able to ask for some additional resources. Without additional resources, I can tell you that the City's tool kit to continue to address fiscal problems is quite limited at this point in time. We will always do our professional best however with what we have. I do recognize that this is not a simple matter and that there are many political dimensions that the council must weigh today. With that I'll turn it over to Jennifer and then she will turn it over to Ed.

>> Jennifer Maguire: Thank you, Debra. Mayor and councilmembers, context of our budget situation and the strategies and solutions that have been used to address ten years of General Fund shortfalls and then I will go into providing a quick summary of the administration's initial prioritization of selected General Fund service restorations by department to baseline January 1st, 2011 service levels. Looking back at a slide you've all painfully seen many, many times before, the city has experienced a decade of General Fund shortfalls which has necessitated and 11-12. After ten years of shortfalls, 12-13 as you know marked the first year in which the city did not have to close a General Fund budget gap. Cumulatively a net \$670 million in General Fund shortfalls and services have been eliminated or balanced by this and previous councils. These budget balancing decisions required drastic reductions and services to our community, outsourcing of city services and service delivery model changes, modest revenue increases and ongoing compensation reductions for our employees. One of the results of the budget balancing is that there are far fewer employees than there were in years past. The net elimination of 1959 positions represents a 27% decline in work occurring between 2009-2010 and 11-12 alone. We are now at 1988-89 staffing levels when the population in San José was 765,000. With this lower staffing level we are now serving over 970,000 people in our community. Although the City of San José has had a long history of community engagement, approximately six years ago the city council approved the Reed reforms which significantly enhanced the outreach to our community regarding the continuous General Fund shortfalls and the difficult solutions the city council was faced in implementing in order to balance the city budgets. As you can see there, we have extensive community engagement in the area of having several stakeholder groups starting with a budget shortfall advisory group that helped develop our General Fund structural deficit elimination plan. We had several stakeholder groups around that plan and different elements of it. We've had annual budget surveys, we have had our annual youth commission priority setting sessions and the city council members have held annual community budget meetings in each city council district to really hear directly from our community. We through the

engagement of our stakeholders residents and technical professionals in early 2008 the administration developed the deficit elimination plan that guided strategies over the subsequent years. In mid 2011 the fiscal reform plan was developed which modified and approved by the city council as part of the 2011-2012 budget process. These plans as youmented in the next slide have resulted in the implementation of many cost savings and revenue strategies to balance the budget. However due to the limitations in those areas unfortunately service reductions and eliminations have had to be the default strategy in order to close the significant online going budget gaps. In the area of cost saving strategies, you've seen this before. We've had total compensation reductions, outsourcing, new service delivery models, departmental consolidations, implemented in our revenues we've had four revenue related ballot measures that have been approved by our voters. We've had fees for services that have been increased or established. We've transferred from other funds where it's been legally appropriate to do so, in that area, and then again always as a last resort we've had significant service reductions and eliminations that have been realized with both front line and support services that have been -- that impacted our entire organization. The next several slides provide some key examples of the major reductions to staff and service level impacts that have been realized over the past 11 years in the General Fund. In Public Safety, as you can see in the graphic on the slide, the police department's sworn staffings are levels are down 221 position or 21% from theons 1395 in 2008-2009. These staffing reductions have had impacts in many areas such as police patrol, special units and investigative units. Sworn fire department staff being of 678 positions, are down about 80 now, and that includes the recent approval of the SAFR grant, down 11% from the peak. Reductions in services have also impacted our library department. As you know library hours have been reduced 33% from a peak average of 51 hours per branch per week to an average of 34 hours per branch per week and the parks and recreation and neighborhood services levels have been reduced about 45% during the last two years with reduction in almost every service provided by that department including community centers parks recreation and strategic support areas many service impacts have also been realized. Limited dollars for pavement maintenance are now only dedicated to priority streets network investment in our city streets, the administration projects that by 2019-20 the pavement condition index will be at 45 which is down 34% from the peak level. In order to sustain as much direct services as possible, over the last ten years, strategic support departments staffing levels have also been reduced with a drop of nearly one-third in the information technology department and human resources department staffing as shown on the slide, we have also reduced neabt of our aging facilities, nonpublic Safety

vehicles and technology infrastructure investments have also been deferred. With the previous slides at context as stated in my introductory remarks the baseline services as of January 1st, are 2011, to guide the General Fund city service restorations as savings and or revenues few years. We were further directed to return to the council today, as an initial starting point for the 2013-2014 budget process. It's important to note that as the service restoration have been established at the department level not an organizational wide level. As funding becomes available as part of the annual budget it would be the administration's intention to bring forward a blended plan for city council's consideration aligning city council priorities with the service needs across the organization. Before we should do, administration recommends that the city take a holistic approach regarding the restoration of services. Important policy questions will resolve around which city services should be restored based on city council priorities and other factors. We believe that the service restoration decision making framework shown on this slide in conjunction with the guiding principles for restoring city service levels that were previously documented by the city council provided last March provide pongs service restorations. As you can see from this graphical representation this framework provides a multipronged approach to restoring direct services to the community that takes into consideration various factors that are shown on the wheel. These include understanding what the city council service delivery goals are as measured against our current performance levels. Snoring that the services can and as Debra said we don't just add it and then turn around and have to cut it the next fiscal year. infrastructure to support the direct service delivery. That we have considered the best service delivery method for operational efficiency and effectiveness. And finally that we have the ability to have the best staff and be able to retrain track and recognize the quality workforce community on a daily basis. With this -- with these guiding principles in mind, the fire, the police, library, Parks, Recreation, and Neighborhood Services, transportation, and strategic support services were asked to develop an initial service restoration list to achieve the city council approved January 1st, 2011 service levels as outlined in the following slides. As an initial step this prioritization or outcomes however the specifics for example the number of staff or dollars are not yet identified. This was to allow staff time over the upcoming budget process to develop the most efficient and effective service delivery models to provide these services to the community. Further, it is important to note that in many cases as you're aware these service delivery goals still fall well below the ideal service goals for our community and there are many service areas that are not rent represented in this presentation. As background and as detailed in the City Manager's memorandum each selected departments particularly service delivery goals

as of January 1st, 2011 are listed with their current delivery status noted as well. On this and the next several slides the service service delivery information noted in italics next to the goal only if a variance exists. For example on this slide for the fire department, as of January 1, 2011 we had 33 fire stations opened *italics* next to that performance goal. However for the second service delivery goal that on the average the initial responding fire unit arrives within eight minutes 82.6% of the time the most recent response time dates shows we are meeting that own 73 pings is shown on the *italics* to note the variance. Based on the review of their current performance, you can see the service restoration priorities that have been provided by the fire department on this list. For the police department the next slide provides the service delivery goals and interest in time. I won't go over it but you can see that we are not meeting the goals on the priority 1 and priority 2 calls and it's a little bit of a mixed bag on the clearance rates for part 1 crimes that you can see on that list. The opening of the South San José police substation is contained in our forecast because as part of the last year's budget balancing we just deferred the opening for one year. In total, for the police department, they have 14 service restoration priorities decrease response times for priority 1 and 2 calls they're recommending the addition of some crime prevention specialists followed by additional patrol staffing and/or addictions back to the court liaison unit which would help effectively improve clearance rates, for the various types of crimes such as homicides rapes roshary or aggravated assaults to ensure that we're meeting the January 1st service levels. For branch libraries, the service goal was to be open 39 hours or four and a half days per week. We're currently open 33 to 34 hours at four days a week. So of course, the first priority for the library department would be to get at that four and a half days or 39 hour service delivery model including unpairing the branches as we've had to unfortunately do. That would include the four new libraries that are scheduled to open this year. Second because we are not so far off on the hours of what we were last January, would be the restoration of some king library education and information services. In order to restore community center services which was specifically called out for the Parks, Recreation, and Neighborhood Services department then increasing senior services at those centers on an ongoing basis because many of the senior services that were approved on the budget this year are funded on a one-time basis. The next priority would be getting at the satellite community centers and also the senior services related to those. For pavement maintenance the January 1st goal which wasn't -- we had actually no General Fund dollars in that January 1st goal was to annually reseal and resurface 78 miles of residential and arterial streets, funded with federal regional and state funds priority street network last March the resealing and resurfacing of nonpriority arterial streets and

nonresidential streets have been deferred with available resources being allocated for strictly pothole repair and the founder plus mile priority network. Therefore if additional resources became available the transportation department recommends legalizing them for pavement maintenance and then going into the local and neighborhood streets. As you are aware, many strategic support functions have been severely reduced over the past decade and their impacts have been felt across the organization. Additionally as mentioned earlier as direct services are restored, the strategic support functions will also likely require additional resources to support the delivery of those services. As summarized in this slide strategic support departments and council appointees provided a list of the support service areas that may potentially require augmentations to address the direct workload associated with direct service restorations. As one example we may need to add staff to the human resources department to support the hiring of new staff. Another example would be adding funding to the Public Works department to support custodial and utility needs if we were and for fleet maintenance and fuel to support any vehicles necessary for direct service delivery. In addition, to the January 1st, 2011 service restoration there are many other service needs and potential investment areas for the city council to consider. Although not comprehensive, an initial list of other potential service restorations and investments is summarized in this slide. This list focuses on other high priority General Fund services as well as other investments to ensure the City's effective operation and long term health of the organization. Should additional resources become available after funding the January 1st 2011 baseline services, the city council could further increase library hours at branches, and/or add back park rangers gang prevention and support staffing just as examples. One of the most critical areas employer to retain attract and recognize quality employees. As a service organization, the city primarily relies on its employees to deliver excellent programs and services to our community. Over the several last few years city employees have experienced pay freezes, compensation reductions, increased employee contributions to their retirement plans and reductions to their benefit packages. Moving forward there may be further increases in retirement costs including cost to retiree health care. And certain classifications this city has been impacted by employee attrition and in some classifications it is difficult to find qualified candidates to fill the positions. In the near term, the ability to offer pay for performance increases will become increasingly important to ensure the city is able to maintain the high caliber workforce that exists today. As the city council is also aware the city has deferred the maintenance of its fasts and technology systems and infrastructure during the last ten years. It is becoming increasingly important to upgrade and replace those systems so that the city can function

effectively and efficiently. Further as part of balancing the 2011-12 adopted budget the city had to eliminate its economic uncertainty reserve. We very much may need to look at reestablishing that, as we have still have unchartered economic conditions in the near future. We also may want to consider increasing our City's contingent reserve at one point. As I've told you we can only cover about two weeks of payroll with our current level of contingency revenue. As mentioned in the beginning of the presentation and this is my last slide before I turn it over to Ed. As part of the General Fund structural deficit elimination plan and the fiscal reform plan, many budget balancing solutions contained in those plans have been identified and implemented in order to help address our General Fund budget shortfalls. With the approval of the retirement modification measure by the voters another major cost savings strategy is underway. Further as part of the annual budget cycle the administration will continue to identify service delivery model changes and service delivery efficiency in order to reduce costs, redeploy existing resources to hire priority ones and update the General Fund forecasts that may result in incremental budget improvements. Per the fiscal reform plan the other major strategy to restore services is for the city council to consider asking voters to decide on revenue measures such as the sales tax that follows this item. In order to restore selected police, fire, library and parks and recreation services to the city council, January 2011, service levels, it could require approximately 33 million in funding not considering potential strategic support additions that would go along with that or service delivery model changes. In addition, as I've discussed in the previous slide, there are many other significant investment needs that should be considered for the future for which funding would also need to be identified. Before I conclude as usual is as far as we may want to do. The city continues to face uncertainties with future retirement costs. We also are having unclear and unchartered territories with the winding down of the former Redevelopment Agency and the General Fund could experience additional costs yet to be accounted for. With these uncertainties in mind however after many years of budget shortfalls and deep service reductions the administration still views with optimism, our future, and is excited about the opportunity to start rebuilding the organization as savings and our revenues from the fiscal reform are realized. This concludes my presentation and I'll pass it over to Ed Shikada assistant City Manager.

>> Ed Shikada: Okay, thank you Jennifer. Let me ask Dave Metz from our 61sting firm of FM 3 to come down and provide a brief overview of the survey results. This was the survey that was directed by the council as part of

your June budget message. And Dave let me suggest you focus on the support levels for the two sales tax variations and leave the rest of the survey for any questions that the council may have.

>> Mr. Mayor, members of the council I'm going to briefly walk through the highlights of the survey that we recently conducted and as Ed suggested try focus on the sales tax and leave plenty of questions that any of you may have about the full report of our survey which has been provided under separate cover. The primary focus was to assess the feasibility of a sales tax measure for the November ballot either at the quarter-cent or half-cent level. We also had viability of a transportation infrastructure bond. And the methodology of our survey very similar to those that we have conducted for you in the past. 800 interviews with likely voters who are likely to cast ballots in this November in English, Spanish and in Vietnamese. On the subject of the sales tax you'll see here the draft ballot language that we tested. It's fairly close parallel potential sales tax rates. A half cent rate or a quarter cent rate. With the same general description of the purposes of the measure, regardless of the rate. And here you'll see the overall level of support that voters offered for each sales tax level. The differences between the two are statistically insignificant. Just three out of five voters leaning towards yes open each measure with about one-third opposed. I will note as we have often seen in the past in looking at the viability of a sales tax measure much of the support comes from voters who are tentative. Definite vote yes. With many in the category saying they'll probably vote yes or even more hesitantly, in the category of being initially undecided but saying that they are leaning towards yes. If you take those leaning yes out of the equation support of each measure is right around the 50% threshold. The data that we gathered here is very consistent with what we've seen in a variety of surveys we've conducted for city over the past three years. Assessing sales taxes with varying ballot language and details but you'll see here when we look at the results for a quarter cent sales tax over that period of time the results have generally been just at or over that 50% approval threshold. If we include those leaning towards yes they're typically closer to 60%. If we exclude those leaning towards yes they're typically closer to 50. But consistent majority support. A half cent sales tax has been somewhat more volatile as you'll see here. In 2010 and 2011 we found support just under the simple majority approval threshold. In three surveys we've conducted at various points during this year that support has been over 50% factoring in the leaners but just at 50% with those leaning yes voters included. Now, one important contextual factor that we wanted to assess in the survey is voters are being asked to cast ballots on a number of other tax increases both locally and at the state level this coming

November. So we gave voters brief descriptions of some of those initiatives. Calling out proposition 30 which is the governor's proposition 38 the initiative sponsored by Molly Munger that would and then the Water District's potential continuation of its parcel tax and then the possibility of a county sales tax. With all of that background you'll see that support for the measure does drop slightly from 61 down to 58%. And this is averaging together the half cent and quarter cent amounts. But the intensity of the opposition tends to rise a little bit going from down to 26%. And essentially ending at parity with those who say that they would definitely vote yes. After they've heard about those other taxes on the ballot. A few other structural elements we asked about include asking about the potential for sunset provisions in the measure of either nine years or 15 years. Or continuing the tax on an ongoing basis and there seems to be a preference for having a sunset provision. We informed voters about the ballot measure that local voters approved in the primary election that would make changes to the way that the city provides pensions, providing that information had essentially no impact on support for the sales tax with both the yes vote and the no vote at about the same level. You'll see here a ranking of a variety of services that could be funded if a sales tax were approved. The rank by the proportion who rate them as extremely or very important, to fund and this is the top of a much longer list which is discussed in more detail in our report but as we've seen in the past public safety services tend to be those that receive the highest priority assigned from local voters. Now to fully assess the prospects for a sales tax we also offered respondents replicate the type of information they would get over the course of a campaign. And you'll see here the total yes vote for a half-cent or a quarter-cent sales tax as we move through the survey. Where people stood initially after hearing the ballot language. Where they stood after they heard about the other tax measures on ballot, slightly lower support, and where they were after the positive arguments and negative arguments. Again matching those votes up to overall 50% vote threshold both measures were above 50% including those leaning towards yes throughout the survey. Finally we had a couple of questions about a potential transportation bond of streets in San José as you'll see here a majority of voters indicated they would vote yes on such a measure, support falls far below two-thirds measure as viable at this time. So that's an overview of the results and I'll hand it back to Ed.

>> Ed Shikada: Council, let me just close. We've covered the considerations, Jennifer has quite well. Just one note I think for your deliberations on the time line. That if the item is not placed on this November's ballot then the next opportunity would be in 2014, either the June or November ballot. And it is notable that that would be the

time frame also for consideration of the library parcel tax. So with that, just a restatement of the represents that are in your staff report. That concludes our presentation. Thank you for your patience.

>> Mayor Reed: Okay, that's staff presentation. I have about a dozen cards people that wish to speak. Councilmember Pyle did you want the floor before we call on the public for testimony? Okay. We'll take the public testimony at this time. Please come on down I'll call your name so you're close to the microphone. Emily gatfield. Martha O'Connell. Robert Sapien. Hi, thank you again for the opportunity to speak. My name is Emily gatfield. I'm here to say thank you for putting this on the ballot. It takes an awful lot of courage for somebody in government to put something on the ballot asking for people to pay more money. Increase taxes. Do not make anybody very popular. It takes a lot of courage. And I thank you, those of you who are going to vote yes on this. To put it on the ballot. It's something that's important. There comes a point at which we can't cut any more fat, because there are no more fat and there is no more lean and all we're looking at are bones at this point we need to do something to increase revenue and I think sales tax may not be my first choice. But it's certainly a choice. And it's needed. We need to do this. The streets that we saw up there, are great example because it's about four or five times more expensive to patch streets, and repave streets, than simply to maintain them with proper sealing in a timely manner. It's time increase revenue. Thank you very much for putting this out there. And I congratulate all of you with the courage to vote yes for it. Thank you.

>> Mayor Reed: Martha O'Connell. Robert Sapien. Trixie Johnson.

>> I don't have to tell you guys the sales tax is the most regressive tax. You know this so I'm supposed to go back to my mobile home where people -- some people have \$810 a month income and tell them that three city staff members whose total combined salary is \$667,000 sat before you today and advocated this. This is immoral. This is not social justice. This is precipitous. The pension reform has not had a chance to kick in. If you pass this San José will have one of the highest tax rates in the entire state. This is simply rewarding bad government decisions in the past. There's no way for low-income folks and seniors to escape this. The sales tax hits everybody. So the city staffer, who makes \$248,000 a year, it's not going to hit her as bad as it is my friends who get \$810. Don't do

this. Don't tell me you can't cut. You just sent a PRNS representative to China to study their recreation facilities. Outrageous.

>> Mayor Reed: Robert Sapient, Trixie Johnson. Pat Saucedo.

>> Good afternoon, Robert Sapient, firefighters president Jim U.N. land of the San José Police Officers Association echoes my comments as well. The need for additional revenue has been a key component of the much touted fiscal reform plan. City workers have taken pay around benefit cuts that have saved many city services and now it's time for the voters of San José to be given the opportunity to support the restoration of city services through an increase in the sales tax. Firefighters and police officers cannot be expected to continue to carry the load. We have been cut enough and it's time for the promise of a sales tax increase being put before the voters to be kept. Thank you.

>> Mayor Reed: Trixie Johnson, Pat Saucedo and then Daniel Luna.

>> Thank you. I think you know what my service restoration priority might be but it's very clear that nothing's going to get restored without revenue. You don't have very many options for revenues under state law. Sales taxes are one of the few you can do. It is very regretful but your only choice. It is the time for the citizens to weigh in. It's their choice. Do they want to keep going down the road of cut cut cut and place themselves at risk as it's very clear we're doing or do they want to make an investment in their own city? For some it will be very difficult but generally it is about your only choice. I would remind you too that waiting until 2014 means that another measure would be slam-bang against the renewal of the library parcel tax which requires a two-thirds vote so you might want to take that into consideration.

>> Mayor Reed: Pat Saucedo Daniel Luna Merle Khan.

>> Pat Saucedo for the San José Silicon Valley chamber of commerce. The chamber of commerce is not in support of placing a sales tax increase on the ballot the half cent sales tax before the voters. We do have pension reform that

was overwhelmingly supported 50 voters. It is in court, it is being challenged. We need to have pension reform implemented. Because unless pension reform is implemented no matter how much new revenue you get it's not going to serve to increase the level of services for the neighborhoods the businesses. It's going to have to go towards pensions. So we need to see pension reform fully implemented first. Second, cost of doing business in San José. The majority of businesses are small and medium size businesses. Increasing sales tax right now is not what they need. They are still struggling. We have some industries are doing well but the majority are still suffering from the economic decline. And increasing the cost of doing business in San José is not a smart move by the City of San José. Thank you very much.

>> Mayor Reed: Daniel Luna Merle Khan. Ross Signorino.

>> Hello my name is darnel Luna I came in San José in 2010 as a 23-year-old young entrepreneur. I had no money in my account and when I started my company I went to Santana Row and Safeway and literally went dumpster diving and in that time period our business has grown. We started from a home -- based business that made less than 10,000 a year our first year. Our second year which was last year, we generated almost 80 grand and this year we will eclipse a quarter-million rate with six jobs generated. At this time period we've seen great increases in crime on our streets and a four daytime period we had four attempted murder and one murder and we also had a rape within a two-month period. I don't know if the language is exactly perfect in this bill. I think it should be allocated purely towards police fire and other services. But we need to reallocate, the way that police are handled in downtown right now they told me there's four officers on duty from 6:30 a.m. to 10:00 p.m. There is the ability to take the current police staff increase, add police and myself. We will continue to work to try to help this city. But if you guys do nothing to help us businesses like mine will have to leave because there's no way that we could sustain our find talent that will stay in areas where they don't feel safe. We've talked with the local police they've supported us and Sam Liccardo here but we need more from you guys. Especially you Mr. Liccardo. I appreciate your help you've done a lot but the day the murder happened, I called you and told you something was going to happen. I've waited for your call for two weeks. Rick Galea from the police called me best ally not your worst enemy.

>> Mayor Reed: Merle Khan, Bob Leninger Yolanda Cruz.

>> Good evening, I'm Merle Khan I'm with the law offices of Daniel Shanfield. Our coves are located at second and mid sized immigration firm. I'm asking you to put the tax increase measure on the nor November ballot. The San José Mercury News on Sunday said that now is not the time for a tax increase measure but I'm here to tell you that we are running out of time. Our firm and the other firms in the neighborhood provide a lot of the tax base for the downtown area. However we also provide little services for the high tech industry and for most of the most disfranchised members of our society. We provide legal services for victims of crimes, for victims of domestic voims and immigrants in deportation proceedings. We provide services for the most traumatized members of our society. And now these people are being traumatized as they walk to their attorney's offices. They have to walk past drug dealers and drug addicts engaging in drug transaction. Not only do they feel dangerous but they are in danger. Yesterday, one of our attorneys was assaulted, a block away from our office, during her lunch hour. When a man was wielding a broken glass bottle when she went out to lunch. Our firm is rapidly expanding due to changes in the federal immigration policy and we need more office space. However, we are trying to decide right now, whether we should get more office space in our building, or move to Santa Clara, or Los Gatos where both we and our clients will be safer. If any of you have any questions, I'll be happy to take you to lunch. The best enchiladas in the neighborhood are on first street and can you see the drug deals right in front of your eyes. Please pass this measure. Thank you.

>> Councilmember Liccardo: Bob Leninger.

>> Spent almost 30 years trying to build a business environment trying to raise the tax base in this city. Lady before me here talked about the difficulty. You should have seen it 25 or 30 years ago. Try to get people to come down here to build housing to buy condominiums for people to build office buildings. It's true in other parts of the city. We need revenues for services that will not make us uncompetitive. They will make us competitive. We will have a clean and safe business and residential environment. Can you get \$30 million for just a quarter of a percent and that's got a 60% in the polling. It will make us competitive. You've got good polling results. It's the right thing to do. You're in a squeeze right now, curve when it comes to economic development with the other

cities in this county, et cetera. You need to do some interim. This is the right thick to do for residential. It's the right thing to do for business. You don't have to take sides , two sides, you got to take the side of business, take the side of neighborhoods and put this nature even if it's a quarter% 9 year, on this initiative open the ballot in November.

>> Mayor Reed: Yolanda Cruise Benfield.

>> Retail tax and use tax on the ballot for the residents of San José to make the decision of this during the November election. The difference with this tax from others is that this money will stay in San José and fund services that our residents need deserve and demand AFSCME worked directly with you Mayor Reed for the successful passage of the 911 fee. In addition we're active participants in the passage of the library bond measures. It is time for all of us to begin the process of moving forward together and to mutually support and work towards the passage of a half cent sales tax. This can be an excellent way for us to rebuild our relationships, between the council, employees and the best of all things for our residents. However, as a council, you must first vote to place this on the ballot for the November election. Thank you.

>> Mayor Reed: Been field, Dan Rodriguez, David Wall.

>> Mr. Mayor, members of the city council, my name is Ben Field more revenue in order to preserve essential city services. Even the conservatives on the council don't voice the well worn argument that we have a spending problem instead of a revenue problem. We clearly have a revenue problem. The City's budget shortfalls predate its pension problems and any hope that pension reform will get the city out of its fiscal mess is at best a dream deferred. Pensions didn't create the City's structural deficit and pension reform by itself won't fix the structural deficit. It is an inescapable fact that the City's revenues are insufficient to fund essential city services. The most common excuse for the failure to address the City's revenue problem now is concern that there is insufficient public support for a tax increase. It is especially difficult, especially hard to hear this excuse coming from the very people who have done so much to divide the city and undermine its confidence. In the face of such a serious, long lasting universally acknowledged fiscal problem, the leadership of this city shouldn't be looking for excuses,

you should be looking for every opportunity to solve the problem. I urge you to follow councilmember Nancy Pyle's lead and move to protect the City's fiscal health and its essential services. Thank you.

>> Mayor Reed: David Wall.

>> It's interesting to note you destroy an organization just to rebuild it. And you bring up a attach increase to justify your nefarious activities. Putting this for example on the ballot is what you should do and let the voters decide. But what you shouldn't have done out of the other corner of your mouth, is hire in gentleman in the 61st firm and keep city operation going restoration of services let me show you something that's that came across from this austerity program and trying to save money. Let me quote you something from a recent memorandum. Quote in fiscal year 10-11 through May 2012 the annual overtime work for employees in the plant operator series was 336 hours per employee. While overtime will continue to be required, the water pollution control plant cannot continue to depend upon employees' ability to work such high levels of overtime to staff critical water pollution control plant functions period close quotes. Now, why this is so important is, these are direct and actual causations of your abject foolishness to attack employees unrestricted use funds, with reference to a 10% pay cut, and all the other pay cuts that went with it, that were about 30%. So now, you can't retain people at the water pollution control plant. So what we need here to really restore is good management. That means, we have to have regime change. And that regime change should start with the City Manager, the assistant City Manager, and the rest of the people that aren't doing their jobs at the water pollution control plant and ESD in general. Thank you.

>> Mayor Reed: That concludes the public testimony. Any additional staff presentation or response or anything? Okay. Councilmember Pyle.

>> Councilmember Pyle: Yes, first of all I'd like to thank all the people that came to speak. I thought they were all very eloquent and very well spoken. I did want to point out something that Yolanda Cruz said is that all of the moneys of that sales tax increase stays in San José. We can't say that for what the state is putting on or what the county is putting on. And each if all of those pass, it's not likely that all would, but if they all did, we would then

have a sales tax equivalent of 9.25%. If that sounds familiar, it's because that is exactly what we had in 2010, and part of 11, before it sunsetted. That was put on by the state. And then it sunsetted and the state did nothing. So we've already been at 9.25%. This is not something that's completely foreign to anybody in this city. We all know that the City's general revenues have fallen considerably. Between -- well the total, I'm not going to get into all the nitty-gritty here, but the total they have gone down is \$39 million between 2008 and 2012. 39 million. Boom. Gone. And the other thing is that the city services are at a unacceptable level. We have the lowest, lowest police to population equivalency of the top 10 cities in the United States. Crimes are happening. Cannot be responded to. The crime increase ranges to 143% in some areas. The overall average for crime increase in the city is 34.5%. And I'm taking that from a recent report from the police chief. We know that we're not going to have money for paving. The libraries are going to be looking at further reduced hours. Next year, it's projected that we'll need to cut another 20 to 25 million. I think it's actually 22. So where can we cut? Where can we cut? These statistics aren't bad enough? We're already down to the bone. And I believe our constituents deserve better. And with proper information, I believe they will support bringing more income to the city for basic services. As has been said, our city cannot remain competitive with the restrictions that have been mentioned. We are not only going to lose quality people. We already have that currently serve our city. But we will not attract new quality people without a sound fiscal plan. Our city also stands to lose downtown businesses, if we don't do something to attend to the criminal behavior that has been seen. The other day I drove, turned at the corner of our library, right over here Martin Luther King library and there was a table out there, portable table. And on it were three bags of what looked like marijuana on the table. I don't know what they were doing. They had a sign that said prayer. I tell you, they weren't praying. Without trying to increase our sales tax our city will continue to deteriorate and create a financial emergency. And then what? Do we join other cities who are going bankrupt? The scenario does not look good. And I haven't heard one single person say, well, here's another idea. Here's something else we could do to bring in revenue. At this juncture in our career, it was mentioned last year or was it the year before, Jennifer, that this would be part of the fiscal plan. That we would put this on the ballot in 2012. And I stand here, as somebody that only has five months to go, to say it doesn't matter which side of the dais I'm on. I'm going to be subjected to the problems, just like everybody else. So with that, I would like to open it to council discussion. Would I like to move my memo, which requests the following, you all read it. Okay. All right. So with that, I'd like to open it to discussion.

>> Mayor Reed: Well, let's see, we've got a motion to move the memorandum. Is there a second? Councilmember Campos has a second. So we have a motion on the floor. Let me just speak to the motion. I'm not going to support the motion for several reasons. The first is, when you survey businesses, California is usually at the bottom of the list of the best and the worst places to do business in the country compared to other states. When you look at the tax burden, we're not at the bottom. But we're at the top of tax burden. Not at the very top but pretty close to the top of the tax burden list. What I don't want to do is to add another negative, big negative to that list. As I spend time talking with CEOs about growing their companies expanding their companies relocating their companies and staying in California it's a tough sell because it's California and to be the city with the highest sales tax and the worst place to do business in the country is not a title that I aspire to hold. I think it would be a big mistake. That's one thing. The second thing is, if you look at the polling data, and if we have -- I don't know if we have the entire report from the -- our pollster. But in the full report that staff shared with us, at about page 37 I think, page 17, there is a slide that shows the support, there it is, so the problem I have is, we have one of the elements present. There's at least some significant amount of public support. But when you inform people of the other taxes on the ballot measure, and the arguments in favor and the arguments against, you lose a lot of ground. You see that spread between positive and negative shrank. And when I look at that I say, well, it's not impossible. It's difficult. But you have to mount a very well organized campaign that raises a significant amount of money and spends in favor of it, unless you're not going to have opposition. I'm afraid there will be opposition to this measure. And I don't see the coalition of support that would generate the kind of funding necessary to run a campaign, and I have managed a few of those tax measure campaigns. And I know what it takes in terms of money. It takes a lot. And so I don't think this measure is strong enough to go to the ballot. Because if we lose, I think it decreases our chances the next time we want to put a sales tax measure on. I do think it would be stronger after the pension reform is implemented. Because one of the important things is being able to tell the people what the money will be spent on. And right now we can't tell them for sure that we'll use this money to restore services. Until we have the uncertainty of the pension reform implementation taken care of, well, we might spend the money paying for pensions. We might spend the money restoring services. We might not. And of course the argument against it won't necessarily be that. We'll use it to restore services because we can't say that for certainty. I think it would be stronger once we get the pension

reforms implemented with measure B. So I'm not going to support the motion on the floor. For those three reasons. And I went through some of the other factors in trying to figure out whether we could win back in April and I just don't think we have lined up all the factors to be successful running a citywide ballot measure. Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor and I appreciate your perspective as well as that of Councilmember Pyle. I appreciate Councilmember Pyle that she indicated she has been true to this, she hasn't gone to a sales tax measure as her first choice but really as her last. We've put a lot of measures say this city hasn't kept its end of the fiscal bargain. But I don't think we're holding up the end of the bargain to provide services that are adequate. Not just that we've become used to but adequate for any city let alone a city like San José that has had a tradition of providing the best of services for so many years. You know, the -- we have a tale of two cities. We have a city on the one hand, we're sitting on millions of dollars of land for a baseball park, we have BART coming to San José we have the highest job growth in the nation but at the same time it doesn't take much effort to drive around our city and see how it is as Councilmember Pyle indicated deteriorating before our eyes. We see street level prostitution and drug dealing, we see graffiti rampant our beautiful libraries closed about half the week. This is not the kind of services that our residents deserve or the kind of quality of life that we should be providing our residents. And we know that it's just getting worse. We have detectives that are, you know, detectives being pulled to do patrol. We have -- we're patching together our Police and Fire department with federal grants that will not last forever, they'll last a couple of years and then what will we do. The argument before measure B, let's just pass it and then we'll go in the sales tax knowing that it will be stuck in litigation for years, then go back and say, it hasn't been implemented yet, so we can't do a sales tax. And measure B won't be implemented for years to come. And although there's a next time we can do so, there is a presidential election, November turnout. We have a number of items on the ballot including prop 30 including prop 32, which is going to be a heavy turnout, prop 36 to amend three strikes. There's going to be a lot of different constituencies that are going to be coming out to vote with this presidential election that's going to provide numbers that aren't parallel to a June 2014 or any election except maybe another future presidential election maybe. In the meantime what do we do? We continue to deteriorate, our services continue to slide and it's not the kind of environment that any business would want to come in or stay in. It's not going to be the kind of environment that is going to be good for our property values or for our

schools. I support the motion on the table. I support letting the voters decide and letting those in the community that are in favor and the different coalitions that they can bring together, if the city council doesn't have the energy or desire to get behind it, there's plenty in the community that come together that can and give them that opportunity. Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you very much. First of all I wanted to thank Councilmember Pyle for her advocacy and her leadership on this issue. Obviously her effort has really helped us and it has definitely contributed to the discussion that we have today and of course I think your comments are very persuasive and very passionate. So it's very, very hard to go against what has been said already by Councilmember Pyle. But in a time where resources are scarce, city services are diminishing and city leaders are deftly looking for ways to provide services for our city, of course to me it only makes sense to introduce and recommend a sales tax increase. This is the area where we don't have to make the hard decisions, we leave it up to the voters to make that decision. Where else do we look to help us generate revenue, especially when the economy is so bleak and the revenue coffers are only half full previous months I went out there and campaigned on behalf of some of the candidates that I supported. Everywhere I looked I see people are suffering. They're suffering from a lack of employment. Due to a depressed economy. They're suffering from a lack of the ability to make mortgage payments. And the seniors are suffering pretty much from a fixed income at a time when goods and commodities continue to inflate. So you look at all this and now to add another burden on top of the existing problems, it's just very, very difficult and very hard for me to justify to be someone that is adding this burden upon these folks. Now, I'm not antitax. I think that you know, there comes a time when a tax increase is reasonable. And should be a methodology that we can use to help a city like ours to be able to provide services for residents. But given the fact that you know, having a lot of tax measures, and we're going up against the county, the state, and maybe some of the other propositions that haven't been brought forth yet, I just don't think that this is the right time to bring this upon a resident. And of course, I'm not aware of a community based campaign or well funded campaign that's going to get behind this measure. And for all those reasons I'm really -- I'm sorry to Councilmember Pyle that I

can't support this because I'm very supportive for what she's trying to do and her passion for this issue but I don't think this is the right timing. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. With council -- Vice Mayor Nguyen's district and mine being very similar in terms of demographics, you know, we're both seeing the same thing. You know, we're seeing a population that they're caught. They're caught in between can they afford to pay an extra penny's the equivalent of pennys on the dollar you know for retail goods or can they afford to continue not having lifesaving services in their homes. Or available to them. And if you ask them, they are going to say, you know what? If I can have a police department that can get more resources in it, and respond to me better than are responding to me now, I think we have a smart enough electorate that can weigh those options. You know when Councilmember Rocha and I came onto this council at about the time that the cuts were in full swing, and what kept resonating to me is to bring services back to the 2011 levels. Let pension reform run its course. Let's get that passed. It passed, and then you know let's deal with the tax measure and put it on the ballot. And put it on the ballot for the good of our community, of the residents of San José. This is an opportunity that we're not going to have for four more years. Councilmember Kalra is absolutely correct. We will have more people that come out for this election cycle simply because of the implications of the national election. They're going to come out to cast their votes. And the demographics that are going to come you out, you know, I question whether or not a good sampling of those demographics were een poled. You're going to have a demographic that tends to not participate in a electoral process that they're making \$8 an hour and they want to make sure that I'm living in poverty but I'd like to at least get out a little bit. That's the type of demographic that's going to come out. The responsible thing to do today, is to vote approval of this putting this on the ballot. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'm very supportive of what Councilmember Pyle is doing. And I really appreciate her commitment to this. For the year and a half that I've been here, Councilmember Campos just

described it perfectly in terms of my experience up here. It's been mentioned a couple of times as part of the fiscal reform plan. As part of the fiscal reform plan on page 51 was to pursue a sales tax increase on -- in fall of 2012. We're in fall of 2012. Eight people supported that fiscal reform plan. And that fiscal reform plan has been cited along the waive all the changes that we've made here on the council in the past year and a half that I've been here. It was a year since that plan was adopted. I was hoping that those same eight people that supported this would be supporting part of that plan. It's a threshold for passing or putting on the ballot a sales tax increase is whether or not California is at the bottom of the list in terms of places to do business then you're never going to support a sales tax increase because a lot of that has to do with issues that are outside our control in the State of California and the legislature we have now. I'm very interested in seeing this go forward. I'm interested in a friendly amendment if I may. I'm a little concerned about the length of time, I'm a little concerned about the amount. Would you be willing to consider a 19-year instead of a 15-year?

>> Councilmember Pyle: Absolutely.

>> Councilmember Rocha: I'd like to request that you change it from a 15-year to a nine-year.

>> Mayor Reed: The maker of the motion is willing to accept that friendly amend from 15-year to 19-year.

>> Councilmember Herrera: Thank you, mayor. Linning to Vice Mayor Nguyen and Councilmember Campos, district 8 is -- borders both of those. And so district 8 is a tale of different cities. Some folks living in gated communities in very wealthy areas, some that are struggling economically in other areas. And I think that -- I think most of us would agree up here we need more revenue. I mean, it is not -- I don't think anyone would sit up here and say we have plenty of revenue and there is no need for revenue. And I have said before that I do think that there will be a time when we will need to support revenue increases. I don't think that time is today for the sales tax for me. As I'm out in my district and I am actively out as everyone knows I'm still in an election and I'm talking to my residents. What I'm hearing from them is, as I'm talking to them is, how fragile this recovery is. The economic recovery. They talk to me about that. They tell me how they are struggling to pay rent. How they're struggling to buy food. How many of them have lost jobs. And they're very, very concerned about any new

increases in sales tax. The other concern they have is that the money is not guaranteed for the services they would like to see reinstated. Number 1, the police. They'd like to see more police officers, and the concern that this revenue measure doesn't guarantee them. That is a big concern. My other concern is that we just passed measure B and we need to see implementation of that measure and right now we are fighting to see that implemented. And yes, that kind of savings that we will see from the final implementation is a piece of this. And Councilmember Rocha is right. The other part of it, there is a revenue piece of it, too. But the problem with getting the revenue piece first before we get the implementation done in measure B is that voters that are not assured that that revenue is actually going to go to the services that they want to see come back and be restored. So it is - I struggle up here with this because on the one hand I want to vote yes. I support Councilmember Pyle's willingness to come forward and be strong about asking for this revenue increase. I would like to vote yes on this. But I think it is the wrong time. And for the other reasons that I've stated. And lastly as I think when we're ready to come back and join together which I'd like to see a coalition, a larger coalition come together and make sure that this passes when we do it, I'm really afraid that if we don't do that the right way now when we come back when we need to do it, it may not pass. So for all those reasons I regretfully cannot support this.

>> Mayor Reed: Let me clarify the motion, because it has many parts. If you look at the agenda, parts A through E as part of the agenda process. So if I understand the motion correctly, Councilmember Pyle, you're moving your memo which would include the resolution that we need to adopt in order to move this forward, that's agenda item B with the language change. So for a period of nine years instead of 15 years as measure B. Motion does not contemplate publishing the full text. That's item C. It does include a designation allow members of city council to submit arguments in favor of the sales and use tax measure, that's D and permit rebuttals which is E. So I think we've covered all the agenda items with the motion. Further comments or questions on the motion? Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I just want to clarify my position. And before I do that I know Mr. Loony came here and he's justifiably ticked off about last week I had a meeting with VTA meshing they are going to commit I know we've got a lot more work to do. But Mr. Loony you may have someone who was an impostor impersonating you because I know you called my office on the 25th and my cell phone reflects that I called you at

6:16 p.m. we had a ten minute 37 second conversation and after that I sent an e-mail to Rick Galea of the police department he responded to you next day. If you are referring to someone who didn't return a call, it may have been I tucked someone who called himself Daniel Luna who identified himself as you. absolutely based in real concern about the future of the city. And there's truth in all of it and I agree with Councilmember Herrera that this is a very close call. I admire Councilmember Pyle's leadership. I know it's very tough to lead on tax measures. I've been in the situation before of having to push hard and in support of increasing taxes and it's not fun and it's not easy. For me, the concern is, multi-- many fold but primarily one in which we are facing very high unemployment, very series concerns about ability to attract retail to our city. Our business to business transaction sales tax is very important to us as well. And to the extent that our decisions may highlight that we have highest tax rate of any city in the state, or close to the highest tax rate of any city in the state, I think sends a very difficult signal to those businesses that are making location decisions based on what they view as really being a proxy for the city and we continue to struggle with the fact that we have the lowest ratio of employed residents, I've sorry, are jobs to employed residents of any major city in the United States. And secondly, I don't doubt for a second Councilmember Kalra's right about the fact that this election is going to draw a lot of people out and this is election where we would want to have a tax measure on the ballot. By the time city they will have already glazed at four other tax measures between the state the Water District and the county. And if we had as I said before a pet cemetery district they would be looking for a tax too. There's still too much tax increases I think we've got to go out when we've got a coalition of people that are ready to support this. The first I've heard that we've had significant support for tax increase is today in this chambers. Nobody is -- I've not heard from any major organization, willing to dedicate commitment of resources money that it takes to win these campaigns who has reached out to me. Maybe they've reached out to my colleagues but no one has reached out to me to say, we're willing to support this campaign. This is the first I've heard about it. I very much admire and grateful for Councilmember Pyle's willingness to step forward but the fact we're getting all this late tells me there's probably isn't a commitment out there that goes with resources and ability to run with large scale campaigns, pushing for a survey or a poll last year to try to raise a tax measure for public safety services. I know it was very clear to me at that time there's not a will, if there's not a will there's not a way. We need to be able to do this together at the time where there is a will. And at that time we will be successful.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I just wanted to say, prostitution on the street drug dealing and crime in front of their faces than you are gee that sales tax is just a little too high for me. Really, can we talk about why businesses aren't coming here? In a more holistic approach? Thank you.

>> Mayor Reed: All right, I think that concludes the council discussion. We do have a motion on the floor. On the motion, all in favor? I count one two three four five ayes. That would be Kalra, Chu, Campos, Pyle and Rocha as an aye. Go for two. So that motion -- an nays everybody else I guess. Five, one two three four five, everybody else voting no, that motion fails on a five-five vote with Councilmember Constant absent on rehab. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. So am I to now were we making a decision point if we were going to have an alternative motion for some other tweaked sales tax or hear a balance of 3.5 on another day?

>> Mayor Reed: We should probably have a motion to defer 3.5 another day but the question is whether we're finished with 3.6. So all right. So motion is to defer 3.5 to another day then. Okay. Motion is to defer 3.5 to another day, that other day would be a week from today. Staff, I think that's the appropriate time. On that motion all in favor, opposed, none opposed, motion carries. So I think that concludes the agenda with the exception of open forum. We have a few cards for people --

>> Councilmember Rocha: Mayor before we go you had mentioned Councilmember Constant was likely watching this. If you were here Pete, we could have pulled this off.

>> Mayor Reed: Just judging from his past comments? Okay. Open forum Chuck Johnson, Linda scarpellos, David Wall Mark Trout. I know at least a couple of those folks are here. Please come on down.

>> Hi everyone, councilmembers, mayor. Tuesday, August 7th, National Night Out. I hope you all have an opportunity to enjoy it. Just let me say, in that vein of safety and comfort of our neighborhoods I would like to suggest a ban on disposable lighters in the City of San José, county of Santa Clara and State of California for one reason, they're used for only mischief, smoking or burn inappropriate substances or starting fires. Second they become litter and this plastic isn't biodegradable. And many of thrown away unused and found by little children encouraging them to smoke or create mischief of their own. Third reason is they're wasteful. There are so many disposable lighters on the market that it's just plain wasteful not only that it is a huge waste of money to spend your money on this is it's conspicuous consumption in a way, number one it's saying it's okay to smoke and unacceptable. I hope you'll consider that on the future. Anyhow on the earlier matters, I think encouraging gambling is not a good way to financing education, it legitimizes city of San José rather than create more traffic. For us in this county. And regarding the sales tax, I'd just like to say that if you spend your money on groceries there is no sales tax. Please make sure that everyone's fed here in California and please everyone commute and enjoy the commute. Enjoy the evening everyone, bye-bye.

>> Mayor Reed: Linda scarpellos, Mark Trout, David Wall.

>> How am I going to cram in two hours into two minutes? Some of the last words of David before he died were, he that rules must be just. Ruling in the fear of God. And everybody here is God's ambassador I might say. You're here by the appointment of God almighty. So I would say you need to read the Bible every single day. The king was commanded to read the Bible every single day. Speaking of kings, we have some new information. President Davis his father is Frank Marshall Davis on infowars.com you can get a movie, dreams of my real father. And it is his father, he is dead and going to go to hell but he's a communist. Frank marshal Davis. We've been lied about regarding his name. During the civil war, Abraham Lincoln's best friend was charld Chenike ab ray Hamlin con and the relationship they had from when he started as this lawyer protecting him against some false accusations from the bishop to the last time steering the White House as he stood next to the president shaking the hands of the generals in the civil war. 99% of the Catholics don't know this and 99% of the Protestants don't know it but the assassination of Abraham Lincoln I know you don't but Chenike joined my church the Presbyterian church and

was one of the most prominent ministers aside from John Knox or R.C. Sproul. Ten seconds. Does anyone have any questions, read the book it's a holt book, read the Bible it's the best.

>> Mayor Reed: David Wall is our last speaker.

>> To help you out with noise complaints good old Councilmember Oliverio, last week's Rules agenda public record there's a memorandum about how to reduce noise complaints from amplified help out the towtruck operators since you got rid of the seizing the illegal aliens cars from them. This would help them out a lot to be tough on them. Mr. Mayor, losing control over this city because this council has systematically destroyed the finest police department in the nation. They're outgunned I'm not happy about it. Lastly and more importantly, Mr. Mayor as chairman of the treatment plant advisory committee, I'd like you to justify to the world why you continue supporting the South Bay water recycling program, when it loses millions of dollars a year. It misuses the sewer service and use charge for its base funding, it is not needed by any regulation, because of our flows to the bay from the water pollution control plant are so low. Water conservation issues are only helping out that issue. So why are you spending millions of dollars, wasting really, I think it was over \$2 million last year, that cost that program. It's not making any money. The only beneficiaries from that are business who retain some sort of subsidy from the water. But no residents get a benefit and the use on park lands is nebulous because it kills redwood trees. So I would suggest you cease and desist. I want a personal refund from my sewer service and use fund from this acursed plan. Thank you.

>> Mayor Reed: That concludes the public comment. Concludes our meeting. Everyone enjoy your National Night Out.