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>> Councilmember Liccardo: Councilmember Rocha.

>> Councilmember Herrera: Here.

>> Councilmember Liccardo: I'm here as well, that makes a quorum. Should we review the orders of the day, I'm sure review of work plan. Ashwini is this --

>> Ashwini Kantak, City Manager's office. We have three items, one is the status report on mitigation monitoring that comes to you on a quarterly basis. And since the last one was delayed, the next one is supposed to come to you in December. So we're just dropping the item from this meeting. Storm and sanitary sewer initiatives, staff is still kind of doing some work on this report so have asked for a one month deferral. The status report on fleet pilot program, you should have a memo from staff. It has taken a little longer than expected so we are requesting a delay of a month as well.

>> Councilmember Liccardo: Is there any objection or motion.

>> Councilmember Herrera: Motion to accept referrals of work plan.

>> Second.

>> Councilmember Liccardo: That passes. C 1, I'd like to pull this off of consent. John if any of my colleagues have any questions about this. I did have one. I don't see any. So Hans are you ready to respond on electric vehicles? Or Jim? Just hoping for an update about -- thank you. Hi Matt. Just had a quick question about the better place project. That's the battery swap program under heading 3. Specifically, I know we've been trying for several months to identify sites for battery-switching stations. I know that we're ideally looking for two in San José. One of them was hopefully going to be somewhere near the airport. Have we had any success in identifying that side?

>> Hans Larsen: Yes, committee member Liccardo, the site that we're -- there's been an effort to look at a variety of different sites. But the one that we're focused on most closely is a site at the airport, near the 880 Coleman interchange. And there are some -- some limits or hoops that we need to jump through, given the connections with FAA. But we are actively meeting with airport, City Manager's Office, D.O.T. and Office of Economic Development to try to address those. So we've been in discussion with our folks about that and identifying the issues and we are currently working through them.

>> Councilmember Liccardo: Okay, and that has to do with building in the no-fly zone, or --

>> Hans Larsen: That's some of the constraints there. I think bottom line there is we don't have full control over the use of that site. There is coordination that's needed with FAA, and so we are working through a process to address those issues.

>> Councilmember Liccardo: Great, thanks Hans. I notice that Jim Alves is in the audience, and I know Jim Scott, among other things, a car washing shop right there on Coleman. So if this doesn't work out over 80, I'm sure he would be happy to have an electric switching station right there for all folks heading to the airport on Coleman. He's nodding, so anyway. Thank you both. Any other questions? Don.

>> Councilmember Rocha: This was more of a reminder, we had discussed the projects where we had two charging stations and both had mentioned the majority of those would be downtown. I'm trying to recall if we had posed the questions about other sites you're looking at outside of downtown. I think community centers was discussed, and if you could just refresh my memory on that discussion, because I couldn't remember.

>> We're looking at a wide variety of sites, councilmember, including communities centers and libraries. Much like we had discussion with solar, there's some balance on the future use of those sites and in making sure that we do the logical thing for placement of those charging stations. But downtown and throughout the city at different facilities.

>> Councilmember Rocha: So when we are looking at other places throughout the city, are we looking primarily at city facilities, or are we also looking at off the top of my head I couldn't really think of private properties that we would be considering, but I'm assuming they are city facilities.

>> Yes, they're city facilities.

>> Councilmember Liccardo: Other questions, Rose?

>> Councilmember Herrera: Thank you. I guess I'm wondering into the future, five years out, I'm wondering if we're looking at that in terms of incenting folks or requiring changes with regard to, for example, maybe new gas takings, having the requirement to have these as they're being built. I was just in my mind thinking about what kind of framework going forward, when we would have -- these would be ubiquitous, gas stations like today, are we looking at that in the future as a requirement or as --

>> I'll have to let I think the Planning Department talk about gas stations and what that looks like although in our --

>> Councilmember Herrera: I'm not suggesting that today, I'm just sort of futurizing what you --

>> Our conversations with the vehicle manufacturers have shown that they're really interested in putting an infrastructure in place. One of the main inhibitors to electric vehicles is the anxiety, the range anxiety. So they're anxious to have a network in place that meets the needs. So things like what we're doing with our charging stations really helps with that so wherever folks are going on their trips they are able to top off or get a little charge that way. We've talked with Tesla last week and they're actually looking at doing a nationwide network that runs sort of an H if you will, California and then across the United States and in eastern side of the country as well, so that they have large charging stations that can do quick charges across the country. So I think the big push will come from the vehicle manufacturers as they're looking to make their vehicles more viable and then some supplement with the likes of the charging stations that we're doing, we're seeing popping up.

>> Councilmember Herrera: I would think too, if people are still taking their cars into gas stations and still getting other service, that would be good place to look in the future having some requirement at some point down the road to have them part of a new gas station or improvement on it.

>> Councilmember Liccardo: We do have a card from a member of the public, Roy Cheryl. If you want to come forward or if not use this mic. Thanks Matt.

>> Something that I notice is that when people are talking about electric vehicles, everyone's thinking cars, vans, trucks, so forth. They are not thinking about motorized electric vehicles like wheelchairs, scooters, power chairs, electric bicycles, other small individual motorized -- I mean, vehicles that aren't dependent on electricity to get around. Currently there is no place in the city that I can drop in to charge my chair, except for I mean, the power stations in the garage here, and the garage manager says that I can't stay with the chair because I'm loitering, and it takes hours to recharge the chair. There needs to be PowerPoints at places like light rail stations, major bus stop transfer points and so forth where people like myself can go and charge their chairs. Because these chairs have a very limited range. And if we run out of power, we're stuck. And I mean, I'd much rather I mean find some way of getting to a charge-point than having to call 911 saying I'm stranded or calling outreach and saying I need to be rescued and taken home because my chair has run out of power. Encourage -- I think things like restaurants, coffee shops and places like this to put in charge points geared towards small vehicles like these, so people can go in and buy a cup of coffee and sit there for a half-hour put some charge on their chair. Even if we have to pay extra for use of the charge point, it would be very welcome. I mean it would make it more functional because for the last several years I've been a prisoner of my home because every time I go out I risk getting stranded because my chair runs out of power and I've got no place to plug in except my home. People like myself who are disabled or who have physical limitations can be more active in the community and not be a prisoner of what limitations I mean we have in our mobility. It would be -- well, that's my main point.

>> Councilmember Liccardo: Thank you, Roy.

>> And giving incentives to businesses that have charge points, to so that I mean people like me would more likely -- I mean use those businesses, and encourage the use of better batteries so that these have a larger range and stuff like that. Because currently Medicare will only pay for certain types of batteries and they'll only replace them once a year. Every few months the range of the batteries keep dropping, dropping, dropping by about half every three months. Until -- I mean without some waive recharging my chair I mean I frequently get stranded, that's a big problem.

>> Councilmember Liccardo: Roy, may I ask you, does your chair use a standard 120 volt outlet?

>> Yes, it uses a standard outlet.

>> Councilmember Liccardo: I see, okay.

>> There are times I have the -- the charger for my chair uses a three amp trickle charge. There can be adapters that can be made to attach to a chair, something like that, that will use like a car charger battery where you can use like 8 volt or 12 vote, or something like that. I do use a car charger where if I get stranded and not near an electrical outlet I can charge my chair. I need to get directly next to the outlet to charge my chair. Could you plug into a charge point station to quickly discharge chair and use the trickle charge at home.

>> Councilmember Liccardo: I very much appreciate your very enlightening point. The ones we hadn't considered. I have to cut you off, we are restricted to two minutes. We have your contact information and I'd like to reach out to you to try get more of this information that may help us in informing how and where we can do this.

>> Thank you.

>> Councilmember Liccardo: Thank you very much. Unless there is other comment we will entertain a motion.

>> Councilmember Herrera: Motion to approve.

>> Councilmember Liccardo: All in favor, that passes unanimously. We'll move on to item D-1. Thanks Hans for fixing that. Is the city tow contracts. Hello chief.

>> Dave Cavallaro, deputy chief of the police department representing Chris Moore, who is unable to make it here today. We have a memo that I'm sure you all have. And if I could do a little bit of going back in time to help everybody kind of get a better understanding of where we were and where we are now. It's from my perspective having towed many, many hundreds if not thousands of cars in my career, for a variety of different reasons we understand the importance of getting unsafe drivers off the road, the police department does. That being said, when chief Moore decided to change the policy in early January of this year, obviously there was much consternation amongst the department as well as the community because it's been -- studies have shown that many, many unlicensed drivers do not have the appropriate training to drive safely on the roadway cause accidents and the like. So obviously there was concerned. However, it seemed to be the right time to try this out. And as chief Moore said, he wanted to give the opportunity for this to be successful in our community based on a number of factors which I'm sure the committee is well aware of. So we tracked a number of data points which are also delineated in the memo, which talks about the number of tows, the revenue taken in by the police department, as well as probably the more important thing for us is the number of accidents. And so the chief had reassured us as well as the community that you know, if we implement this new policy where we don't tow for 30 days every single time, rather we tow if it's appropriate for just the one day. For the nonserious offenses. That if accidents do in fact start trending up then we would have to relook at it, maybe change our policy again. And I think what we have seen is what we sort of predicted, the number of tows is down significantly. However, the amount of revenue realized by the department has stayed fairly constant. Because we believe that folks would much rather pay that initial tow fee rather than the 30-day tow fee, which is significant. And the way I relate this to the layperson is simply this: We had as lawmakers created a disposable car for lack of a better term. So we would stop someone for, say, a taillight out or a headlight out and they were unlicensed. Not because they had a drunk driving or committed other serious offenses, but they were just unlicensed, they couldn't get a license or what have you. We would tow that car typically for 30 days. Well, if the car was only worth a few hundred dollars, or maybe \$500, the

cost of a 30-day impound to the owner of the car is well over \$2,000. And so most folks would say, well, I certainly don't have that kind of money to get their car back. They would turn around and go to the tow companies who routinely have auctions of cars that have been impounded and however else they get them and they would buy a car. And so this would trend week after week month after month where we have this disposable car. That is kind of a layperson's view of what had happened. So I think at the end of the day from the department perspective it seems to be the right policy at the right time. We're not seeing an increase in accidents. Our revenue is staying fairly constant and certainly it has a negative impact on the tow operators within the city. I think that's one of those unintended consequences. But that's really all I intended to say about the memorandum but I'd be happy to answer any questions you or the committee have or anyone from the audience.

>> Councilmember Liccardo: Thanks Dave. I know Councilmember Rocha submitted a memorandum. Do you want to speak?

>> Councilmember Rocha: Thank you, I did write a memorandum that initiated the discussion on this item here at the committee level. If I may could we ask for public comment? Really this came to my attention from a meeting I had with a number of the tow operators which brought to my attention some of the issues they were having. I thought this would be a better place to talk about it rather than an individual conversation with a committee member or otherwise.

>> Councilmember Liccardo: First I have Kenny Carvallo followed by Rita Spino and David Wall. Welcome.

>> Good afternoon, thank you for the opportunity to speak. As most of you know, some of you pay not, back in the 1990s the laws have changed a little bit. Originally 14601 was -- had been on the books for a number of years and vehicles were being towed for unlicensed or suspended driver's license. Kind of been a normal course of our business. But the vehicles would only stay typically one day. They get a friend that has a driver's license and go down to the police department and get their release. And then come to the tow yard and pick it up. Back in the old days of YSD patrol, the same car ended up back at King and Story the same night that it got towed, only hours after they race down to go get their police release and came back, got their car, and went back on the

road. Well, the state figured out that to keep people driving on the road, and making our roads safer, they enacted 14602.6 which was a mandatory 30 day hold for any vehicle driven on a suspended driver answer license or unlicensed driver. I don't have the exact statistics on accidents or what happened but what I do know is on sobriety checkpoint nights on king and Story Road, some for D.U.I., that the accident statistics had dropped substantially in that neighborhood post a sobriety checkpoint. I'm sure those records are on file. I'd have to disagree with the chief's fourth quarter to first quarter analysis because as myself growing up in the towing industry I know that our fourth quarter is far busier than our first quarter. It's the holiday season, there's more vehicles on the road due to people traveling, there's more people drinking and driving, there's more accidents. And I can show you our books and you can clearly see, even comparing the city's fees, they get paid per tow, where first quarter is always much slower. Also I don't think that we need to take a look at that time fact that the police department doesn't respond to accidents, only injury accidents now. So of course I can imagine the amount of responses that they're actually going on right now is far less because they're just having the people exchange information out there. I don't wish to burden the city with our financial difficulties. Things have dropped off substantially for us, and it's been very difficult. But what I would like to ask is that we make a proposal that perhaps that we can pass through our charges that we pay the city similar to like the utility companies do, where as the \$82.25 per vehicle that we charge that we can just add that to the vehicle charges when we release the vehicle. That we don't release all the vehicles, at least the ones that we do release we get our fee back that we're actually paying the city right now. Thank you very much for your time.

>> Councilmember Liccardo: Thank you, Kenny. Rita Spino. [ Spanish ] good afternoon, I'm here to support the new policy that was passed in January to not take vehicles for people who are driving without a license. [ Spanish ] so for me it's very frustrating as a mother, very difficult, we have to pick up our kids from school, sometimes it's raining, and you can imagine, walking or, in the rain, not having a car, it's a necessity for us. So it's very frustrating and difficult if we didn't have a car. And so we're asking that the policy continue. [ Spanish ] So as the deputy chief said, sometimes the car is only worth \$600, \$1,000. And the fine would previously been over \$2,000. So for a family we couldn't afford that so we ask that the plan remain in place. [ Spanish ]

>> So mostly I just wanted to express gratitude and appreciation for the policy that is in place that's working well and also I want to lend my support to what the gentleman said, that there are a lot of people in wheelchairs who need the support that need to be able to charge their wheelchairs and I support him as well.

>> Thank you very much. I'm a community leader. Thank you for listening to me.

>> Councilmember Liccardo: Thank you. Gracias. David Wall followed by Nick Alongi and Jim Alves.

>> David Wall: Good afternoon, this is a rare sight, all the councilmembers here not traveling away somewhere. Glad you are here and safe and sound. I have no sympathy for the illegal alien populations in this country who are now given preferential treatment under the law by not having to have a driver's license, as opposed to citizens who do have to have a driver's license. It begs the question of insurance, public safety in general. I'm not sympathetic about mothers that are here, having to drive their kids to school without a driver's license. That's a nonissue. Driving is not a right, it is a privilege. Being in this country legally is a privilege. Now we see from our learned chief, our deputy chief that if accidents trend upwards, learned councilmembers, you're going to be on the hook, to tell the little person whose mother, father was killed, by an unlicensed driver or paralyzed, because you wanted to have a policy that panders to the illegal alien community. And that's what this is all about. This is to pander to foreign nationals who are in the country illegally and/or criminals who have had their licenses suspended for your own political and/or pecuniary gains. This is a safety issue. As a matter of fact, disposable cars, you get them off the road, they're gone. It's for the environment, because it's most of these cars are poorly maintained and drop fluids all over the place which you will learn as a consequence of this municipal regional storm drain permit. So there is a lot of stuff here ladies and gentlemen. The key issue is the City of San José is continuing to pander to illegal aliens and your culpability in this matter. It's a safety issue who gets hurt killed or paralyzed, it's on your conscience. Thank you.

>> Councilmember Liccardo: Thank you, Nick followed by Jim Alves followed by Bob Cohen.

>> Thanks for letting me have the opportunity to speak. One of the things that I wanted to add to this is there is a decreasing trend of cars that are getting towed and getting released earlier. In 2010 there was about 66% of the cars that were towed for 30 days that got released, actually got paid for. And that decrease to 33% in some cases for the contractors 15%. And this is above and beyond be someone without a license. They're legitimate my toed for D.U.I. or something that is not endangering the community. I would say can we look at why those cars are released, and exceptions are made, we used to have an average of 20 to 25 days of storage now it's down to below ten, more like six in a lot of cases so that's kind of a concern to me. And I'd also like to point out that there's several vehicles that get towed that aren't the \$600 vehicles, they're actually priced a little bit higher. So there's ones that I do feel like people could come in and -- I think the city fees get a little bit misconstrued with the city and the registration and the city fees that get attached, both at our location when the cars get picked up and at the police department. It all gets lumped into one thing. We're actually -- our release fees are close to \$1800, but I think because cars get out of registration they have to pay the registration to come down and actually get the car out. So it's a more complicated issue than simply saying well it cost \$3,000 to get the car out and that's all coming to the tow company. It's not. But I think that's about all I have to say. Thank you.

>> Councilmember Liccardo: Thank you. Jim followed by Bob Cohen.

>> Members of the committee, thank you for hearing me. I just wanted to talk just a moment about -- a little more about the background. In 1996 the City of San José took a more affirmative approach to the towing of impounded and impounding of vehicles driven by people without licenses and people with suspended licenses. And I think there's two things here that we should look at. One is there's the suspended license or people driving on a revoked license. I don't see any reason that vehicle would be released. They've lost their license for some criminal act or by not taking care of their license. The people that are unable to get licenses because of their status in the country, is a separate issue, and I don't want to put my dog in that fight, that's a separate thing to me. Consequently the contract fees paid to the city by the tow contractors were increased in '96 to offset cost recoveries to the city for additional processing time dedicated to the affirmative removal of these vehicles by law enforcement. In 2010, the city relaxed the enforcement of mandatory towing of the -- and 30-day impounding of the vehicles driven by the unlicensed drivers. The abrupt change in the enforcement policies causes a significant

reduction in both tow volume and revenues previously experienced by tow contractors while tow contracts paid to the city by the contractor have remained somewhat consistent. The policy change leaves contractors paying contract fees based on a model that was significantly modified, to the contractor's detriment last year, when this change took place. So that's more my concern is that this change is -- was based on a model that was built during the real active times of when we were towing a lot of vehicles, 30 day impound whether it's a burn out light or drunk driver or revoked license or unlicensed driver and then to just go flat for no towing now has really changed our model quite a bit and it's left the contractors you know at risk at this point. And that's -- thank you.

>> Councilmember Liccardo: Thanks Jim. Bob Cohen followed by Patty Diaz and Lucy Lynn Ortiz.

>> Hi, good afternoon. I'd like to apology in advance. My forte is not in public speaking. However, I have been in the towing business the past 50 years. My company is East San José mattos towing transport and in West San José, courtesy tow service. I have worked under verbal and written contracts with the City of San José and the San José police department for 54 years. Never in my history have I seen a system fail like it's been failing the past 11 months. My facility in East San José, a year ago, stored an average of 450 cars. We now store less than 41. When I went into the contract with the city, there were certain numbers that we took into consideration. I understand fully that the city is not under contract to keep Bob Cohen in business. However, the system is breaking. When you're storing less than 40 or 50 cars and you've taken on long term commitments such as leases with options, 60 months on new equipment, that the tow trucks today are over \$100,000, not \$6,000 when I started out. My concern is I used to employ 63 people. I now employ less than 20. I am very sympathetic or empathetic to premium that have their cars impounded but it is for the safety of this community. And if you relinquish that community to follow through with the law you are going to cause anarchy sooner or later. You have to follow the law or you will have problems. I'm concerned once again with the failure of the existing contract. So what I would be asking for is the ability to access our \$40,000 cash that we paid up front that's being held in reserve until we complete our contracts. The easiest thing for Bob Cohen is to go bankruptcy. But I personally have signed many continuing guarantees that will not only bankrupt my companies and put my employees out of work, but more than likely will take my residence. Thank you for your time.

>> Councilmember Liccardo: Thank you, Bob. Patty Diaz and Rucilla Ortiz followed by Aron Racindez.

>> Hi good afternoon, I'm Pat Diaz. I'm the executive director of Services Immigrant Rights and Education Network, or SIREN, and I'm a resident of Almaden Valley. I wanted to just briefly make some comments, and then Rucilla will talk a little bit about the impact of the community. Currently, the impound policy in San José protects the safety of all its residents by strengthening the relationship between low income communities of color and law enforcement by taking into account impacts on local residents in hardship to low income communities, SIREN strongly supports chief Moore's impound policy because it is a more sensible policy for our community, continue to implement an impoundment policy that does not punish vulnerable communities and do not jeopardize the relationship between community and law enforcement and especially creating undue fear in the immigrant community. With me I have Lucilla Ortiz who is a community organizer who works very much with our community leaders in San José. She has some comments to make.

>> Good afternoon everyone. I just wanted to make a comment on the impact I see this policy has had in the community. And of course before this policy the community was very fearful to come forward to law enforcement because they might get their car impounded, so there's not that trust between the community and the law enforcement. And so after this policy I have seen that the community feels a lot more comfortable to come up to law enforcement to report crime or to report some accidents or anything that's happening around the community that jeopardizes the mole whole community not just inform immigrants. Like Patty Diaz, I'm here to support the policy, because it has created a really positive impact on the community and the trust for law enforcement.

>> Councilmember Liccardo: Thank you. Aron Racindez.

>> Good afternoon, friends. I'm just here for supporting the policy of Chief Moore. And I've been studying this for over 10 years. And the most I have seen hires community staffers from the impounding. Just to be specific, November 2008, D.U.I. checkpoint on story and King, they impound only 4 D.U.I. and 48 impounded. When we are going through the numbers, we went through the numbers and checked the numbers, me and my reporter, we found that the towing company at that time made over \$60,000 in one day. If they are going out of business,

good. It is hard to go or have that business you know in the back of our community, the most vulnerable of our community, especially East San José. On account of safety, when they talk about safety, most of these drivers that I know, they drive too safe. And talking to the police chief, and being an advisor on his board, you know, people that is with the license suspended they going to impound the car. People that have prior accidents that are not safe, their cars are impounded. We are talking about people with no criminal record, people good in the community, that's the ones we're trying to protect. Thank you very much.

>> Councilmember Liccardo: Thank you. I'd like to thank members of the community who are coming out to speak on both sides of this issue. Obviously it's a challenging issue and one that will take considerable thought and with that I'll turn it over to Councilmember Rocha.

>> Councilmember Rocha: Thank you. My initial interest and continued interest in this item had nothing to do with the policy change. It was specifically on the contractual agreements we had with the tow companies. And for them to have a venue to talk about potential changes that might allow them to continue to provide these services. Because I too share the concerns about the public safety component of this. I did have a couple of questions and one of them has been asked or I guess a point was made in terms of the number of collisions and I had assumed too based on my notes that the changes in policies we may not being responding to collisions. The difference in the number here that I was looking at may have some reflection. If you want to answer that I had the same observation.

>> Sure, I will answer that. We always had the ability to respond to noninjury accidents which we frequently do and explain to drivers that they can do an information exchange, no report is needed, that's all that the DMV requires. Secondly, we're referring to injury accidents in this data, not noninjury accidents, injury accidents.

>> Councilmember Rocha: Hi another follow-up question and that's table A. I'm looking at the number of tows and this is the first half, whether or not there's going to be an increase in the second half, around 6700 tows and doubling the other side, 800,000. Looking at 2008, we were over two times the amount with about the same amount of revenue. So I'm assuming there's a change in the fee that would speak to the difference.

>> I would venture to offer to you that the amount of tow fees probably has gone up, I believe it's adjusted up every year. Another thing is if they don't want to pick up their car, they are not going to pay the fees. So we may have towed 14,512 in 2008, and maybe only 7,000 cars were picked up because of the high cost, it's not cost effective for them to pick those up. So those could be two possible explanations for that.

>> Councilmember Rocha: Thank you. And the current tow rate, 175 per vehicle, do we know how that plays out or compares to other jurisdictions or even beyond the Bay Area, statewide?

>> I can answer that. Jimmy Matthews, tow contractor in the City of San José, one of the many hats I wear in my job. We compare our rates and set our policy according to council policy. Council policy 9.8 actually sets the tow rates, and our methodology for checking it. And what we do is, we set it, so it does not exceed the maximum available rate from CHP so that we standardize our fees we can pay so our residents don't pay more than you would if you are on the highway. Whether you're on the highway or the roadway the fee was standardized. To ensure our residents would be treated fairly and yet we would also stay consistent with what the market would bear.

>> Councilmember Rocha: So that's CHP's rate statewide?

>> That's CHP's rate for our area. They do it by area and based on cost of living factors and adjusted annually. It hasn't been adjusted for the past two years. There's a rather substantial rate increase, but in the last two years it hasn't been adjusted. But we just received the rate sheet from CHP and it indicates that the rate has now gone up to a maximum of 185, so we would bring that forward with our fees and charges.

>> Councilmember Rocha: In the next budget cycle?

>> Next budget cycle.

>> Councilmember Rocha: And you just received that one?

>> Just last month.

>> Councilmember Rocha: Okay, great. I guess my last question is as far as the new contract that we have, and that goes through 2014 I believe.

>> Yes, the initial term goes through 2014 and there's two one-year extensions that we could offer up to 2016.

>> Councilmember Rocha: And within the context of that agreement do we have the authority to I don't know, audit is the right word to see the books of the tow companies?

>> Oh, absolutely, they are audited each year by finance and reconciled.

>> Councilmember Rocha: And within that contract does it also allow us to increase the tow fees?

>> Absolutely. The council policies allow us to increase the tow fees to not exceed the CHP rate in the jurisdiction. Also our compensation proportionally to the increase.

>> Councilmember Rocha: Do you have any thoughts for one of the positions that were shared about passing on the 75 vehicle towed and \$7 per dispatch fee to the car owner?

>> Well, the way that we have it structured is an exclusive contract for zones and so if all city-generated tows are contracted with them for and compensation is in recognition of this exclusivity that they have. So obviously it would be a council policy. However, when we did the RFP for the contract it was predicated on this contractual rate and it was a competitive process that was challenged and the council had to adjudicate between to select the final contractors. So the conditions in which the contract was established would be changing and I'd have to refer to the council and the attorney whether or not that would be something that could be altered.

>> Councilmember Rocha: That was in the RFP language?

>> That was in the RFP language, and in fact the RFP language was rather substantial and I'd just like to say on behalf of the tow operators that we have some amazing tow operators that, over many years, have built up really good quality for our customers and also the service that they provide. But they have very expensive equipment as you've heard mentioned. That was predicated on being able to amortize over based on the assumptions that were made at the beginning of the contract. Certainly understand what they're saying. Of late we've had one contractor sell to another contractor, some contraction recently and starting to see the effects of that.

>> Councilmember Rocha: I did have one final question you kind of led right into it. Really your thoughts on the circumstances we're seeing and the potential impact for City of San José and its residents. I have a concern but given that you did mention that we do audit are we seeing what we're hearing as far as the revenues dropping and the potential impact that they're going to have on their businesses whether or not to continue this? Because if that's the case we may need to revisit this in my mind, otherwise we're going to ignore the issue and let the private market dictate what's going to happen to us. Again I'm not really looking for an answer but if you had thought maybe some policy direction we should consider or should we just stay a status quo?

>> Well, we will have the opportunity under a rate review for it to come to council for a resolution to be passed, that's part of council policy 908, that allows us to establish the rates. And at that time we could have a more robust discussion. But I would seek to come forward and standardize the rates with the maximum CHP rates which increase it per vehicle. It doesn't affect the police release fee and it's important to know there's different components. We have the release fee which basically supports the desk sergeant and that activity. We have the fee that comes to the city for contractual services. That fee goes to the General Fund directly, and it's about 1.3. And that includes money that goes to dispatching as well about \$7 for each dispatch. So those are all General Fund revenues that go to the city right now to support various staff engaged in the activity as well as our are dispatchers.

>> Councilmember Rocha: Before I make the motion, I'll let my colleagues speak, and I appreciate them being patient with me. So I guess for me any further discussion as you mentioned in the June process, which although unfortunately is about six, seven months out. But given that, I think a concerted effort by all the staff involved would probably be better suited to any kind of direction, and that would include finance, your department, PD, and the City Attorney, as you pointed out. Thank you.

>> Councilmember Liccardo: Dave, you were about to respond. Do you want to respond?

>> Just on the tow contract itself I'd like -- it's important to note that the PD does every year a time-task analysis based on cost recovery, what it costs for them to man, provide those services. And so they wouldn't be a part of the -- really the discussion under 908. It would be purely the contractual obligations of our contractor, but that in itself I think could be a robust conversation. But I just didn't want to embroil the police department, because I think the process that they use is a fair one for -- to reflect the hours that they need to have in order to have staff available.

>> Councilmember Rocha: Oh yeah and I wouldn't -- that is not my intention there. It's more to have their professional input on the process than any changes that may ensue.

>> Councilmember Liccardo: Thank you, Councilmember Herrera.

>> Councilmember Herrera: Thank you. So I was -- I was relieved to hear my colleagues not questioning the intent of this. I think we do have to look at the impact on the business, if it's going to jeopardize having any towing service here. I mean we do want to be able to have some ability for towing to occur even though it's a smaller amount than it looks like. But I want to say that I think we've had some good results it looks like in terms of the intent of the change of this so we're not having cars stored for 30 days and I think that's a good thing. In terms of the current contracts, though, in this discussion would there be any -- I would like to hear brought back the idea of if this is -- if there are some need to recognize the change in business circumstances for these towing companies would there be any way of doing any kind of temporary relief? Is that a possibility? I would just like to add that

onto Councilmember Rocha's motion when he makes it, that we could look at maybe moratorium, a temporary relief. In the context of how is this affected these businesses? I don't know if this is a good comparison but in some ways I'm thinking of the airport and the businesses out there that had suffered certain economic kinds of things because of economic changes and we've looked at working with them. We want tow companies in the city. If there is some big impact and we can't do something, I don't know if we can base we have to have the cost recovery for the police department and other service. Because we are paying we had have to have folks service this, but I don't think it doesn't hurt to look at it, because I don't think we want to drive all our towing companies out of business. I don't think that's the idea. Could you respond to that Jamie?

>> I'm sorry, 20 years of doing this. I was thinking about the question that Councilmember Rocha asked me, actually one idea was brought up which was around the \$40 that we put -- \$40,000 that was put really in abeyance and reserved for the contract. The reason that money was put into place is so the city had the opportunity as the co-contract administrator, if one of them were to go out of business, if one of them were to fail to perform, if one of them were to be dismissed because of lack of performance, because of course we have liquidated damaged, we have performance measures in our contracts which differentiates us really from any other city. We really have good quality expectations. But the tow contract administrator on their own has been delegated authority through the council adoption and through the City Manager, I could consolidate zones. And so and I've done that recently with a simple memo. It doesn't require a major change. So the need to have the \$40,000 being held by the city is less of an issue when we have multiple contractors. Because if they consolidate, I will simply be able to consolidate them without relying on that \$40,000 which was intended as seed money for us to be able to get other contractual services. But as it stands currently in 20-plus years of doing this we have adequate resources and availability among our toe contractors that we have now to be able to address the towing needs now and in the future as it trends and ebbs and flows, and it might be a holdover from an older model of contract that we had previously that would rely on that. But I would have to of course consult with the City Attorney to see how that would work with purchasing. But that would be something that we could consider in our discussion with you, provide you additional information as maybe being some more immediate relief for our contractors. Because they really do a superb job for the city.

>> Councilmember Herrera: I think that's an excellent idea to look at any way we could take a look at how we've done in the past. And if we can update that or modernize that or if there's some relief there especially if it looks like there's consolidation going on. I think that's great. Cost recovery if there's any other way to manage our side of the equation. If there's any way to reduce our costs so that -- and I don't know that there is, I'm just asking the question. I'm sure we're doing a fine job but if there's any way we can look at any service delivery modifications to reduce our cost I would say it would be a nice way to do it. And I only mention, the question of the police department, it's been suggested that we are -- it almost sounds like we're not being careful with people who aren't driving with a license. But in fact it says here that folks that are stopped, you are not giving them the car back to drive, it's you're going to allow a properly licensed driver to drive the vehicle from the scene, or permit a licensed friend or relative to take control of the vehicle or allow the vehicle to be safely parked. So we're simply not -- we're not allowing people unlicensed to just drive away from the situation.

>> That's correct, councilmember.

>> Councilmember Herrera: I just wanted to make sure that point was made.

>> The other part that's not in there is obviously we do tow still, but we don't tow for 30 days routinely, unless they're one of those drivers who has a suspended license for D.U.I. or a revoked license or something along those lines.

>> Councilmember Herrera: So again, I think the program's working well. I just think we need to find a way to recognize that it's a change business circumstance for our tow operators and maybe work out something.

>> Councilmember Liccardo: Councilmember Campos.

>> Councilmember Campos: Thank you. I'm going to start off by saying that nobody up here is saying that we should be turning a blind eye to people driving unlicensed or shouldn't be on the roads. We all -- the whole council believes that if you are not licensed to be on our roads you shouldn't be on our roads. The issue and we vetted it

out, I'm not going to beat the dead horse is more of a contractual issue and we've got some business providers that are here saying that it's a volatile business, very similar to the grocery business, their profit margin is small. Sounds like they've identified an area of relief that they would like us to look at. Councilmember Rocha has brought it up and I think that -- I think it's fair. I think we should be looking at every way to be able to, one, see that these providers can continue to do their work and then one, we are going to be able to ensure we're going to get this service. Because I'm sure this wouldn't be unique for these six providers, I'm sure that it's something we see in the industry. I don't think it's unique for us as a council to go back and look at agreements that we've made. Going through an RFP process to have to make changes, I mean we see it all the time when we're building a public facility. When general contractors have to come back and say I've got to sub a sub because one of my subcontractors is failing so I need to do that. That's a change in an RFP. So I think that there are ways to do it you know and what we're asking you as the experts, give us some tools to help, to you know help improve this situation. I do have a question regarding the abandoned vehicles that are left over 30 days from the past and even now, I'm sure there are some that are left over 30 days. When those are sold what happens to the revenue?

>> It goes to the tow contractor. The city does not share in any of the revenues for sales or scrap.

>> Councilmember Campos: Okay. So given that that's less and less, I mean wouldn't that be something for an episode of Seinfeld, having your car towed and coming back and buying the towed car at auction?

>> At a reduced rate.

>> Councilmember Campos: At a reduced rate. Okay. So there was ways to recoup the costs that are going into storing a vehicle for 30 days if they have to. You sell it and you get what you can. Okay. And then lastly I just wanted to make a comment. It's always been a piece to me that whenever King and Story is mentioned as an area where cars are being towed, and you are going to see -- you know, you might see the repeat offenders, I'm sure you see the same thing on Saratoga and Stevens Creek, thank you.

>> Councilmember Liccardo: I think all the points have been very good. Full disclosure, and I think some of the tow operators I know, I've been an outspoken advocate for the change in policy before the chief made it and I was certainly an outspoken advocate when the chief did make it. We seem to be in some concurrence that the policy is fine. The problem is, can't we do some tweaking around implementation. And I guess the first question I have is really a legal one. Do we have an opportunity, Kevin, to renegotiate contracts with the same operators, without going out for a new RFP? In other words, can we keep the same players under different terms?

>> Councilmember, you've all identified that's the issue. We always have to look at when we have contracts that are let out competitively, and you know, the question is, does it go to the essence of what they originally competed on. I'm going to have to get back to you on that. We need to talk with staff and with the purchasing attorney as well. So that's something we can take a look at.

>> Councilmember Liccardo: Assure. Jamie.

>> I also wanted to add there's -- also when we raised the rates to be consistent with CHP we also raised our compensation rates. So one other piece of this to move maybe a way away, as another alternative for policy to consider would be for us to keep our compensation rate the same, yet raise the rate for the tow. Because that would increase -- that would increase revenues but it would not impact our revenues that currently go to the General Fund. But it would make it -- give some relief also to the tow operator. So that would be another option I could bring forward if the committee believes that would be of value. So that we can standardize our rates but we can keep our current compensation at the same place, as it is now.

>> Councilmember Liccardo: Jamie essentially what you're saying seems to be a variant of away was proposed by our first speaker which was passing through some of the fees that they're paying currently to the city, and being able to pass those on to the end user. Is that part of it?

>> It would be less direct. It would be that there would just be less cost. There would be less revenues -- same revenue coming into the city but the cost would be increased for those that would be towed which would be

consistent with the costs would be if they were towed on a highway. So highway, roadway, expressway, it would all be the same.

>> Councilmember Liccardo: Okay. You know, I recognize that -- I think that's certainly a hopeful avenue of exploration and one we should be looking at. As we look at table A, clearly, there's not likely to be significant change in the impound fees to the city but there's significant changes in impact in revenue to the tow operators. I understand there's a lot of moving parts here and Dave you articulated some of them. To what extent do we believe that the tow volume I guess I'm referring now to page 4, is the tow activity really driven by budget cuts? The fact that we have got fewer officers, fewer code enforcement, fewer DOT personnel out there making the calls on vehicles or stopping vehicles, do we have any sense of how much that will be driving the larger issue here?

>> I would venture to say that there is some impact by having lesser staff. But it's pretty hard to quantify. We could look at the number of vehicle stops being made and those types of things but certainly the policy change is the big driver. I mean let's be frank.

>> Councilmember Liccardo: Well, I guess the reason why I asked that is, my understanding the policy change, I may misunderstand it, it shouldn't drive the number of tows, it shouldn't drive the number of tows. It should change whether or not the car is held for one day versus 30.

>> That's not -- I don't think that's a correct interpretation.

>> Councilmember Liccardo: Perhaps you can correct me.

>> I think three options are listed in there, that a licensed driver can take it, they can park it at the scene -- for example --

>> Councilmember Liccardo: But that existed even before the change in policy.

>> Correct.

>> Councilmember Liccardo: That is, I know from many conversations with police brass for two or three years that we were theoretically always offering people an opportunity to have the registered owner or family member come to the scene and pick up the car within a limited period of time to get the car out of there.

>> I would say that was probably occurring infrequently. The bottom line is, if you were unlicensed, your vehicle was impounded and it was impounded for 30 days, typically. If someone an officer obviously has discretion in the field to limit that, if they felt they were near -- family was nearby or something and they could come in a short period of time, certainly that's an option. But by and large, our officers pretty much followed the letter of the law most of the time.

>> Councilmember Liccardo: Okay, my understanding was that for conversations with Dan Katz, probably three years ago, was that there was department policy essentially it was articulated that there would be an opportunity, 30 minutes, some reasonable period of time to allow someone to come down and pick up the car, and you're saying that wasn't the case.

>> It depends. For example, on a D.U.I., someone get stopped for a D.U.I. we have a policy that says --

>> Councilmember Liccardo: You tow it.

>> No, you talk to the owner. If the owner says yeah, park it here, and we can legally park it and lock it, we can do that. If it's not an instrumentality of the crime, there's no evidentiary value or anything like that, that's an option we have. When you're talking about the strict interpretation of 14602.6 which one of the tow company owners mentioned, it's very strict, you will tow.

>> Councilmember Liccardo: How confident are you that in every substance -- well let me just ask you let's explore what the policy really does do. In a situation where somebody has been arrested on a D.U.I., are we towing under 14602.6?

>> No, because that doesn't apply. 14602.6 doesn't apply to a D.U.I. If I'm a first-time D.U.I. offender, I have a valid license, so the 14602 does not apply. Now I could tow the car as driver arrested, another section that allows that, and frequently that happens.

>> Councilmember Liccardo: So the officer's discretion could apply a 30 day hold, is that true?

>> Well, in the instance cited a D.U.I. driver who has a valid license there is not a 30 day hold because it doesn't apply.

>> Councilmember Liccardo: None whatsoever?

>> No.

>> Councilmember Liccardo: Okay. Only when there's a 14601 or --

>> The driver license is suspended or they never had a driver's license.

>> Councilmember Liccardo: Okay, so in that circumstance where there is a D.U.I. in the past or in the present, and a person does not have a valid license, is there a uniform -- are you confident there's uniform application of a 30-day hold in that case?

>> Yes, I am.

>> Councilmember Liccardo: And in the case where a person was driving reckless, been charged with that, is there a 30 day hold where again, they don't have a license or suspended?

>> Yes, in the policy, the new policy that came out in January, if it's hazardous driving, the 30-day hold still applies. So I think it's important what -- and I think most folks have a pretty good grasp of this, that it's for those really nonhazardous driving behaviors. You know like I mentioned, your taillight's out or whatever it happens to be your license or your registration's expires and you're stopped for that and you don't have a license, that's what we're looking at. We're not looking at those people who are endangering other drivers, pedestrians, endangering the community. We're very sensitive to that.

>> Councilmember Liccardo: Okay, and the reason why I wanted to clarify that was, I was hearing concerns from at least one tow operator that they believe there were incidents in which there was a reckless incident resulting in injury or an accident of some kind and that the P tow was utilized rather than 30-day. And so we called San José PD trying to find out are we really uniformly applying the 30-day in those situations where we've got dangerous driving going on and you're saying we are.

>> Yes.

>> Councilmember Liccardo: Okay.

>> I think it would be fair to say our officers get it. If they see someone driving dangerously and they have an opportunity to drive it for 30 days, they are going to tow it for 30 days.

>> Councilmember Liccardo: Okay. Do we have any sense about what percentage of tows today are tows under a 30-day hold as opposed to P codes?

>> I don't have it in front of me but I certainly can get that information to you.

>> Councilmember Liccardo: Okay. I got that maybe when this does come back, that I anticipate that we'll have a motion for it to come back, and it would be helpful for whatever extent it is relatively easy to get that data, I know you guys have better things to do than chase down data requests but if it's something that's readily accessible I think it would be helpful for us to understand sort of how the numbers have moved in that regard. Just to see the whole picture and then --

>> Councilmember before we leave that just one other little piece that the committee may or may not be aware of. We do have what's called a tow hearing unit who reviews every single one of those 30-day impounds to make a determination if they were valid 30-day impounds, and that's what their job is. You know Monday through Saturday, they review all those and if they find that they were towed inappropriately or in violation of the policy then they release them before the 30 days. We do -- we do our own quality control to make sure we're following policy and making sure we're following the 14 six 02.6 vehicle code.

>> Councilmember Liccardo: Okay, that's helpful. I think you appreciated my question was on the other side of that coin which is what circumstances are folks getting the P tow when we preferred they didn't, I understand the point. I guess the final question is there was mention there was some psychologist in the industry, was that due to financial distress by one of the tow operator that sold out or --

>> It was both due to a desire to retire as well as I believe financial considerations.

>> Councilmember Liccardo: That's helpful. Councilmember Rocha asked to have a few more questions.

>> Councilmember Rocha: In my mind kind of a stakeholder meeting with the stakeholders, obviously, and to talk about any potential solutions. And I would really encourage you to talk with get all staff involved so you could cover all angles of this issue show should it return to committee. But before I make a motion in terms of timing, I wanted to give you the opportunity to tell me how long you feel would probably be best suited for you to do the staff work and this is mainly directed towards code enforcement.

>> If it's purely focused on the contractual opportunities for relief to our operators while we're going through these difficult times, to help them to stay afloat, I can do that fairly quickly that includes a larger issue about policies, police policies and other policies then it takes longer. Although he actually does an amazing job of cooperating everyone, absolutely amazing.

>> Councilmember Rocha: Just the criminal.

>> Just the criminal I can come back to the committee in 30 or 45 days. If it's possible I would like to also bring forward the rate resolution at the same time so through the committee it could be passed over to the council and then we could maybe shortcut a little bit of the time between now and when we do our normal fees and charges, if that's possible.

>> Councilmember Rocha: I think that would be a great idea. So I guess 60 days would be good so in two months you could return to this committee.

>> Sure.

>> Councilmember Rocha: So given really all that and mainly a lot of the issues you heard from the community members and from the stakeholders if you wouldn't mind taking the time to sit down with these folks and return to the committee in January.

>> Always happy to do so.

>> Councilmember Liccardo: Is that a motion?

>> Councilmember Rocha: Yes.

>> Councilmember Herrera: Second. Does that also contemplate on the idea if there's some -- if it needs to be temporary in order for it to move forward more quickly than having to redo the RFP I was hoping that could be considered too. If there was some temporary measure or some relief or something that we could you know implement more quickly.

>> Councilmember Rocha: I was intending for all of the comments from my colleagues, the committee members and the stakeholders be included as potential solutions, presented by staff as well, so yes.

>> Councilmember Liccardo: Okay. There are no other comments or cards from members of the public so all in favor? Passes unanimously. Thank you very much and thank you to the members of the community. Okay we're moving on to item D-2 which is bring your own bag ordinance update. Got my own advertising for this. Welcome Kerrie.

>> Good afternoon, Kerrie Romanow, acting director, environmental services. I'm joined with Jo Zientek, acting assistant director, environmental services, and Jennifer Garnett, our marketing outreach program manager. This afternoon we are going to update you on our efforts to prepare retailers and shoppers for the ban on plastic bags. As you may recall this ordinance was adopted by council almost a year ago, on December 14th, 2010. The city's bring your own bag ordinance goes into effect on January 1st of 2012. Our ban on plastic bags is the most far-reaching action of its kind in the United States. The ordinance applies to all retail stores across the city and addresses both paper and plastic bags. Today we're 50 days away from the start date so we want to share with you some of the outreach we've been doing over the past year. I wanted to start with a requirement, a little bit of background on the single use plastic bag issue and litter, its associates with litter. Plastic bag litter impacts our creeks and our neighborhoods. For local creeks litter has been assessed as the most consistent pollutant. Our hot spot creek assessment finds that plastic bags are 9 to 12% of the litter in creeks. A street litter assessment shows that plastic bags are 9% of the litter. For perspective we estimate that in the City of San José, annually, there are 490 million plastic bags used. So that's about 500 bags per person. In FY '08-'09 the city estimated we spent almost \$5 million on litter cleanup. And then our regional storm water permit requires a 40% reduction in litter by 2014. This bag ban is one step towards litter reduction. So again it goes into effect on January 1st, 2012, so what

does that mean? Well that means starting on that day stores can no longer provide thin plastic bags with handles at checkout. They must charge a minimum of 10 cents each for 40% recycled content paper bags, and all proceeds are kept by the store and none comes to the city. Shoppers who bring their own bag avoid the charge. There are some exceptions. It does not apply to restaurants or nonprofit reuse organizations, it doesn't apply to protective bags without handles made of plastic, like these you might see in the vegetable or meat aisle. Wow, we really didn't need that many. These bags are acceptable bags that could be handed out. They're a thinner version, thinner variety, and you guess didn't -- these paper bags are already being used by several retailers and these two require a 10 cent charge but those are also acceptable to be used. Okay. So now I want to talk to you about what we're doing from an outreach standpoint. For the past year we have been leading efforts through a variety of approaches. A March mailer to retailers announced that the ordinance was adopted and it would apply to them with instructions on how to access more information, a fact sheet, contact e-mail and phone numbers for bag-related questions. Last month we sent another mailer providing an ordinance summary, brochures for retailers, fact sheet and a tool kit starter supply which had store posters, cash register receipts, tin cards a lot of things you see on the PowerPoint and instructions for ordering more online at the Website that's noted on the bottom of that screen. Other outreach work includes working with the California Grocers Association, and participating in webinars with over 60 representatives from the grocery stores like San José, in San José, including Safeway, lucky's, Save Mart, Food Max and others. We've been doing as much outreach as possible, and we actually have a bag ambassador program which is loosely throughout our department where our staff go out and in the course of their shopping they also educate retailers. That's not considered a part of their jobs, they're volunteers. We've also been meeting with retail property owners and businesses from the flea market to the malls. We're continuing to assess retailer awareness and for example, last week, of the 71 retailers we spoke with, 72% said they were aware of the ordinance. You see on the shopping cart one of the advertisements you'll see in Safeway, you also see Jennifer Garnett's beautiful daughter. Shoppers throughout San José are also receiving information, the advertising, direct mail, and bag distribution and media. We've put the shopping cart advertisements at all Lucky's, Safeway and Save Mart stores, two Food Max and the Marina Foods on Monterey Road. Garbage and recycling bill inserts in English, Spanish and Vietnamese are being sent to homeowners between September 13th and November 13th. And this December we'll send an annual mailing for all Recycle Plus! services prominently featuring more information on this event -- on this ordinance. And we also have some

community newspapers in Spanish TV interviews and radio ads and interviews with the Mercury News. We've been working with various partners throughout San José to help get the word out. Together with Parks, Recreation, and Neighborhood Services and the strong neighborhood program we've done bag distributions at affordable housing sites and at food bank distribution sites. So far we've distributed bags at 68 events throughout the city including neighborhood cleanup events. Second harvest food bank is in the process of distributing 5000 city bags to their clients, and we've worked with Communiversity to distribute bags at a number of their events. And we've also worked with the Silicon Valley Council of Nonprofits and are working to get them additional bags for their agencies. We'll also advertise the shop San José initiative when we continue to promote reusable bags. Those are -- sorry go back -- those are photos of some events and the one on the bottom right, that green bag is the project we did at Pumpkins in the Park where we taught folks how to make a reasonable bag out of an old tee shirt. And as a sponsor of Christmas in the park and downtown ice the city will reach thousands of community members in November through January with the following activities. This event, Christmas in the Park, will be a plastic bag free zone, and the city is partnering with stakeholders to hold a special bag awareness day on December 17th. And downtown ice, the 42,000 skaters and 85,000 spectators at that event will see the City's bring your own bag ordinance messaging displayed around the ice rink and the city is partnering to hold three that event. We also wanted to just share a perspective on how many other cities across California, as well as the United States, are taking action or positioning to take action on plastic bags. We receive a lot of phone calls from folks across the United States asking for more information and we expect when our ban is implemented that momentum will continue. So I find this picture particularly interesting. It shows signage developed by a retailer. Jo Ann Fabric has made their own signs that appeal to their own unique customer base. They have their own color, their own style and their own verbiage. So our next steps, we're getting ready for our third mailing to contain self certification form, retailers will complete and return the postage paid form to the city to document their understanding and intent to fulfill the ordinance. And this month and next we'll continue our outreach to all shoppers and we'll provide more updates in January as you see how it begins to be put into place. And we'll continue to work with any organization that you bring to us that you think maybe we haven't reached or others that express interest or lack of clarity on the ordinance. It is a big step, a big step for the city but we believe it's going to have a big impact on the litter in our communities and the litter in our creeks. So with that we're available for questions.

>> Councilmember Liccardo: Thank you, Kerrie. Questions, Councilmember Campos.

>> Councilmember Campos: So how are you going to get -- so how are you going to get people to open their junk mail? Because that's what people are going to look at it and like oh man, you know if it's not a garbage bill it's probably junk mail so I might not open. You are going to have to get their attention aside from sailing, you could be a winner.

>> The insert is in their garbage bill. We're hoping they'll pull that out and read it. They'll be in shopping and see those advertisements.

>> Councilmember Campos: Is there any way, because I know you said you're going to do another mailing. Is there any way to distinguish this last envelope with their garbage statement that says, very important information inside. Please look through everything. Because most people would just, where's the bill, let me pay it, and they're done with it.

>> That's a great idea. The mailing that you are referring to is one that we do every year through our Recycle Plus! contract and it goes to every single household in the city. And we're taking advantage of that mailing which is originally designed on an annual basis to let people know the services under recycle plus!, to heavily advertise the bring your own bag ordinance. So usually on the outside of that envelope we say something like very important service information enclosed but we can certainly look to perhaps amplify that message on the envelope. That's under production, we're on a tight time line that wants to hit I think our household target date is sometime mid December.

>> Councilmember Campos: Okay and then any feedback from the retailers like that, like Macy's, and -- because that's going to shock a lot of people when they say hey you bought a bunch of socks now you've got to pay ten cents to get one of these bags.

>> Jo Zientek with environmental services. We've been doing extensive outreach with retailers. We've been meeting with Westfield mall. We're going to retailer meetings. And we've found and we've done some posting recently. We did a random telephone survey of the retailers from the business tax database to see who knew about it, and we really are getting some very good feedback that they know about it and are both our team of volunteers and our regular staff are we're not only hitting as many retailer meetings that will have us, but we're also doing our own surveys of doesn't knock and talks to the bigger malls and we are finding most of the retailers know bit and are giving the right message to their clerks to be ready for it.

>> Councilmember Campos: Well you know I'm more concerned about the consumer, that -- because I guarantee you, it's going to be a shock. Someone goes in, buys a pair of Nikes, okay, there's your box, see ya, thank you for shopping at Puma or Nike. And they're going to say, well, wait a minute, what about a bag? That's going to cost you 10 cents or are they going to include that in the cost of the product and you'll just see that as a surcharge? Either way I can see the consumer you know being very upset. Not saying that you know that I know we need to go this direction but you know we need to -- the last thing I want is for the consumer to say there you go again city, you're doing this to us again, and, you know, and you're the -- you know you're the culprit of why everything's bad in the world.

>> And we certainly don't want to see that in the transition either. Part of the reason we've been trying to get out in front and do more advertising in places where people shop than we typically do is so that the resident consumer is aware before that transition date. And starting to have some of the retailers start to talk bit and start to put the signs by the checkout counter so people are aware of it well before that January 1st time line. I would expect there to be some dialogue in that first week of January and as with any behavior change we're going to have to stay in front of it hand keep our -- keep talking about it, and keep working with folks until it becomes a habit.

>> Councilmember Campos: Because grocery stores have done a great job. Every place you go they already have their bags out there, get them now and they're getting the message out. I see that. But we're going to have a problem with those other retailers where people just expect to get those shopping bags. And not think twice about

it. And then you know most people are going to go to valley fair without their recyclable bags and walk out and say wow, I really felt I got, one, nobody told me, and then two, this is just another way of you making money.

>> One of the things we were talking about last week is working with the mall so that every entry door has a big sign on it. Before you even get in you know, hey, this is coming or this is infect. You have time to rush tobacco your car if you forgot it or your expectations are set before you're at the checkout stand.

>> Councilmember Campos: Just wanted to bring it up.

>> Councilmember Liccardo: Councilmember Herrera.

>> Councilmember Herrera: I just had a question about the other bags I did not see in the FAQ. It doesn't fly dry cleaners, or the kind of plastic they put over a suit you bought at Macy's.

>> Those are not considered bags. Those are considered protective coverings.

>> Councilmember Herrera: Because they're plastic, lots of plastic.

>> They have holes on both sides.

>> Councilmember Herrera: All right. Are they going to make it out of different recyclable term or is that considered reuse annal or how do you --

>> Macy's will be have a compliant bag. This one may be compliant but they are geared up to have a bag that's compliant with the recycled content in the ordinance and we are working extensively to make sure that there's enough bags in the distribution channels even at our local retailers for smaller businesses to are have access to the green content bags that are required in the ordinance. And we're providing all that information online.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: No questions. I just wanted to say thank you for your work, going over this, there's been a significant staff time devoted to this, thank you for all your time.

>> Councilmember Liccardo: I wanted to echo the praise. Thank you for an extraordinary amount of outreach, it's going to continue until everybody knows what's going on. I just had a quick question about the plastic bags there. As I recall, we had a -- was it a minimum thickness requirement? Is that what distinguishes it from the other bag?

>> 2.5 mil.

>> Councilmember Liccardo: That somehow Fitts and the others don't?

>> Considered to be reusable. From a litter standpoint it doesn't tend to fly away and travel down into the creek.

>> Councilmember Liccardo: It's heavy enough, great, thank you. Do we need a motion on this or is this just for information? Yeah, shall we --

>> Councilmember Rocha: I'll move to accept the report.

>> Councilmember Campos: Second.

>> Councilmember Liccardo: Do you need this cross referenced in any way?

>> Yes, we thought that would be valuable.

>> Councilmember Rocha: Move to accept the report and cross reference the next council meeting.

>> Second.

>> Councilmember Liccardo: All in favor? That passes unanimously. Thank you very much. We'll move on to D3, which is review of relevant 2012 legislative guiding principles.

>> Councilmember Campos: Don't forget your protective covering.

>> Councilmember Liccardo: Oh, forgive me, I did not allow for public comment. We're going to vote again in just a moment, and we're going to allow folks to speak first. Roy Cheryl, followed by Allison Chan and David Wall.

>> Firstly, I am pro-reusable bags. I've been using them regularly on a regular basis for many years. My problem is the quality of the bags that the grocers provide. I mean they may be reusable, but they only last through maybe two or three uses, a lot of them. The bags that Safeway currently produces is a laminate paper bag. A paper bag with a laminate coating, and the laminate flakes off, and the bags frequently rip, the handles fall off and so forth. The bags that I've got, currently using on my chair are not designed to carry much weight. I mean, the material rips, the seams split, the handles break off, and there is a constant problem. I mean, the bags like Macy's and so forth, the handles frequently break off or the paper rips around the handle so that I mean they're not I mean meant for long term use. When I was living in Wisconsin I used to go to a grocery store called Woodman's that sold canvas bags. On the ice -- I have been using them for many years, and they are lasting and durable. And someone is more likely to put out money in a reasonable bag if it's something that they're going to be able to expect to be able to use for a long period of time, rather than just two three times and then it goes out, goes into the trash. I mean the bags like this one here that you see a lot in like Walmart and I mean other grocery stores and stuff like that, they say okay, it's green because it's made of recycled material but the thing is they break, they get thrown away, I mean I've had dozens of them in my home because they're broken they're ripped or whatever. It's just adding to the landfill and the mass of materials that's going into this is many times what's going into a plastic bag. Although it's made of recycled material, it's plastic and paper and so forth. It's still not meant for long term reusable use. And there needs to be promotion more towards with bags expected to be used for long

periods of time, rather than something that's going to be used for two or three times, and then you're going to have to throw it away. And then you have to pay the extra expense to buy it all over again. Because when you're going through, I mean, 50 cents a piece for a cheap something like this or I mean like \$1.50, \$2, \$5, for some of the reusable bags that Safeway is currently selling, that expense becomes extremely prohibitive.

>> Councilmember Liccardo: Thank you, Roy, I'm sorry to interrupt. Thank you. Allison Chan.

>> I'll keep it short. So hi, my name is Allison Chan here on behalf of save the bay and thank you again for your leadership on this issue. And I do want to echo support for his comment. Just in terms of promoting to the extent possible high quality reasonable bags. This is something that I know the council received a letter from supervisor Ross Mirkarimi last year in San Francisco regarding some of the challenges they had implementing a policy that encouraged stores to distribute reasonable bags that were high quality rather than simply using slightly bigger plastic bags, although they are considered reusable. So just encouraging to the extent that the city can the use of high quality reusable bags. I do definitely support that. I also want to mention we're really excited about the implementation of this. So much so that we are gearing up to work with the city as much as possible to promote the fact that this ordinance is going to be implemented soon. Via social media and action alerts and any other way we're able to be of service because we advocate very heavily on this and supported you on this so we do intend to be dedicated to helping you implement this as well so that will hopefully relieve some of your concern about the community not being aware or being taken by surprise on this issue. So we intend to work with staff on this as much as possible.

>> Councilmember Liccardo: Thank you Allison. David Wall.

>> David Wall: Question. What if the bag is 2.3 mils same design of the bag, sit coughed under the ordinance? 2.3 mils, simple.

>> Councilmember Liccardo: David, time for public comment.

>> David Wall: That's what I'm saying, I'm asking what if the bag was 2.3 mils. The other thing for public comment that I would like to maybe see in a report, in this room there's approximately let's say \$900,000 in taxpayer dollars in salaries and benefits for this particular department, for this particular issue. Over \$900,000, and yet we don't even see the cost of this outreach. And dare I even ask the question, you know, here we are cruising into December. And we have pictures here with the nice creek and all the plastic bags. This is an illusory issue because of all the creeks and rivers that flow into San José from other locations. Big issue is: Unprotected storm drains, municipal storm drain permit, and yet we have how many unprotected storm drains just right around City Hall. So when I see these glorified productions, and I'm for the ban, I think council has done a good job to try to attempt to reduce this type of waste. But over \$900,000 in staff time here in this room for this? We don't even have a discussion of what if a bag is 2.3, mils if it goes underneath the ordinance or not? All you have to do is redesign the bags. That's public comment, sir.

>> Councilmember Liccardo: Thank you. We'll return to the panel for discussion? No questions. Councilmember Campos.

>> Councilmember Campos: One last one. And I would hope that the entire valley fair mall would have to comply given that a portion of it is in Santa Clara, would -- I would hope that it would, would it?

>> Technically it would not. We are working closely with Office of Economic Development and the valley fair property management to make that happen. It is something we feel strongly about. We feel it is in the shopper's best interest but we feel it would make for a better shopping experience but by the letter of the law there could be some stores that may not need to comply.

>> Councilmember Liccardo: You just had the mayor of Santa Clara in here.

>> Councilmember Campos: He ducked out, probably not interested in following the report.

>> Councilmember Rocha: I move to accept the report.

>> Councilmember Campos: Second.

>> Councilmember Liccardo: Well that passes unanimously. My apologies for moving on too fast. 2012 legislative guiding principles. Hi, Betsy.

>> Betsy Shotwell: Hi, thank you, Mr. Chair, members of the committee. Betsy Shotwell, director of intergovernmental relations. You have before you the committee's annual review of relevant legislative guiding principles for serving as the foundation of the advocacy work in Sacramento and Washington, D.C. by yourselves and the mayor and our lobbyist, our state lobbyists, Roxann Miller, and Merrick Goodman in Washington, D.C. The memo highlights those items that were brought forward by ESD, D.O.T. and the airport. There's not a whole lot. Probably the largest amount of input and changes took place when the Green Vision was adopted a few years ago. And to this point now what we're doing is reflecting some streamlining, some consolidation of these principles, as well as members of other committees know, some look at possible changes depending on how the redevelopment Supreme Court case plays out starting on Thursday. So with that, be happy to answer any questions that you might have. Clearly one of the largest and most major advocacy issues are those opposed to legislative that take away local control. And clearly next year in Congress advocacy for maintaining adequate levels of funding for programs we depend on will be first and foremost as well as a guiding principle and legislative priority. I will also be bringing forward specific legislative priorities at the end of this year for the council to review which are more specific to actually programs such as CDBG and safety-lu and reauthorization of the airport funding as well.

>> Councilmember Liccardo: Thank you, Betsy. Questions Councilmember Herrera.

>> Councilmember Herrera: Thank you. Thank you, Betsy for the report. I just wondered in item 12 in staff memo on page 2.

>> Betsy Shotwell: Uh-huh.

>> Councilmember Herrera: And in 15 I don't see anything mention thread of light rail or bus rapid transit or any of the -- I see BART there but I don't see the intercity.

>> Betsy Shotwell: I believe you will see that in the legislative priorities that are going in order. We can certainly insert language working with D.O.T. and Hans Larsen with regards to light rail. I know there's specificity in the priorities and I just got them and I just haven't had a chance to digest them yet that will be going to council. We can move into that.

>> Councilmember Herrera: Yes I think that transportation infrastructure within the city are very important, just like BART is important, so is infrastructure within the city important for getting around within the city.

>> Betsy Shotwell: Okay, I'll work with staff on that.

>> Councilmember Liccardo: Councilmember Campos or Councilmember Rocha? Okay, I just had two questions, and I'm trying to find them, see if they're maybe somewhere in the list. I do see that we've got items 30, under promote livability, sustainable development, items 30, page 9 is support multimodal travel. I know we've had a bear of a time dealing with state standards, state design standards and the bear that's created for us on various pedestrian and bike projects. I think it might be helpful to make it explicit trying to promote visibility on state design standards for local governments. So I just offer that suggestion. And then the second had to do, and this may well be in there. Had to do with the pace program that we tried to roll out for residential solar. Is that already in --

>> Betsy Shotwell: It will be in your legislative priorities document specific to that and federal legislation that hopefully will move forward next year. You will see that specific to the legislative priorities.

>> Councilmember Liccardo: Fabulous. Thank you.

>> Betsy Shotwell: Definitely.

>> Councilmember Liccardo: I guess we'll entertain a motion --

>> Councilmember Herrera: Motion to approve.

>> Councilmember Liccardo: But before we actually vote on that motion, David Wall.

>> David Wall: Thank you sir. On page 10 it deals with water pollution control infrastructure needs. I would like to put emphasis on the needs of the plant also include the collection system. And if you were to get money to rebuild the collection system that would stimulate the economy far greater than most of the things that are listed here. I also, even though this is a draft report, and you know I made plenty of typos in my own memos all the time and I'm not criticizing that, but I don't see anything in here for anything to help out the San José police department or the San José fire department in here at all. I certainly barely see anything in here for administrative cost for a lot of these things. But mainly in the housing department. I don't see any administrative cost for the attorney's office or for the administration, City Manager's office. So I think, when you are looking at these items here, look at the broad scope of funding the infrastructure that's going to carry them out. The issue of no unfunded mandates, this is going to pay close attention to next item on our agenda for today. I'm also still in favor of getting rid of Patton Boggs. We have a congresswoman right here in San José, Zoe Lofgren. Let her get us this stuff for free. I don't see paying \$600,000 to Patton, Boggs is a good deal for the city. It's just a high end newsletter is what I've seen. Most of the stuff you can glean off a variety of television shows, new shows rather. Anyway, thank you.

>> Councilmember Liccardo: Unless there are additional comments, all in favor, opposed, that passes unanimously, thank you very much Betsy. We are ready for D, street tree ordinance amendment. Hole Jim and company.

>> Good afternoon, Mr. Chair, members of the committee. Jim Ortbal. We're here to report to the committee on the street tree ordinance. As soon as we have the PowerPoint, joining me today are Diane millowicki and Ralph

mines our city arborist. So the amendments have resulted that we're proposing have resulted in significant reorganization of the ordinance, however the amount of content change in the ordinance is modest and mostly focused on clarification. And improved understanding of the ordinance by the community, by the council, and by us as staff. It does in our estimation improve the ability to locate key provisions in the ordinance and eliminate confusion, inconsistencies and differing interpretations of the ordinance. It was originally drafted in the 1950s and has been added on and layered on over the years. This is one of the first major reorganizations to simplify and improve understanding of the ordinance. These key proposed ordinance really focus on five areas. We're reorganizing the ordinance into five streamlined parts. We think it will make it easier for the community to understand and find things about street trees in the ordinance. We want to provide better clarity on street tree permitting requirements, so the community knows what they need to do around permitting for planting, pruning and removal. We want to clarify and update our street tree removal criteria, that's one of kind of the main things that the community does work with us on. We also want to clarify the standard for tree maintenance. It is a standard we use today, the American national standard is to institute 300, it's a quality tree industry pruning standard. Like I say we do use it today but we want to make sure it's codified as well. And the last item is to provide a mechanism for nontree service billing. Let me run through a few of those key elements. Part 1 of the ordinance is being updated to include a statement of purpose and to update definitions. So it's clear what we're looking at through the ordinance. Part 2 better organization the description of our director's powers and duties. So it's more understandable but we don't propose content changes in terms of those powers. It does remove a reference to the street tree plan. That street tree plan reference has been in the ordinance for many years. It's never been funded and it's never been developed. The committee may remember two years ago we did bring forward to the committee a community master plan framework to kind of outline what a plan should include. We don't have the funding yet to complete the plan. The first phase is develop a complete inventory, we're 60% of the way there on the inventory. Once we get the inventory done we would move on to other elements of the plan but this does remove that formal reference. Part 3 consolidates all permitting requirements into one part within the ordinance. Currently permitting requirements are spread throughout the ordinance in various sections. This brings it all into one particular part, part 3. It clarifies the removal criteria when permits can be amended and revoked and when permits are not required. On the next slide I want to focus in on a key area, and that's the removal criteria. These next two slides identify updates to the removal criteria. The first item on the slide consolidates

three separate criteria into one statement. That key statement is, when a tree is in a hazardous condition or eminently hazardous condition as we have defined now in the ordinance, a resident or property owner can get a permit to remove their tree. Other changes that we are identifying here, you can see item 4 in the current criteria is being changed to item 2, we believe this expands our ability to issue a removal permit when it's appropriate, focusing on the type of tree, the species and the location of the tree in the park strip, particularly when it's in conflict with existing plans, with existing infrastructure. We have in the spring of this year published a best management practices guideline, it's available to the public and it really identifies those species and how to best plant how to best locate street trees. So that is kind of the guidelines that we are using to really guide this particular criteria. On the next slide we have modified this particular criteria that focuses on when trees are causing damage, to the sidewalk, to curbs and gutters, to driveway aprons. Our focus here is to try and make kind of the base of this criteria very understandable by the community and very clear for the city to determine. As you can see on the left, some of the behaviors is whether a tree has been deep watered in the past, really our inspectors have no way of determining whether a tree has been deep watered or at times whether it has been root trimmed or not. This one clarifies to determine extensive damage. It also establishes a pretty specific time frame. We really have kind of lengthened that time frame. We recognize that repeated damage to sidewalks and curb and gutters that property owners have to repair, that tree is causing problems, and we believe it should be able to be removed if they've had damage more than once in the past ten years. The final removal criteria that we are proposing to add is when a tree is in conflict with an approved development permit. Typically what you'd have in that situation is a developer or property owner wants to move a driveway, in a residential development, and the tree is right in the middle of where the driveway location is. We would typically require a replacement tree go in some location on the property as well. But this is something we are proposing to add into the code. Part 4 of the proposed ordinance focuses on maintenance responsibilities. As I mentioned when I started the presentation, this clarifies that the standard for pruning is the ANSI 300 standards. It is something we use today so it's not really changing our practice. When we issue pruning permits today we provide property owners with information about the ANSI 300 standard, how to go about handling the pruning. We work with the contracting community, make sure that they utilize the standard as well. The tree on the left is an example of a tree that's using that standard in its pruning and obviously two very severe examples on the middle and the right of trees that unfortunately we've experienced in San José, so we want to make sure that it's very clear and codified that the standard is what's kind

of used Nationally by the tree industry. And then the last kind of and probably the most significant change that we do, in this proposed ordinance update, is on nonemergency tree maintenance, back in 2008-2009, when the city reduced its investment in tree maintenance, unfortunately when we lost our tree crew at that point in time, we moved to a system where there was emergency tree work that needed to be done if the property owner could not take care of it the city would send its contractor out to have it taken care of and then we would bill the property owner. For example, if a tree fell over the roadway the city would typically send its contractor out, would take care of the job immediately and we would send a bill to the property owner. That's been functioning and working quite well over the past two or three years. What we didn't do is update the ordinance to allow us to take care of nonemergency yet essential tree maintenance work. The examples that I have here in the pictures are when trees that are adjacent to properties blocked roadway signs, when they obstruct our street lights, when they interfere with the ability to walk on the sidewalks, when they inhibit the ability of street sweepers, garbage trucks and others to take care of the work that they need to do, currently the city does not have a mechanism to force and require property owners to take care of that. Essentially all we can do today is notify them that the condition exists and request that they fix it. Many of these complaints do come from residents. We also get them from your offices as well, on behalf of residences. And it is causing a level of frustration where we really aren't able to ensure that these needed -- this needed maintenance or these needed repairs are taken care of. What we're proposing is that the city, after providing the property owner with three notices if they have not made the repairs that the city is able to take care of the work with its contractor and bill the property owner for the needed repairs. So that's an important element of this proposal and probably the most significant out of all the items in the proposed amendment. And so with that, moving on to the last slide, that kind of completes our presentation. Most of the ordinance update is clarification, reorganization, but that last item certainly is about trying to improve an issue with nonemergency tree work that does need to get done in the city. With that I'm happy to answer questions.

>> Councilmember Liccardo: Thanks, Jim. Councilmember Herrera.

>> Councilmember Herrera: Thanks Jim for the report. And it looks like a lot of these are really good clarifications and simplification of this process. I guess I have a question that really related to the ordinance but

just the cost of taking care of tree trimming. It's really expensive. I know that when we've looked at it, it's usually like \$400 if they're large trees, our trees are not as large as this one but they're fairly large. I'm just wondering homeowners who might be jobless and stressed and now having to come one \$400 a tree to do that trimming. It would only apply to street trees so hopefully there's only one per household. Just looking at this creatively, is there any possibility that through our green forest, or some nonprofit, that we can -- I know the city can't recommend a contractor, but is there a list of folks who do the trimming, if they don't do it we're going to do it and charge them? Is there any way we can suggest contractors that might work with our community, and in doing so, if they do enough of the work could they get a better price? Can we aggregate some of this work for the community sense, we're putting this back on the homeowner, they have to pay for it, I would think in there were lots of them doing it the cost might come down. I don't know if that's true but can you comment on that?

>> Excellent set of questions and comments there councilmember. Let me begin by the type of trimming that we're talking about requiring now being able to bill the property owner for is probably a minor clearance trim. Diane, if you go back one slide, the example of the sign, the blocking the informational sign, so that type of trimming work would probably be not nearly as extensive as a full structural trim or even a partial clearance trim. So we are only going to require the amount of work that's necessary to make the sign visible. And enough clearance that it's not going to immediately grow back over the sign or to kind of give enough of a clearance so that the street light can, you know, provide the lighting to the street in the pedestrian areas. So that being said it is, at least on the lower end of the trimming cost. But your overall point in general is a good one. We have had a number of conversations with the city's neighborhood commission and certain neighborhoods, Councilmember Liccardo, the Naglee park neighborhood association does group trimming, and they have gotten a better price. What we are also noticing, and Ralph, if you have anything to add, please do, is that a number of property owners are saying, city why don't you go ahead and take care of it for me. Our arborist office does go out to bid with our contractors on volume, you know there's a fair amount of volume and we get some of the most competitive prices in the city for the downtown property based improvement district. We got a rate of \$75 per tree and we're using our contractor to do that work.

>> Councilmember Herrera: That's really good.

>> It's high quality, it's done to the ANSI 300 standard. So we are hoping that various neighborhood associations and residents can kind of pool and work together. We do have a list of contractors that we do work with that we certainly will provide to residents if they call and request that. If they're doing one-offs no the price is going to be a little bit higher. So that's something we have asked the Naglee park neighborhood if they could describe the process, and the materials they use to try and get that out. Because that is something they are doing through the neighborhood commission. They're spreading that out to all the districts and all the neighborhood associations through that process.

>> Councilmember Herrera: I think that's excellent. So back to your \$75 a tree I have to go back to that for a second. Are you saying that other neighborhoods in the city could access that?

>> No, I'm not.

>> Councilmember Herrera: That's just the downtown?

>> I'm not that's because of the volume, that's right the volume number of trees it's on a -- we're trying to be on a four year cycle in the downtown and based upon the volume that is the rate that we did establish with the contractor.

>> Councilmember Liccardo: So it wrote have to be a P bid in the other part of the city?

>> It doesn't have to be a P bid. I believe if a neighborhood or a neighborhood association collectively came together and said this is the amount of business that we can get you, and it's almost like a very informal neighborhood -- I hate to use the term RFP but they would put some type of documentation together saying we are going to get you X contractor some type of business. What price could you give us if we had X amount of business compared to if I as an individual property owner came to have you do the work on your own?

>> Councilmember Herrera: What I'll leech this is the quality that you're getting with the contractor that you're working with in the downtown. There is some city interest in seeing these street trees done well because we pay the price, I mean ultimately we have to worry about liability and all kinds of things when things go wrong. So I would be interested in any potential of expanding other communities besides downtown and taking advantage of that price and it's a contractor who might want more business. I would not see why they would not want to do that. I would be very interested in following up on that.

>> We will follow up in what's happened in the Naglee park area and what kind of documentation they have around that. I would mention too as we talked to the committee before, we think the long term solution here is to get our citywide street tree inventory done which is a prerequisite to considering a citywide or a more localized property based tree user fee. And we believe through that type of mechanism the fees that a property owner would pay enabling the city to really take over the planting and the pruning of trees they dramatically save over having to do this work on their own. That's ultimately where we think long term the solution would be, if residents pay a user fee to the city at a much lower rate than it would cost them to just get their tree pruned and then we would help them do that, ensure the quality is there and just improve the look and the quality of trees in our neighborhoods. Initiate planting, people are reluctant to plant if they know that maintenance concern is out there as well. So we that as a long term solution in the interim, we work on that.

>> Councilmember Herrera: I love that idea. Would that mean though that if somehow something went awry, and the sidewalks start buckling, would the homeowner still be responsible for the tree causing that, if the city was to take it over?

>> For, you know, decades the code has established that property owners are responsible for the adjacent sidewalk and their adjacent trees. So we would certainly want to over the long term look to see if there are ways or things we could establish some type of districts or what have you we'd be able to take on the maintenance of sidewalks. Right now we haven't been able to figure out that mechanism. There are a lot of challenges related to general and special benefit and those types of things that the committee has discussed with us as length so I

don't know that I have that issue anywhere near worked out. I would say that's something that we probably have to deal with over the long term.

>> Councilmember Herrera: Right, long term, though, I mean if we were dealing with the trees then I think we would have some responsibility there if the tree went south on us and started causing the problems with the sidewalk. Anyway, I like the directory going long-term and I support the changes here.

>> Councilmember Liccardo: Councilmember Rocha.

>> Councilmember Rocha: I had quite a few questions and we reached out to your office ahead of time. I don't want to go through each and every one of them. I just want to thank you for such thorough responses, so you really answered all the questions. So for a necessity for me to follow up and either reask them or ask the clarification really doesn't exist. So I appreciate your work on the document and also your work on our questions.

>> Councilmember Liccardo: Thank you. Councilmember Campos.

>> Councilmember Campos: Thank you, just a couple of questions. Back to the matrix that you have proposed code languages. Just a suggestion. I know you identified high tension wires and gas lines. It might be better, because you cover -- you would cover more or all of them, if you used utilities. Because I did have a constituent in the mount pleasant neighborhood where there was interference with the gas line. That wasn't mentioned here. I don't know if we are so bureaucratic that if that came up, well it's not in the matrix, you guys are on the hook for that. Would you respond?

>> Ralph, would you want to respond?

>> Usually in a situation where it is interfering with the natural gas line that is a potential hazardous condition so we still might be able to address a concern if it is in fact causing a leak of the natural gas line because of the tree roots.

>> Or it may cause one I would imagine, yes. So we'll consider ourselves, that's good input councilmember.

>> Councilmember Campos: And then my next question I know I had spoken to Hans about you know, the issue of neighbors having to find out that okay, they're on the hook for their trees after they've gotten a bill because you know the city's gone out there to trim the tree. And we -- you know he had told me that you guys were looking into a citywide solution where perhaps the city does go back into trimming its trees and possibly you know neighbors assessing themselves on that. Could you respond to that and where that is? Or if that's off the table?

>> Sure, councilmember. I think it's pretty similar to the conversation I just had with Councilmember Herrera. It's a tree user fee, is what we're kind of envisioning over the long term. And that property owners would pay the city a user fee to take care of the planting and the maintenance of their street trees. And we believe through the volume and through the expertise that our risk office brings we would be able to do that kind of more efficiently at a lower cost to the property owner and really ensure that the City's community forests and street trees would be in better condition over the long term. To be able to move to the point of advancing a tree user fee we need to have a complete street tree inventory. And we're about 60% of the way through that. Our goal would be over the next two to three years, through grant process, to the state of California that we'd be able to get enough grant funding to be able to complete the inventory. Once we have the inventory we'd be able to go through the process of kind of developing you know what the service would be, what the fee would be, how it would affect individual property owners depending upon the number of trees they may have, you know what might be an appropriate fee and then our property owners are willing to support and vote for something like that. Ultimately it would require a majority vote of the property owners and those who have responsibility for the trees to support that user fee. So I would imagine after a two to three-year period of time we have the street tree inventory in place we'd really be able to move forward in earnest of putting together what the user fee would look like, what it would entail, what it would cost and then go out and do the community outreach and see if that level of support exists within the community to move forward. That's kind of our initial plan at this point in time.

>> Councilmember Campos: Would you happen to know if that same deal that was offered to the downtown, if this was discussed with -- there's residents on King Road between Ocala and the Tropicana and Pueblo de San José shopping center, that has a lot of trees that go on to King Road and there I mean they look like they need to be trimmed and I'm sure that if those residents knew that they could potentially pool their resources together and offer a contractor, that same opportunity, then perhaps you know they could get \$75 a tree as well. Because right now, I do know because I've heard it from constituents that it's on an individual basis they're getting notices that hey trim your tree. And if not we're going to trim it for you. We know that that will be costly.

>> I would say councilmember if you're office has contacts with the business association or the landlord, larger property owner if we could work with your office and get contacts with them, we could certainly put them in contact with either the vendor that we use, or other tree vendors, that could work out an arrangement with them. I know that they're not in any type of formal special district at this point in time, but certainly on an informal basis, I think they could work with reputable vendors that we use and have used in the past to see if they could get some type of volume discount. So if you would like to work with our department, work with your office and find those contacts, that would be something we could follow up on.

>> Councilmember Campos: Yeah, and they are actually single family detached homes. It's a bunch of them. And actually we would like to -- I'd like to do that. The other side of the road is Vice Mayor Nguyen's district so I'll talk to her about that as well.

>> Okay.

>> Councilmember Liccardo: Could I offer a -- well actually try explore one idea? Because we spent some time speaking with folks in Naglee park trying to replicate what they're doing because they are uber organized neighborhood. And certainly they're able to do it very effectively because everybody is on the CCA internet list, and whether you want to be or not, and there's an ability to get people to be able to participate in ways that are very effective just because there is culture of doing that in that community. When we tried to do that in other downtown neighborhoods for the most part we couldn't get it off the ground. And I wonder if, you know sort of

taking the lead, as it's suggested by Councilmember Herrera and Councilmember Campos, could you conceive of a situation where we did a citywide RFP telling potential vendors and it would be a pool of vendors that we know have done quality work for the city in the past, there are folks that we believe have done horrible work then we don't allow them to qualify. But allowing them to bid on imaginary pools of homes, that is 50 homes, 100 homes, different quantities, see if there are some prices and then with that knowledge in hand, that is, that we could get such and such a price for the first neighborhood, or for a neighborhood that has 25 homeowners to participate, then any of us could go back to our neighborhoods and say, hey, here's the deal the city has negotiated on your behalf. You guys want to get together and participate. I think when people know that the hard work has been done and the price is sort of struck --

>> Councilmember Herrera: And the vendor's qualified.

>> Councilmember Liccardo: Yeah, and there's some sense that the city understands what the quality of the vendor is, is that a process that would be possible? I understand --

>> Councilmember Liccardo, let me just a little bit of thinking out loud here with you on this one.

>> Councilmember Liccardo: Yeah, sure.

>> As we periodically go out and do RFPs or bids for tree contractors we have various specifications that we put in there. We certainly could explore whether we could put specifications in our next citywide tree contract that we put out. That would kind of put that possibility out, that if certain neighborhoods came in with X number of trees, they might you know could you put out a bid price on that. What I don't know is, what they're specifically bidding on. Because obviously we require certain insurance and they're doing work for the city and there's a guaranteed payment. So we would have to think through how the -- and obviously we'd need help from purchasing and the city attorney's on this. Here's the rate then they would go off and establish a separate agreement with the neighborhood. I mean, ultimately it needs to be the neighborhood kind of taking ownership. And establishing a

third party agreement with the vendor separately based on certain rates and we need to be careful not to get in the middle of disputes about what that rate is and what have you.

>> Councilmember Liccardo: Agreed.

>> Ralph I know you put together the specifications for our tree contracts and bids. Any thoughts that you have on top of what I've described or any concerns with what I've raised?

>> Okay, currently in terms of the price that we have from the vendor that we offer to the individual property owners for trimming, structurally pruning an existing tree, it varies with the size of the tree. And you know the bigger trees cost more than the smaller trees. The clearance pruning which is the type of work that we're talking here, just raising the branches up so there's adequate 14 feet of clearance, or you know opening up the canopy around the street light or those various types of work, that is consistently a \$159 charge to the homeowner. So that is something that we already have available to homeowners. With the permits that we send out, if they want to avail themselves of the City's contractor they just authorize us to do it based on the size of the tree and the type of work that needs to be done. As far as doing what you're talking about here, sort of a third party, certainly we can look at that, with the vendors that we have. The caution that I have is that there would have to be some sort of proximity to the -- because to get a good price, why we can get a very good price for downtown is that they're just going down the street. One tree after the next. And so it's very efficient. If they're having to run around and set up their equipment and their signs and things like that, then the price is going to be higher.

>> Councilmember Liccardo: Understand that. And we recognize that staff's resources is very, very constrained here. We just wonder as we think about the cost of homeowners repairing sidewalks and trees and so forth, we've talked in the past how we could aggregate purchases to help things out. I wonder if there's a potential pilot here.

>> So I think we're willing to kind of explore that in a limited way. If we could make it work within you know quite a limited amount of staff work that's something we could consider and to the extent we could make it legal. I do know that raffle and his staff are trying to keep up as much as they can with processing permits in a timely way,

responding to issues and emergencies as we move into the storm season, their work obviously picks up pretty significantly. To the extent -- certainly it's an interest of ours. We recognize that we want to do what we can to help residents pool their resources and work together. Our goal is to have a well-maintained community forest that's our goal, too. So let us see what we can do too and if it's something that we can manage and if it's within our limited resources we'll see what we can do on that.

>> Councilmember Liccardo: Thanks for your concern.

>> Councilmember Herrera: Appreciate Sam you taking it one step further on the idea. The other thing I think is important on this is there's a lot of folks that become impatient with their street tree for a variety of reasons. They don't get a permit to chop it down, they just chop it down. You can see lots of areas in San José where there's missing trees and a lack of canopy. I was asking how are we addressing that? I'm curious what you guys would have to say about that because I'm very concerned that people are not understanding the value of the tree, that it actually does contribute to your property value when you have shade and trees, when we look at cities to the north of us, Palo Alto and other areas, the reason why property is so valuable is because they have such a beautiful forest of trees going through their neighborhoods. A lot of folks don't understand that. But also, don't know how to take care of those trees, don't have the money. So I think that the idea of getting some program where people could afford to actually manage the tree would cut down on people, no pun intended, cutting down the trees. Do you have any comment on the tree removal that's going on?

>> Certainly a removal that you're talking about is an illegal removal. You do have to get a permit to remove a street tree. All our permits are free of charge. However we have a very limited staff, we are not on every street in every neighborhood at all times, especially if it happens on the weekend or some other period of time to know when a tree is removed. So that's why we really rely on the community themselves that when they see that this occurs in the neighborhood, they can call our office, they can be anonymous. We will go out and investigate to see if there was, appeared to be a tree there and we can obviously check to see in our database to see if a tree permit was issued. That is legal and there is a citation for that. It again depends on the size of the tree, but the citations can go as high as \$2,000.

>> Councilmember Herrera: If we don't know what tree was there because we don't have an inventory, then we don't really know what size the tree was.

>> Correct. We're getting closer on that inventory, though. We have 60% of the city that's inventoried with species, pictures, height, et cetera, so we are making progress in that standpoint. We share your concern on that councilmember. We want a very robust canopy and community forest. We work with our city forest in terms of planting and education of the community so they're a valuable partner in all of this. What we recognize, that certainly that budget challenges that we've experienced over the -- you know the past five-plus years, you know tree services have been one of the significantly impacted areas. We are working towards some day where we hope the community will invest, you know, modest amounts of their resources into what we think can be a good program over the long term. A tree user if he would include funds for planting those locations and helping property owners to maintain, I think that's our best long term solution.

>> Councilmember Herrera: So the ones now where they have been taken out illegally, no one turned them in, there's just no tree there, do we ever try to go and put another tree in, or what's the -- if someone's cited, are they then required to put another tree in or how does that work?

>> Yes, if they are cited. To get back to you, since we don't have an inventory how do we know how big the tree was? The advantage is, the city has been completely mapped with google street view. So if it's a recent removal we can just go on to street view and say oh yes that looks to be an 18 --

>> Councilmember Herrera: I'm thinking years ago. There's some deforested areas where it's just been, over time, and there is just no trees there anymore. So anyway, my point wasn't so much to have all the neighbors call in on each other and report them. My point is that if we can create a more -- a more -- an environment where we're providing some answers and some assistance to people who want to have trees and maybe some reasonable prices so they can get them cut and taken care of. So I think a lot of people take down the tree, because a lot of tree removals happened after the unfortunate incident where the tree fell on someone, and

suddenly neighbors are thinking I don't have the money to take care of this tree and what if something happens, I'm liable. So there was some reaction to that, I think, and also people just not having the wherewithal to care for these trees, I think it would be helpful to have people understand they can manage to take care of the tree and it's valuable and we should keep those trees. So I would rather have people brief that and want the trees in their front yard than the punitive approach.

>> Councilmember Liccardo: Okay. We have one member of the public who would like to speak. David Wall.

>> David Wall: I compliment D.O.T. for having a variety of parcel taxes in their litany of surprises for the taxpayers. Are it's interesting the concept of pooling resources to trim trees. Citizens might pool their resources to trim council's tenure on the council. I think this is getting so far afield. I personally don't have street trees. I do not want them. I think you should do away with concrete sidewalks if you're going to be environmental with this. You want to talk about canopy in high priced neighborhoods then you talk about no more residential development, no more affordable housing. No more slums. Then the property values are San José will go up. This is really gotten too far afield. You could use the integrated waste fund to do outreach because you need far more outreach than you have today. I like trees. I probably have more trees on my property than probably everybody that sits before me combined. But this Draconian idea, the City of San José, we're going to impose not just an unfunded mandate but a mandate to prune the tree, in front of your House. Or we're going to put a mechanic's lien on your property. The East side, those people on King Road or whatever. They don't have any money for this. It's not they're going to pool their resources for this. They're going to complain. I think you need to use the Mercury News to talk about this because a lot of people don't know. I like I say like trees but what I've heard today I don't like anything that I've heard. The street tree inventory business that's just folderol. You can't keep track of it it's ridiculous because properties change. I think you have a lot of problems and it started basically when you got rid of the city tree crews. That's where it started. This is bad news right here. Although I support D.O.T. and the arborist. One question, can I put columnar apple trees in my park strip? No, I'm not kidding acknowledge can I?

>> Councilmember Liccardo: That question will be submitted after the hearing. Thank you. Thank you, Jim, Ralph and Diane for your good work and all the answers to the questions. There is a recommendation here by

staff. I'd ask if there's a maker of the motion whether or not they might consider adding additional recommendation to explore the possibility of an RFP for third party bulk purchases for tree trimming services.

>> Councilmember Herrera: I would make that motion and add that request.

>> Second.

>> Councilmember Liccardo: Motion and second, all in favor? That passes unanimously. Thank you very much. So we are now at the you conclusion of our meeting for public comment. Roy Cheryl followed by David Wall.

>> I'm here to talk about serious lack of services available for the homeless. I'm disabled, I'm in the process of moving back to San José after being gone for 12 and a half years. I have Social Security disability so I have an income. I have section 8 so I've got funding for housing. But I've been denied access to all four of the homeless shelters in the area because I'm disabled and on my own and because of the requirements for maintaining my disability they will not allow me to stay in the shelters. I've been forced to sleep on the street for most of the last three months. I've been back here since August the 9th. First thing I did when I got into town was go to the envision shelter and they told me I couldn't stay there because I'm disabled and on my own with no one to look after. I fortunately got assistance through Silicon Valley independent living center, I mean, with the hotel voucher for three weeks. But since then I've been forced to sleep on the sidewalk, on the street, because the shelters won't allow me to stay there and I've got no place to go. There should be a medical hospice arrangement with at least one of the homeless shelters in the city for people who are temporarily disabled and homeless like I am. There are services for people who are long term homeless but not short term homeless. This has caused great problems. When I tried to get -- I was sleeping on sidewalk downtown, I got robbed, someone stole my laptop. I tried to move to a place that was more hospitable, I mean so that I could -- I mean charge my chair and use the computer at the Silicon Valley independent living center and the police in the CalTrans went and stole most of my property, all of my camping equipment, my clothing, my food supplies and a bunch of other stuff and denied me access to my mobility device for more than a week. And I mean, this has just been a continuous ongoing problem

and even now, I'm sleeping on the street and no place to charge my chair and I'm in no way out of this until my apartment timely comes available I mean more than six weeks after I was supposed to move in.

>> Councilmember Liccardo: Mr. Cheryl would you remain for the conclusion of the meeting? I'd like to be able to speak with you.

>> Yes.

>> Councilmember Liccardo: Okay, thank you. David Wall.

>> David Wall: Just a couple of questions, Your Honors. With this extended travel docket that a lot of you folks are going on and thank God you came back safely, what about the talk about any modifications to the airport's curfew. I'm sure China air, Korea air, ANA, Ireland air really don't care about our curfew too much. So in your discussions would I like to know if you have mentioned any modifications of the curfew. Also when I look at some of the issues today from environmental services, seems the integrated waste fund has an undue amount of surplus. As it appear to be built into the rates for them to do a lot of things they do. So I would like to look into that particular little snippet. The guy that's defecating and urinating on the roof outside of the wing I don't think that's very good for the environment. I think he should go. It is my wish and prayer as a citizen that he goes tonight. Now I'd like to talk about the toxicity that occurs at the water pollution control plant in the final effluent and with your brine that will be generated from the advanced water treatment facility. One, the facility is not slated to be an industrial discharger, that's the issue. Where is the backup plan if you can't discharge your brine into the final effluent without violating your national pollution discharge elimination system permit? That will be a very big embarrassment for the city. It would be in keeping with soaking the taxpayers because of the water but also with the impending deal with the water district. So I think that the last question will be, nobody seems to be focusing on ending poverty through food grown locally. Thank you.

>> Councilmember Liccardo: Thank you. This meeting's adjourned.