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>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call this meeting to order. This is the San José city council meeting for November 6th, 2012. We will start with an invocation. Councilmember Pyle will introduce the invocators.

>> Councilmember Pyle: Thank you, mayor. Since Veterans Day is on November 11th, and there will be no council meeting next Tuesday, we will be doing our own celebration today. And we are celebrating two occasions: One, election day, and two Veterans Day, two truly patriotic events. Honoring our veterans on election day makes sense on so many levels. Our veterans past and present have and continue to protect our right to vote, protect our country, come to aid in our time of crisis and are always ready to help all of us. Voting is both an honor and a duty. So I hope you have or will join me in voting today and giving respect to all of our armed forces. Joining me now or join me now in welcoming from the United States army. Staff sergeant first class Jesse Hanson with the American flag, staff sergeant Casey brooks with the California flag. And staff sergeant Juan Aromblez with the San José flag. Assisting them is Wilfred Fernando and Kimberly spike. With us today also, we need to give a very hearty welcome to Joyce Randolph, an extremely talented singer and retired San José employee and to sing the national anthem. Thank you all for being here today.

∂ O say can you see ∂
∂ by the dawn's early light ∂
∂ what so proudly we hailed ∂
∂ at the twilight's last gleaming ∂
∂ whose broad stripes and bright stars ∂
∂ through the perilous fight ∂
∂ O'er the ramparts we watched ∂
∂ were so gallantly streaming ∂
∂ the rocket's red glare ∂
∂ the bombs bursting in air ∂
∂ gave proof through the night ∂
∂ that our flag was still there ∂

∂ O say, does that star spangled banner ∂

∂ yet wave ∂

∂ Oer the land of the free ∂

∂ and the home of the brave ∂∂

[cheering and applause]

>> Mayor Reed: And now please remain standing for the pledge of allegiance. [pledge of allegiance]

>> Order, halt, rise, right march.

>> Mayor Reed: Our first item of business are the orders of the day. We have a request to add a ceremonial item for recognizing the month of November as Sikh awareness month in the City of San José. Any other changes to the printed agenda? We have a motion to approve the orders of the day. On that motion, all in favor? Opposed? None opposed, motion is approved. Please note that we will be adjourning this meeting in memory of Esther Medina, social activist, stalwart of the disenfranchised. Executive director of MACSA. Esther passed away October 17th at the age of 76. Councilmember Campos has some comments.

>> Councilmember Campos: Thank you, mayor. Good afternoon. It gives me great honor to be able to enter this adjournment into the public record of Esther Medina. Esther passed away on October 17, 2012, surrounded by her loving family. She was 76. Esther was born in Ventura, California December 15, 1936 and grew up in San José. She is survived by her husband, Juan San Miguel, daughter Cameo Burton, the star of her eye, her grandson, Cooper Burton, her son, Derrick Gonzales, daughter-in-law Janine Gonzales, sisters Pilar Briones, Emily Gonzales, Rose Valdez, and many nieces and nephews. Esther will always be remembered for her advocacy on behalf of Latinos and women and the underserved. She was a tireless advocate and will always be known as a legendary champion for the Latino community. Esther was the youngest of seven children and was born in a migrant farm workers camp in California. She began picking fruit at the age of five. In her later years Esther learned to style hair and opened several businesses around the beauty industry. But her career in fashion

was not fulfilling her passion to help others and make a difference in people's lives. Longing to make a difference in her communities she sold her businesses in the early '70s and worked in our community. This was a beginning of a life of advocacy and community involvement for Esther. In 1982, Esther took over as executive director of the Mexican American Community Service Agency. During this time the agency was going through many changes, but 22 years later, she -- because of Esther's ability to transform the center and transform our city through nonprofits, MACSA was providing low income housing for seniors, running youth programs in schools and the youth center and operating adult day health care services. As a single mother during most of her time -- during most of her time at MACSA she made it a point to be the first example to her children. She was a woman who was a leader not only in the community but a leader to her children. Est they're was driven by the love of her culture and the connection she had with those who struggled in poverty, and who experienced inequality. She was a strong presence in the community, and was influential to so many who had the privilege to work with her. On a personal note. Esther was a friend. She was an early mentor of mine. I think you could -- you could make an argument, there are so many physicians, attorneys, teachers, public servants, that have -- that were mentees because Esther saw something in them. Esther was a feminist, she was a Chicana. She was a Chicana activist back when it wasn't -- you weren't supposed to be doing those things in the '60s and '70s. Esther pushed the envelope and as a result San José and Santa Clara Valley is a much better place for many of us. Every single one of us on the city council, back in the '70s Esther was a stalwart in making sure that this city went to district-wide elections. So the folks in our neighborhoods can have tangible representatives that they can go to every day. You know, Esther was part of that. We are all going to miss Esther but I know that her family is going to miss their mother, their wife, their grandmother. And I just want to, again, thank you, in public, for being so unselfish, with your mother and your wife, because she really changed this valley. Thank you. [applause]

>> Mayor Reed: Thank you, Councilmember Campos. Next item is the closed session report. City Attorney.

>> City Attorney Doyle: Yes, mayor. The mayor and council met in closed session this morning. We were given authority to file litigation in one matter. The nature of the action and the name of the case will be provided upon filing upon request.

>> Mayor Reed: We'll now take up the ceremonial items. We would like to start by inviting Councilmember Herrera and representatives of the United veterans council to join me at the podium. today we're presenting a proclamation designating November 11th as Veterans Day in the City of San José. In honor of those who served our nation in the United States armed forces which does include Councilmember Herrera and myself, and some of the folks you see in front of us. Obviously, it's no surprise that November 11th is an important day, it is Veterans Day and national holiday, so we welcome those who are here, and Councilmember Herrera has some comments.

>> Councilmember Herrera: Thank you, mayor and today, the City of San José joins communities across the nation to proclaim Sunday, November 11th as Veterans Day to honor the service and sacrifice of veterans throughout our nation's history. I want to thank Dave Sanders U.S. Air Force Sergeant, retired, and current president of the United Veterans Council, American Legion District 13 Commander EVC past president and Evergreen resident Dennis Fogge, and Ron Wanhades, commander of military order of the purple heart for joining us today. The United veterans council was founded in October of 1922 to support the welfare of all veterans. Their dependents, especially the veterans hospitalized in Veterans Administration hospitals within the Santa Clara County. But in addition to their wonderful work on behalf of he veterans the United veterans council also hosts the Veterans Day parade in City of San José each year. This year marks the 90th year. A moment of silence at the 11th hour of the 11th day of the 11th month. This origin of the holiday began in 1919 as armistice day. This day was a day to reflect on the heroism of our soldiers and the opportunity for America to, as president Wilson put it, to show their sympathy with peace and justice in the councils of the nation. In 1954 the day was renamed Veterans Day both to honor all military veterans and to be a day dedicated to the cause of world peace. So on this veterans day we should reflect on the bravery and self sacrifice of every man and woman that serves our country in the military. They serve to protect our freedom, our rights, our way of life, but we should also reflect on the fact that through their service our men and women in the military keep our nations safe from harm and make our world a safer and hopefully a more peaceful place. And as was brought up earlier, the right to vote, a precious right for us, is a hard-earned right, won and protected by those who serve us in the military. As a Vietnam era veteran and one of two veterans on the city council it has been an honor to support our men and women in uniform, both veterans and active duty. Also want to say we also should acknowledge that we have

men and women serving today in harm's way across the world. So please come out and show your support for our veterans by attending the Veterans Day parade this Saturday at the plaza de Cesar Chavez on Market Street. This year vice admiral Paul Zunkund of the United States Coast Guard will serve as the grand marshal and there will be bands and floats from all across Northern California. So we want to encourage everybody to come out and show your support. I also want to acknowledge one of our own here, Stu Lavate and all city staff that serve in the military. At this time I would like to ask Mayor Reed to present Dave Sanders of the United veterans council with a proclamation for Veterans Day. [applause]

>> Respected members of the city council, ladies and gentlemen, on behalf of the members of the United veterans council of Santa Clara County, I accept this proclamation on their behalf and for them. It is horrible to correct any member of our political system, however, if you go to the parade on Saturday, you'll be able to help us set up for it because it's Sunday. So it will be Sunday. There is confusion in the fog of war due to the fact that officially it will be observed on Monday. So somewhere in between we're going to have a wonderful parade on Sunday at 11:00 at the 11th hour on the 11th day. And please, come out and show your support. For our current troops that are serving in harm's way. And also, be thankful that our mayor has a wonderful daughter whose husband is also serving for us, and thank you very much and God bless America.

>> Mayor Reed: Now I'd like to invite Councilmember Chu and Kelly Estes to join Councilmember Herrera and me at the podium as we commend Kelly Estes for her dedication and commitment to spearheading the veterans proactive assistance task force. Councilmember Chu has some of the details.

>> Councilmember Chu: Thank you mayor. We are here today to commend Kelly Estes, for her commitment and dedication to spearheading the veterans proactive assistance task force. Kelly started her volunteer in service to the community at a very young age. When she was 14 she began her service as a member of the Santa Clara County youth task force. When she participated in let teams focus on social issues most notably if cyberbullying and amounts teams. Kelly was appointed by supervisor Ken Yeager and became the youngest sitting human relations commissioner at age 21 she was named commissioner of the year by her peers and took on the role of the chair for the justice review committee. The youngest ever to hold that position. Due to her family's long history

of service, Kelly has a unique passion for military veterans. Especially those attempting to reintegrating in our community, and inflicted with posttraumatic stress disorder or PTSD. Due to Kelly's strong belief that PTSD among service veterans often lead to criminal activities, in 2010, Kelly began her effort to assemble what has become the Santa Clara County veteran proactive assistance task force. And here today, to support Kelly, are Charlene Domingo from the blue star moms, Dave Walker, who is retired from the Campbell police department and Richard Herrera, director of Santa Clara County veterans service organization, and Lance Lucas is Santa Clara County superior court judge. So at this time, I would ask the mayor to do the honor, present the commendation to Kelly Estes. Thank you.

>> Good afternoon, and thank you for inviting me to participate in your city council meeting today and for recognizing the work I am doing on behalf of our veterans. I'm truly humbled. I've served as a volunteer in Santa Clara County since I was 14 years old and had the pleasure of participating in many meaningful projects. However over the past two years I've had the opportunity to many of whom are present here today. Coming from a family of combat veterans who have served this country who have suffered and been awarded medals for their courage in battle I have always had a special place in my heart for those who have served and sacrificed. Through my work as a Santa Clara County human relations commissioner I have worked to make veterans a priority in the community. When I set out to create the veterans proactive assistance task force a year and a half ago the vision hi was a proactive approach to resources in our community. After putting together the initial strategy I approached District Attorney Jeff Rosen for support. Fortunately Mr. Rosen had an incredible amount of respective support that he and his office have so graciously provided. Over the last two years I have traveled the state and met with many people, representing some of the most important resources offered to our veterans. Getting to know each person and the incredible stories that inspire them to dedicate their lives to our vets. I believe that the task force is not complete with the best advisors to realize our potentiality as a body to assessing our prevent incarceration before it occurs. I'm proud to say that we as a body are advocate that law enforcement work serious crime being committed. Young people are returning from battle with both mental and physical wounds that go unaddressed for years. Until they result in broken relationships, with family and friends, and criminal acts which often result in harmful results to the community and its citizens. So I dedicate this service to those heroes who didn't come home from war and to those who did whose lives are ever changed and whose

families are struggling for answers. I thank you for this commendation. It means the world to me. I hope you have a happy Veterans Day and God bless you all.

>> Mayor Reed: Now I'd like to invite representatives from the office of economic redevelopment, women impacting public policy and representatives of knowledge is's neighborhood business associations declaring November 24th, 2012. Councilmember Herrera has the details .

>> Councilmember Herrera: This one is on a Saturday. Thank you, Mayor Reed. Today we're proclaiming small business Saturday to recognize the importance of small businesses play in strengthening our economy. And I wanted to introduce those who have joined us today to acknowledge their efforts in supporting small businesses. Diana Dacci who is the director for special projects for the organization women impacting public policy, from our City's office of economic development, we have B.J. Sims and Des Woodworth. They are working on our city's efforts under the shop San José initiative. So when you think of shopping, shop in San José. Abby Swartz, the South Bay manager for yelp. chief technology officers at shopsan José.com, a Website that also supports local businesses. We have representatives in are San José's chamber of commerce that serves as advocates for their members, pat Saucedo, vice president of the dennis King executive director of the Hispanic Chamber of Commerce Silicon Valley and we have executive director of the Japantown business association. And representatives from Willow Glen business and professional association, executive director Valerie Merklin and business manager Cynthia Gutierrez. The small business Saturday. Maul business Saturday is a day dedicated to supporting small businesses on one of the busiest shopping weekends of the year, Saturday, November 24th, right after Thanksgiving. This national initiative encourages consumers to make their choice, to make their purchases within their own community, by shopping small at their favorite local stores to help fuel the economy. Our local effort the shop San José initiative under the Work2Future program under about the advantages of shopping locally. Namely, that what they want is here in San José. That local jobs are created here when you shop here. And that the environment benefits from less driving. And that public services are sustained by local purchases. These objectives are well aligned with the small business Saturday efforts which strive to remind consumers that they can make a decision this holiday season to patronize the businesses that contribute to the vibrancy of their own community. There are over 45,000 small businesses in San José which

form a vital element to local job creation. 11.5 billion is spent on goods and services annually by 319,000 San José households, a figure that will grow outstrips of that other large Bay Area communities. The small business Saturday campaign is striking a chord throughout the nation due to American Express and hundreds of businesses and organizations. by coordinating with local groups. Thank you for your efforts to make small business Saturday a success, for those interested in knowing more about small business Saturday I encourage you to, visit Facebook and search for small business Saturday. You can also visit www.shopsanjos.com/bis. To say a few words and mayor, present her with the commendation . Proclamation. [applause] Good afternoon. I'd like to thank Mayor Reed, Councilmember Herrera and the rest of the councilmembers along with Des Wood worth, who has been instrumental in bringing this proclamation today. I am here on behalf of as Councilmember Herrera has said, I'm here on behalf of women impacting public policy and small -- business Saturday coalition to accept this proclamation. We are thrilled with the momentum this year going into 2012 as Councilmember Herrera said. It will be on November 24th, this year. So we hope that everybody in this room will be out that day shopping and supporting small businesses. I'm also here to congratulate the mayor, and the councilmembers, as well as the economic development group, for all the initiatives that they do have, that they have taken for small businesses. I think that a number of the cities around the country certainly look at San José and look to emulate the model that they have taken on in support of small business. On a final note, just to let you know that last year, we had small business Saturday drove over 100 million Americans to shop, which is a significant number. And we're looking forward to that same level of success. And if not more this year. And take us into a great momentum into 2013. So thank you, mayor for this proclamation. [applause]

>> Mayor Reed: Like to invite Councilmember Constant, Bill Sherry, and Ruth Panelina to join me at the podium as we're commending Niederlander organization for its contributions to the arts and musical theater in San José celebrating its 100th anniversary. Niederlander organization began in 1912 founded by David T. Niederlander, now it's third generation, one of the largest most experienced operators of live theater. The family owns, operates and presents in theaters across the world. They have produced and co-produced and participated in many, many successful shows, co-produced and invested in a number of musicals, revivals, touring productions, you name it, they've done it. Broadway San José is part of the Niederlander organization and where Silicon Valley can find some of the best shows touring the U.S. Contribution to arts and theaters in San José working with Team San

José in our facilities and we are looking forward to a very long relationship. Maybe we'll make another 100 years here in San José, so thank you very much.

>> Mayor Reed, councilmembers, San José, and our partners at Team San José, I want to on behalf of the entire Niederlander organization tell you how honored I am to accept this commendation and I want to invite everybody here in the entire city to continue to support the arts and go out and see theater, go to the symphony, do ballet, whatever makes you happy. The museum. It's all wonderful and it helps the city. And I hope you're right, we're here for another 100 years. Thank you. [applause]

>> Mayor Reed: I'd like to invite Councilmember Kalra and our Sikh community members to join me at the podium, to recognize the Sikh community, I know we had a large group here. Councilmember Kalra has some of the details.

>> Councilmember Kalra: Thank you, mayor. We did have a reception beforehand. I did want to introduce, there is a number of people who are going to come down. There are a few folks from organizations, I will introduce, including Cimarron core, pushpinda, J.J. Singh, Dr. Santa Clara university, Habir Bahtia, who worked hard with my office to put this together, and Nurinder Singh, as well as other individuals behind me. In June passed a, of course subsequently on August 5th, the senseless act of hate took the lives of opportunities for us to help do outreach and educate the greater community about Sikh Americans. Today, we do have the opportunity to honor the memory of those lost on that day and recognize and appreciate the important role that Sikh Americans have played in our state and beyond. Sikhs have been ever present in American history make significant contributions to our great nation in the areas of agriculture, trucking, medicine and technology as well as business entrepreneurs. During the early 20th century thousands of Sikhs helped expand the California frontier including their work on farms, lumber mills, mines and railroads. And of course, Dr. Dulip Singh sound was not only a Sikh American Indian American he was the first Asian American indianian American to ever be a member of the California -- from California to be member of Congress although that may change later on today with a couple of Indian Americans that are running in this state. Today, an estimated 250,000 Americans of Sikh origin, reside here in California alone. Here in the Bay Area the San José Gurdwara has a nearly 30-year history and is now the

largest Sikh temple in North America. polling place today so you can definitely see it's become a community center beyond just its place as a house of worship. On this historical day here at City Hall I'm proud to honor the Sikh community for all their hard work and from distinguishing themselves through faith and service earlier I had recognized Habir Bahtia and to my left you see a canvas there which is a canvas of solidarity that was put together during a peace rally we had after the Wisconsin shooting. It was done in conjunction with supervisor Dave Cortese and Congressman Mike Honda. What was a blank slate that evening you can see is a beautiful representation for how the community has come together in the wake of that tragedy. As an Indian honor to proclaim the month of November as Sikh awareness month here in San José with the hope to further -- to further the diversity of our community and afford all residents the opportunity to better understand recognize and appreciate people of Sikh heritage and I'd ask mayor if you could present the commendation to a number of our community members. I know that we have with us here Dr. Sukminder Singh who will be saying a few words. [applause]

>> Mayor, and councilman and ladies and gentlemen, this means all is one and Sikhs from the beginning Sikhs have proved themselves as significant contributors to a health and a successful economic as scientists farmers and teachers in all walks of life. The largest the largest raisin grower is a Sikh and the largest transportation company is by Sikhs and by all, the father of fiber optics is a Sikh, without his invention high speed communication would not be possible. ethnic groups we all could be considered as equal and multiple instrument of an orchestra. If played, and led it can emit heavenly music and I thank the City of San José, God bless America.

>> So often Sikhs young and old unfortunately have been the target of bullying and hate crimes across the globe. Specifically after the tragic shootings at oak creek the media gave great visibility to this issue. So the events that playing us in the Bay Area, what are we to do that? Have we done enough? Those are questions that I pose to councilmembers and the community here. this proclamation is a sign of hope. It is a representation the commitment that the city is making to create a safer and stronger San José, for its Sikhs and for all its residents. But that first step has to be about education and awareness. The second step that we continue to stand against hate crimes towards anyone. And that third and final step which is a very critical piece going forward is that you involve the diversity, including the Sikhs when it comes to planning and policy development. So those

packets that are being given to each of the councilmembers which are information about the Sikh community, the Sikh history and some of the relevant organizations and we hope today's proclamation is a call to action that in November and beyond, that we all become aware and encourage our schools and districts to do so, as well. And hopefully set a precedent for other cities to follow. The organizations like Sikh coalition will be reaching out to you councilmembers and hopefully you will give them your time and listen to them about the education programs. On behalf of all the Sikh community that's sitting in the audience if I could just have you stand. And all those behind me who are leaders, community activates, and organizational leaders -- activists, and organizational leaders, we heartily thank you for proclaiming November as Sikh recognition month and we thank you. [applause]

>> Mayor Reed: Configuration item we're going to take up is item 3.4, regarding the issuance of City of San José refunding bonds series 2012. We have our city staff here to make a presentation. Julia Cooper.

>> Good afternoon, mayor and members of the city council, Julia Cooper, acting director of finance. I have David Zolazi from the finance department here with me. We have the bond counsel and if we have any additional questions. It is a very brief presentation regarding the series 2012 A airport bonds the action for you today is to refund \$49.1 million of outstanding bonds, the 2000 bonds, and they will are sold through private placement with Bank of America public capital corporation. This is really a unique activity to create some much needed savings for airport and do it in a relatively inexpensive way and a short time frame. Essentially just as a comparison, when we do a public offering it usually takes seven months optimistically to complete that transaction. This transaction from start to finish and that's finished today and we're going to close in the next couple of days was three months. Additionally, it reduces the cost of issuance that we have to pay to underwrite the bonds on a public basis, produce an official statement all those additional costs. Those get reduced from almost 800, \$no Child Left Behind,000 to do it on a public offering, this is \$200,000 on a public issuance. The bonds have a maturity of 2018, it is a relatively short period of time for the refunding although we're going to realize approximately \$5.2 million in savings. Approximately about \$1 million a year which is going to translate in the reduction of the CPE to about 26 cents. To so it is going to produce some much-needed savings for airport. The savings are comparable. Our financial advisor did do some analysis and if we had done this on a public offering basis, we would more savings

through this transaction. So that's what we have before you, today. And if you have any questions we're available to answer those questions.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I'd like to move for approval.

>> Second.

>> Mayor Reed: We have a motion to approve. I have one request to speak, Mr. Wall.

>> I think moving for approval without thanking our finance people from the dais is inappropriate and immature. I mean after all, let me quote some from page 2. Quote, based on the current market pricing the city estimates refunding savings of approximately \$5 million or approximately 10% of the par amount, 2002 A bonds refunded. Such estimated savings are well above the City's saving objectives. Period close quotes. Now, you know it's really hard for me to stand but you know what, I'm going to stand to thank you. I haven't seen any city department save so much money. I thank you, and look at the folks that sit before you. I swear, there are injustices in this world, the injustice is that they are elected. Good job, as far as the 26 cents for the cost per plane em19ment. That's negligible compared to what's really needed but the savings are great. I would also like to thank our airport people and I'll give the council one last chance to thank these great city servants that you are taking away their pay their benefits making them pay for their retirement benefits but notice city employees how they look down in their own shame. Thank you so much.

>> Mayor Reed: That concludes the public testimony. On this item we have a motion to approve. On the motion, all in favor, opposed, none opposed, that's approved. We'll now move to the consent calendar. I have some requests to speak on the consent calendar, some items that will be pulled. 2.5 travel reports, 2.6 retirement report and I have a request to speak on 2.10, little Saigon. Is there a motion on the balance? Motion is to approve the balance of the consent calendar. Mr. Wall, you want to speak on the consent calendar.

>> On item 2.3, committee reports. On the public record there was a memo entitled Mayor Reed gives 100,000 to Councilmember Herrera's campaign. Is this to feed the monkey on his back? Now, this is an election special that was posted in October. The firefighters and the police officers of our city have found some interesting things about Councilmember Herrera and they're listed Web pages for you to make your own decision. I'm not a spokesperson nor agent nor principal of the San José Police Officers Association or the firefighters. But I thank them very much for their service. In my opinion, Mayor Reed's 100,000 donation to Councilmember Herrera's election campaign can be described as the mayor holding a peeled banana so the monkey will do as his honor wishes. Question, if the monkey fails to perform as his honor wishes will the mayor have to spank his monkey? Monkey business is a sticky business. What will his honor do if the 100,000 of sticky money has to be returned? What then will the monkey do. No one should have a monkey on their back even an organ grinder keeps the monkey on a short leash. Once again this is an election issue. You should look on those Web pages and make a concerned and informed decision on yourself as to the conduct of Councilmember Herrera and her past financial dealings, with her company. She often references her financial expertise and her company throughout her committee assignments without referencing what happened to her bankrupt company the police officers and firefighters have never lied to me. Have always helped me in my neighborhood and I'm very, very grateful for their continuous help, their service and their dedication to the city that has stolen their retirement and reduced their pay and benefits. Thank you very much.

>> Mayor Reed: That concludes the testimony on the most of the consent calendar. On that motion to approve the balance, all in favor? Opposed, none opposed, okay we still have 2.5, 2.6 and 2.10. On 2.5, that's travel reports, I just wanted to make some comments on the trip to San Diego that I took last week. I spent a day hearing from San Diego about how they do economic development. Got some really interesting ideas of how they handle financing and how they manage their downtown and I got a chance to spend some time talking with mayor Sanders about their efforts to do pension reform and how they've turned their city around. They have been a couple of years ahead of San José about pension and retirement issues. We've had a chance to learn from them. All in all I thought it was -- I was only there for part of the trip but I got some excellent ideas. I thought it was

of benefit to talk to people who have already had these problems that we still have to solve. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor.. I wanted to report I was also on that trip. Particularly helpful was a group conversation we had with a gentleman by the name of Coe Lemandry, the head of the community business district down there, remarkable things they have done to revitalize the urban district of San Diego, really sparked conversation about how we as a city could step back and allow a CBD to really take initiative in the rights of way and in the public spaces and really moving private investment in a way that can really revitalize a lot of struggling areas. So I hope that there will be more to come in terms of our development up here along the ways that Coe has led us.

>> Councilmember Constant: Mayor just real quick.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I was also on the stip and I stayed just a little bit longer, took a later trip out so I could have an opportunity to tour their convention center which they have done a couple of remodels on, getting ready to embark on a large expansion which they modeled right after our T.O.T CCFD, they basically copied what we did and they are expanding their convention center as well. And then took the opportunity to go get a visit of the family domestic violence center in San Diego which is well-known throughout the stay as an exemplar of how family violence centers should be put together and work. Had an stunt to talk to their executive director at length and looking forward to see as we kind of refocus on the domestic violence issues as we move forward being able to take our family domestic violence center which was one of the first and make it one of the greatest. Thanks.

>> Mayor Reed: I think that concludes the trip reports. Item 2.6 is a report from our retirement board liaison. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I have updates from two different board meetings and I'm going to pass out something that the Federated board asked me to pass out to all the members of the council. This is a new newsletter that they have asked their investment consultant which is Meketa investments to provide a newsletter which can be shared with stakeholders, plan members, both retired and current active, as well as policy makers. It takes the first step at education for the members. This one in particular discusses the asset allocation strategy that they are moving to. It's written in plain English so it's easy to understand. Has a glossary on page 3 of any technical terms that people may not be familiar with. This is the first of what they hope will be a series of informations that they put out to stakeholders, so that they can be aware of everything that's going on. They do get an update in their flash report of performance, as of September 30th, of this year. At that point, the fund had just over \$1.9 billion in assets, and their fiscal year to date returns were 5.1%. That covers the period of July through September. They had a discussion about the timing of their reports, and I know that some of my colleagues have asked me why the reports get reported out so late. And the investment consultant gave them a chart of how they produce their reports. And in essence, after the close of a month, it takes 12 business days for the investment consultant to be able to prepare the report with all the different results that are needed and then present it to the board. And then obviously after they present it to the board I'll give the update here. Federated board also established the contribution rates for our tier 2 pension plan for the new employees. I'll go over the number briefly for you. On the city side the contribution going towards pension is 6.13% of pay, which as you know is considerably less than what we're paying in the current tier 1. Medical 6.87%, both of those are the same percentage for the employee and the city. On the dental coverage, it is 0.39% for the employee and 1.04% for the city, making the total contribution rate for the employee 13.39% and the total contribution rate for the city, 14.04%. Both boards had their investment consultants do an impact of the lump sum contributions. We've had some discussions here at the council level and we've also had the discussions in the budget process of what are the impacts on the retirement system for the lump sum contribution he of pension each fiscal year. We know that it benefits the city by having a positive impact to our General Fund. They did a -- on the Federated side an analysis from 1995 to current. Not that we've been prefunding that time but to give a historical reference of what the impact of the fund had been had we been prefunding for that period. We do know that the last four years we actually have prefunded. They were able to calculate the difference to the pension fund and the difference for the pension fund for four-year period for the Federated side was in cash, I don't have a percentage but in cash, a

minus 1.1 million so it had a negative impact to the fund. However, if you look at a longer period of time, in this case they looked images since 1995, had we been prefunding that entire time, it would have had a positive impact to the pension fund to the sum of 47.4 million. And they broke it up, if you look at the last 18 years there would have been a positive impact in 13 of the 18 years. One year where it was neutral and the balance, it would have a slight negative impact. Moving on to the Police and Fire retirement board meeting, they had exact same type of analysis done by their consultant. They do use a different consultant. They looked at the last four years and then the last 15 years. They determined on the Police and Fire retirement system, for the four years that we have been prefunding, it's made a positive impact to the Police and Fire fund of 4.7 million. Had that been, had that same prefunding been in place for the previous 15 years, the positive impact to the fund would be \$20.1 million. In the 15 years that they analyzed, ten of those years there would have been a positive impact, two years there would have been a neutral impact and three years there would have been a slight negative impact. Other things that happened at the Police and Fire board, the Police and Fire board is continuing to allocate and diversify their assets. Under the new asset that they allocated, the chair of the investment committee stated that the Police and Fire retirement board chose not to come from retirement staff. The Federated board took the staff recommendation and implemented it. The Police and Fire side decided not to do that. They instead worked directly with their investment committee with their investment consultant which is Nerc, to East recommended by staff. The results of that show that, if you compare just the two plans on performance based on their asset allocation for the fiscal year to date, the Police and Fire plan outperformed the Federated plan by 0.6%. On a calendar year to date which would be January 1 to now, it's outperformed by 2.4% and over the last rolling 12-month period it outperformed busy 2.0 PERS. And to give you a perspective, the Police and Fire fund has about 2.8 billion that are managed so that 2% where difference in the 12 months equates to about \$58 million. The calendar year to date difference is about \$69.6 million dollars. they wanted to make sure I reported that out. Investment returns as of September 30th of 2012, again \$2.8 billion in assets and their return during that period which is July to the end of September is 5.7%. I know that was a really long report but I know they had a lot of activity in the last two board meetings.

>> Mayor Reed: I have one request to speak on this item. Mr. Wall.

>> Councilmember Constant, I'd like to thank you to the retirement boards that you've been assigned to. Your conduct has been more than exemplary. But Mr. Mayor and city should reflect on the entire history of this issue. First of all the unfunded liabilities had council funded retirement liabilities for both retirement systems, we would have a different story today. We also have a tremendous number of police officers that have just up and left this city because of the abject lies told to them, at the date of their hire by the council at the time period of their hire, only to have the rug pulled out from underneath them. This include the firefighters and all city employees. You have to face the chastisement you all have to rise to the level of financial accountability and respectability. I think at some point in time you're going to have to come to the conclusion that every employee is going to have to be hired on an aknewity based program, this is going to have to be done to retain the civil service because the civil service is being destroyed under your watch and the watch of the other councilmembers. With the loss of the civil service system the door swings up wide for corruptions at contracts and what have you. But once again let us bring to the forefront for today's discussion on election day, you folks, this council has had a material hand to basically eviscerate the senior staff of the police department and the fire department, the attorney's office and all other necessary city offices and departments. It can be shown that you have already started to mitigate your damages, with pay amendments to the municipal code for water pollution control plant personnel. You should be ashamed of yourself on this day.

>> Mayor Reed: That concludes the public testimony. No further on that item. We'll move to 2.10, the little Saigon highway signage solution.

>> Vice Mayor Nguyen: Thank you, mayor. In September 2012, for little Saigon on highway 101 and also formally recognize and designate the area of Story Road and highway 101 as little Saigon. It's been five years since I first brought this project to the City and County. Tao we had a similar discussion on June 5th, 2007, which is the primary election day and it's interesting how it's also an election today that we are also finally at a place where we ask move forward with this project. It's been more than 35 years since the first wave of Vietnamese refugees made their mark on this wonderful city. So for me, the official achievements for tens of thousands of Vietnamese who are living in San José. And I just wanted to take this opportunity to publicly thank the little Saigon foundation for their continued work and effort to bring this project to this point. I also wanted to thank all city staff

who have worked with my office including the mayor's office, and other council offices, including Roxann Miller and Betsy Shotwell from our Sacramento office in giving us guidance and direction on how to move this matter forward. So with that I'd like to make a motion to approve staff recommendation.

>> Second.

>> Mayor Reed: Motion is to approve. We have some requests from the public to speak, we'll take that now, come on down, Barry do, Steven Duvan, H.G. Nguyen, David Wall.

>> Mayor Chuck Reed, vice mayor, just like Vice Mayor Madison Nguyen, the sign little Saigon has been closed. And we hope this will be the final chapter of the chapter. The last minute, Councilmember Kansen Chu has brought the resolution and especially the historic last council meeting September 25th where all of the councilmembers have been spoken and we all come to the majority that the main has been signed up, and as I understand it can the merchant of the City of San José is being in a crunch right now, so we have to privately finance and from now on we hope this will bring back the tour center of little Saigon in all of San José. Thank you.

>>> Stephen Dovan.

>> Good afternoon, my name is Stephen Dovan, this has been a long and winding road, ala the Beatles. I love them because I grew up in the '60s. I want to commend councilmember constant, Chu, and Pierluigi Oliverio, because back on September, 2007 they had the fortitude to vote for little Saigon to be designated in the Story Road corridor. Many cities, big cities, want to tout their image and also want to attract visitors. For example, New York, L.A., Chi, although I've lived here more than 50 years in California I consider San José my home town now. And back in the 60s if you like music like I do, like Motown, there's a song by Dionne Warwick of the Motown do you know the way to little Saigon? There is a ubiquitous saying that says, "here today, gone to Maui" I have a slogan for us, "everyone's gone to little Saigon" so vote your conscience, do the right thing, pass the resolution for little sign gone signage and directional sign in San José and thank you.

>> Mayor Reed: H.J. Nguyen. Van Lo.

>> Mayor chuck Reed, members of the city council, my name is H.G. Nguyen and I'm the finding president of the Vietnamese many general conference. Very happy to be here today. And I would like to take this opportunity to thanks in advance. To all of the councilmembers, and mayor Chuck Reed. Who will pass the resolution for the signs on the freeways. Today is an auspicious day for the City of San José, I believe. Today, I believe, is a new beginning for the City of San José, so let's join hands together, work together, for the betterment of the City of San José, and the community. And I thank you each and every one of you, and happy Thanksgiving. Thank you.

>> Mayor Reed: David Wall.

>> This issue should never have gone as long as it did. It is a matter of democracy. The Vietnamese Americans have shown how they can actively petition and redress their government by coming not only to council meetings in droves, with speaker cards, but to the rules committee and other council committees in droves, vast numbers, with speaker cards, to redress their government and demand service. Now it is of historical interest to note that during the early days, the Little Saigon campaign wasn't too well received by the mayor or vice mayor. There's a lot of back pedaling going on. This is during the time of the campout outside of city hall by who I believe was Lee Tang and starvation to try to get this issue moved forward. Then the Vietnamese Americans kept pounding the table, we have not been served, our government is not serving us. So they started coming to council meetings, writing letters on the public record, and becoming outstanding citizens, who they represent. So today who I think is the stalwarts, Councilmember Campos, Councilmember Chu, Councilmember Kalra, others, for the rest of you, hide yourselves behind this great American flag of ours, because a lot of you were not forthcoming for Vietnamese Americans who redressed their government in polite and official ways and are the best embodiment of the threads that comprise our great flag.

>> Mayor Reed: Van Lai and Kim Trang.

>> Honorable mayor and councils. My name is Van Lai. I come here today because I really want to say that we want to appreciate the decision that we finally approve the little Saigon sign and finally designate the little Saigon area. I believe that as a business woman the little Saigon sign will bring more businesses, more taxes for City of San José as well as for district 7. And I believe that going to be mutual benefit from the community side and also from the city side. Therefore, I really like to see that we can work -- continue to work together with City of San José and CalTrans so we can have the little Saigon signage coming earlier as possible. Well, I have to -- one of the things that I wanted to say that finally this is the history of today for little Saigon and also the election day right everyone, I would want to say that thank you for the approval and I want to wish you well on the city. A special thanks for Councilmember Chu. Really spare for this have coming forward and really approve it for this special project, a resolution. A special thanks also for supervisor Dave are Cortese and state simply Nora Campos, thank you and have a good evening.

>> Mayor Reed: Kim Trang.

>> Thank you, mayor Chuck Reed and all city council. We had in the face we had today is a victory day [applause] Thank you I wish you all the best and we're so happy. The other business Story Road, and the still, little Saigon, that mile is a really far away so I'm really happy today, and I thank you all again, thank you.

>> Mayor Reed: Lee Tong.

>> I would say, a short thank you. Thank you on the councilmember, thank you for everybody, for adopting for supporting our little Saigon, thank you very much.

>> Mayor Reed: That concludes the public testimony. On this item. I would just like to note that as I was thinking about this, I came across a Mercury News newspaper story from 1994. About an effort to get highway signs directing people to Saigon, not little Saigon but Saigon, that effort did not work, there was a lot of community opposition. And there were issues with it, so it didn't go forward. It's not been five years, it's been at least 18 years that some of the people here have been working on this issue. So yes, sometimes it takes a while but I do want to

thank the people, Barry Do and all the people that worked with him with the foundation to continue to work through the processing, build the public support and get it to a point where we could take this action today. With very little fanfare. We appreciate that. Vice Mayor Nguyen did you have anything -- it's your motion. We have a motion did we get a second?

>> Vice Mayor Nguyen: Yes, we have a motion, that's all I have thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yes, sir, I also wanted to thank Barry Do and all the community members that came forward. We recognize that through the years, that certainly with time we learn from our mistakes and we want to take the opportunity to correct them here. unique and wonderful about our city and I look forward to many years of success for little Saigon.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I also wanted to add my appreciation to the little Saigon foundation and many in the Vietnamese community for your persistence, I want to thank you very much for your patience and also, thank assembly member Nora Campos who really started this freeway destination sign process, as well as congresswoman Zoe Lofgren and county supervisors, all of the five supervisors including led by supervisor Dave Cortese. So thank you very much for coming out today.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I too am very pleased to see that this is coming to a wonderful and happy ending. And I would also like to say that I had -- recently had the pleasure of being at the official opening ceremony for the opening of the Vietnamese museum and for any of you who have not had the opportunity to see

it yet, it really is worth the trip. It does a wonderful job of explaining the history of the Vietnamese people in America and I think all would appreciate it tremendously. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I just wanted to thank you for your tenacity and for not giving up and seeing that vision of this area in our city. And then also, to thank you for sharing your culture in such a big way, with everyone in this region. So thank you. And we need to get shoppers there, and contribute to our city economy. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just want to thank Vice Mayor and mayor and Councilmember Chu for their memos in supporting this. And I look forward to the signs being there. I think it's appropriate on election day that this is happening. And this didn't happen because of any of us up here. This happened because of you. You made this happen because of your exercise of democracy and your willingness to stick with it until it happened.

>> Mayor Reed: We have a motion to approve. On that motion, all in favor? Opposed? None opposed, it's unanimous. It's approved. Congratulates he. That is concludes our work on the consent calendar, correct, City Clerk? I think we got them all. We'll move then to item 3.1. Report of the City Manager.

>> City Manager Figone: Mr. Mayor, I have no report today, thank you.

>> Mayor Reed: Item 3.3, adoption of a statement of policy and city council questions for the prospective finance director.

>> Motion to approve.

>> Mayor Reed: We have a and a second to approve. Mr. Wall you wanted to make a comment.

>> Executive search firm Terry black LLC who is conducting the recruitment, period close quote. I'm of the opinion that our City Manager is very good and decent, she's educated and can run the city, she's been doing it despite your interferences, but I don't understand why we have to employ an executive search firm because our City Manager will appoint, because of the charter, who she wants to appoint. Now, this is in reference from other executive searches, that I have witnessed throughout my time period as a student of San José government, one which was horrendous, a search for the environmental services department director. You spent tens of thousands of dollars for this search and ended up picking in my opinion the bottom of the barrel, if not the dregs within the cracks of a barrel. So I think the City Manager -- this whole process should be looked at. Because the cost of it, the -- how the firms are chosen, and really, the unnecessariness of it. City Manager knows who to pick for the finance director. It's not that tough. And I think that you should save the money and cut this business out and get some more mileage out of our City Manager which I believe she's capable of if you don't interfere with her and put this executive search firm request for these department directors to rest. I mean, the money could be better served with parks maintenance, whatever you want ops already know who doesn't pan out then you hire the bottom of the barrel, no, this has to change, thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. On that motion, all in favor, opposed, none opposed, motion is approved. Our next item is 3.5, an ordinance to implement retirement benefits in Federated employees retirement system. We have a motion to approve. I have some requests to speak. We'll take the public testimony now, David Wall, Nancy Ostrowsky, Vera Todorov.

>> This ordinance, if you were to apply it just to new hires, I don't like two tier employments. For disclosure purposes I'm a retired City of San José employee. I get my retirement, I'm on a medical retirement. And the lies that have been told to me as a city employee were paramount. I made a decision to work for the city, I was dramatically injured and can't work for the city or anyone else for that matter and yet my retirement benefits by ministerial decree are being materially altered councilmembers that sit before me today. So when you go and vote

for these things you should be honest and forthcoming to the public, especially to the people that you're going to hire, and say look, we're going to promise you the world. And then we're going to stab you in the back as we pull the rug out from underneath your feet. And we're going to do it in the name of councillor duties. Well, this business of creating the two-tier system especially within the Public Safety ranks is very ill advised because now you have created institutionalized stagnation because police officers or firefighters wouldn't hesitate to go save somebody. But now because of what you've done to their retirements and their disability retirements they're going to hesitate. That means someone's going to burn to death or someone is going to get shot in the head. But you can sit down and say hey, you did your fiscal duty, you did your jobs but you did it by doing the two-step. You promised the world then back stab and lie. And so on behalf of all city employees and all retirees, thank God for you all and I hope you run for office. Because the people that sit before us, their next election cycles they should be politely excused. Thank you.

>> Mayor Reed: Nancy Ostrowsky, Vera Todorov, Susan De Vincenzi.

>> Good afternoon, Nancy Ostrowsky, senior staff at IFPTE's local 21. Today representing AEA, AMFP and CAMP. A little while ago today we did give a letter over to Alex Gurza and copy all of you with regard to this item 3.5. It's to adopt a proposed ordinance that amends the Federated pension plan including the elimination of SRBR benefit. We've been in consultation with our attorney which prompted this letter. Because this proposed ordinance affects changes to the pension plan in a number of ways including but not limited to elimination of the SRBR benefit, it encompasses matters within the scope of representation. Under the state law the city must first bargain with local 21 before considering adoption of the proposed ordinance. Please consider this a demand in the polite sense of the word to bargain over both the provisions of the proposed ordinance and the effects of the proposed ordinance. We request the proposed ordinance be withdrawn from consideration by the city council at today's meeting. We note that the changes to the charter brought by measure B are the subject of current litigation including the changes purported to affect the SRBR benefit and on that ground, as well. Council consideration of the proposed ordinance is premature. Thank you.

>> Mayor Reed: Vera Todorov Susan de Vincenzi,.

>> Good afternoon, mayor and councilmembers, Vera Todorov on behalf the association of legal professionals. We submitted a letter to you today. We agree with the ostrowsky just said. I won't repeat what's in that letter except to say it is extremely unwise for the city to change the vested benefits of employees and retirees before all legal challenges are adjudicated. It is also benefit equal value to employees and retirees. I'm particularly however want to comment on the exception, for unit 99 members from being required to enroll in tier 2 retirement that is contained in this ordinance. That was hidden in portion of a staff report back in April. And it's hidden in half of a sentence in this ordinance that there is now an exception to tier 2 that's being proposed to unit nine. If this exception is so great offer it to everybody. If it is something you desire to move forward with offer it to everybody. But the bottom line is, this creates an impact on your existing employees in tier 1 and in tier 2 because it is yet taking another chunk of employees out of those statements. I don't think that was contemplated in measure B or the desire is really what the -- what measure B was about but here you're taking out a certain select group of employees that can opt out of tier 2. And I also think it's discriminatory and retaliatory against bargaining units in the city who are in Federated retirement. What you're saying is your unrepresented employees now have some sort of an option that the rest much us do not have. I agree with the other person who spoke and I agree that all of this is subject to meet and confer. There is an impact impact on our bargaining exclusion of new employees in unit 99 if they desire to be excluded. There's also very, very undefined what this exclusion means, again it's hidden.

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

>> Thank you, we need to meet and confer.

>> Mayor Reed: (saying names) Bob Leninger.

>> Good afternoon I'm Susan de Vincenzi use it imposes changes retroactively on people who are already retired. That is patently unfair. And the provision of measure P that relates to the repeal of the SRBR, is subject to a legal challenge. Not only by the police officers, the firefighters but also, the San José retired employees

association. We've also challenged other provisions of measure B that this ordinance would impact. And we were told that no changes -- no measure B provisions were going to be implemented until the legal aspects had been worked out. Apparently that's not true. This ordinance expressly incorporates all of measure B into the municipal code. So at the very least, I think you should wait until the legal challenges have been resolved before you make any more changes.

>> Mayor Reed: Bob Leninger, Yolanda Cruz.

>> Thank you Bob Leninger, president of the San José retired that we urge that you do not vote to adopt this ordinance today. We have -- you're aware of our lawsuit and this is one of the areas that we're challenging. We made a lot of efforts, going back many months, years, to sit down and talk about this issue based on what we thought was guidance for many of you to make amendments that would have been substantial concessions, that was not done. No one wanted to listen to us. We're in court and I think retirees deserve their day in court and an ordinance like this is premature. Give the retirees their day in court, give the issue its day in court.

>> Mayor Reed: Yolanda Cruz.

>> Mayor Reed and councilmembers. First I want to state that AFSCME also believe these are conditions of meet and confer. But we are here asking you to reconsider approving these ordinances today. We believe these changes are not only premature with the pending litigation on measure B but all of the Federated bargaining units are currently in negotiations. To move forward and bargaining process to proceed and having potential options be questioning the sincerity and or the purpose of continuing with the process for anything more than an exercise in futility. In addition, including language to include a defined contribution retirement plan without considering of the implications of such an action is also quite concerning. The question I have for you is, what is the rush? These are very complex issues and need to be explored and evaluated through the negotiation process. Moving forward without working in collaboration with all stakeholders is just wrong and will likely have a negative impact on any negotiation process and your employees past, future and present. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. Questions by council? Councilmember Chu.

>> Councilmember Chu: Thank you staff. What is the hurry why captain we wait until all the litigation is settled before we go in and change the ordinance?

>> City Attorney Doyle: Councilmember, this is a matter that there's a stipulation with the Police Officers Association in the litigation, that none of the measure B matters would take effect until January 1st, 2013. And so that is the -- none of this takes effect until January 13th, 2016, with the exception of tier 2 employees that are required to join Medicare. What this does, I.T. does a number of things, this ordinance. This ordinance deals with the elimination of SRBR in conformance with what measure B requires, again effective January 1st, 2013. The -- it also deals with requiring individuals who are age 65 or older to enroll in Medicare. Again, that's consistent with what has been determined by council. The -- it deals with the tier 2 provisions, and the -- and incorporates some of those changes. It also deals with some of the actuarial requirements. There is a provision in measure B actuarial soundness so that the two are consistent. And so a lot of this is just -- this isn't all of measure B. These are the items with respect to measure B that the council has been advised through outside counsel you can move forward on so that's what's being proposed.

>> Councilmember Chu: Isn't it required to meet with the bargaining unit on those items?

>> City Attorney Doyle: I can ask staff to address that. On much of this measure B there has been meet and confer. Alex is coming down but he can address specifically the meet and confer issues.

>> Alex Gurza: Good afternoon, mayor and council, Alex Gurza, deputy City Manager. I do not handle negotiations with the association of legal professionals the attorney answer union so I can't speak to that particular bargaining unit but I can speak to the general issues about meet and confer. As the council is aware we engaged in a long process of meeting and conferring on retirement reform which included items that are now in the charter under measure B as well as some items that are outside of the ballot measure. And so we met, we the city believes that we met our meet and confer obligation during that process. These are simply implementing

ordinances that implement what we have met and conferred about. So for example the requirement to have parties meet and confer that wasn't in measure B but that was a proposal that we made during the bargain and the city council imposed earlier this year that provision and this simply implements that part of it. So happy to answer any other questions about the meet-and-confer process.

>> Councilmember Chu: Thank you for the explanation. Just to be consistent with my previous vote I will not be supporting this motion. Because I think SRBR, we can change the form but instead of totally eliminating it. Thank you.

>> Mayor Reed: I would like to add one item to the -- to respond to your question, Councilmember Chu of why now. We have a budget shortfall next year of about \$22 million, in the next fiscal year. We do not have sufficient ongoing funds to cover that shortfall. The SRBR is something where there would be some savings. But we have to get this approved so that the retirement plans and actuaries can consider the savings out of the elimination of SRBR. And of course they are in the process of doing their valuations now. And if this is effective January 1st, we hope that they will be willing to consider this as part of their calculations for what we have to pay in the next year. Even though we have had suspended SRBR for a couple of years with a couple of different actions that we've taken. We haven't gotten the benefit of that because we haven't adopted this ordinance. So with the adoption of this ordinance we hope and anticipate that the actuaries for the retirement boards will consider that as they're doing the valuation for next year which will have an impact on the shortfall for this next fiscal year. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I've missed one part that Mr. Gurza spoke about and that was recently he voted to impose and was that with reference to the SRBR suspension?

>> City Attorney Doyle: No, it was not the -- SRBR suspension, SRBR is the measure B tier 2.

>> Councilmember Rocha: Sorry I was writing as you were talking. I missed that one part if you wouldn't mind repeating that.

>> Alex Gurza: The requirement for the employees to be in Medicare that was part of the imposition. meet-and-confer obligation, there still is a meet-and-confer obligation was all inside and outside the ballot measure.

>> Councilmember Rocha: Thank you very much. I did have a couple, two questions and if you could speak to I'll ask the City Attorney I guess. Precedent in adopting ordinances that have a -- one component or the entire part. Under legal challenge. Is that something that was common? Honestly, sounds a little odd for us to go forward and adopt an ordinance where some of it is being challenged legally, unless there's a challenge. I know the mayor just spoke to the fiscal necessity.

>> City Attorney Doyle: It is common it is we're not in court with an ordinance being challenged. It is an injunction. We had an agreement with the POA that nothing would be effective until January 1st, 2013. So that's the reason and I think you know we're just bringing forward what we believe based on the advice the council's been given for what is permissible. It's not all of measure B but it is what is permissible pursuant to what we've been advised.

>> Councilmember Rocha: So to paraphrase I guess the components of it that have the best legal standing as far as we're concerned.

>> City Attorney Doyle: Yes, and some state constitution, tier 2 you've adopted, there are some things we want to make hurry with tier 2 and Medicare that's an important thing to move forward as well.

>> Councilmember Rocha: Thank you for clarifying that. Looking forward on some of these items I recognize the necessity of them. I guess the SRBR and the potential legal exposure we might face on this one is the one I've been scratching my head. Let's just say hypothetically, what about us making folks whole or any potential exposure we show ourselves fiscally?

>> City Attorney Doyle: I think at that point you would have to work with the retirement systems to address that issue. And so there is that exposure, potentially.

>> Councilmember Rocha: Well and why wouldn't we just continue the suspension? We're obviously not distributing those dollars. What's --

>> City Attorney Doyle: I think to the mayor's point of what the savings are. If you just suspend it, the actuary is unlikely to include it in any -- in any analysis or any -- their view of --

>> Councilmember Rocha: Their view of nonpayment? And that payment is what time of year ?

>> City Attorney Doyle: It steeples move but January is where we get the first and March is when they do.

>> Alex Gurza: We'll know the actual numbers by January or February and what we're hoping is the actuaries will take into account the complete elimination of SRBR when they determine the rates that will be effective in July of 2013.

>> Councilmember Rocha: Okay, thank you. In the ordinance language that's attached I see that we have in red the changes to the ordinance itself. In the third whereas the city wishes to discontinue the use of the SRBR. That was in there, when was that modification made?

>> City Attorney Doyle: When the city wishes to discontinue the use of the SRBR reserve?

>> Councilmember Rocha: Yes.

>> City Attorney Doyle: That's all part of measure B.

>> Councilmember Rocha: So it's already showing that part of it.

>> City Attorney Doyle: This is consistent with just implementing measure B. So I don't know -- are you asking, is this new language or is this existing language? I'm not sure of the question.

>> Councilmember Rocha: Well, I don't remember reading that way in measure B. So this ordinance reflects measure B?

>> City Attorney Doyle: This ordinance implements measure B. What measure B says is it's enabling and it gives you parameters. And then it says the council by ordinance shall adopt, various measures to implement measure B and this is one of those. The recitals, we call them recitals, the whereas provisions are merely statements of intent of why you're moving forward.

>> Councilmember Rocha: Okay, thank you. One last question. The comment in respect to exemption for unit 99, in the tier 2, can you speak to that please?

>> City Manager Figone: Yes, and then Alex can fill in, if I miss something. Under section 3.2803.28, page 3, it allows the offering of a defined contribution element only. And why this is important now, is because we are out for recruitment, for some very important positions, including a police chief. I'll be looking for an airport director, in the not too distance future, about seven key vacancies open. And if we get an individual who is not part of the city system, who is the preferred candidate, maybe on their second career, doesn't need to have our traditional retirement benefits, but might want more on the pay line, this is going to give is more flexibility in the tool kit. Why unit 99, because right now unit 99 is not a bargaining unit and I can advance this to council. It's enabling here and I guess if, in the future, a bargaining unit was interested in this, we could certainly meet and confer over that. So that is why that is very important from my perspective right now.

>> Councilmember Rocha: Thank you. And how many members are in unit 99 now?

>> City Manager Figone: About 200.

>> Councilmember Rocha: This would be available to existing or only future?

>> City Manager Figone: Only future, yes.

>> Councilmember Rocha: This is not a question but more of a comment. And how we have discussions with our retiree association. And we had this discussion when we went through measure B in the pension reform items and some concern that they don't have a place at the bargaining table. And I think this council at one point didn't make it clear that we'd like to have discussion with them and make the effort to have discussions with them. But that really wasn't memorialized or codified. reaching out to retirees if you don't mind me asking?

>> City Manager Figone: Well clearly conversation is always a possibility. I think the important thing to consider is, are retirees although they are very important stakeholders, really no longer have a bargain voice, now that's not necessarily something we want to hear. But from the standpoint of traditional meet and confer that would not be recommended. Clearly, to get input and we do often seek that input, and I think it's just a matter of how it gets factored in, especially as you're going through some very difficult reforms, which are very challenging for those who have already left the city.

>> Councilmember Rocha: So the legal, binding, bargaining voice. Did the attorney, were you going to speak on something?

>> City Attorney Doyle: The only thing I'd add, the draft ordinance has been sent to the retirement boards for consideration and comment. The boards haven't heard anything back, I don't know if they have had an opportunity to discuss it. The second reading would be November 27th. Between now and then the boards would certainly have the opportunity and we would relay any comments back to the council but that could be an opportunity or potential forum for the retirees to address their concerns with the retirement boards since the retirement boards had the fiduciary obligation to their employees which are the retirees.

>> Councilmember Rocha: Thank you. I guess to the point that -- I understand that was explained to me in the past and we've also made it fairly clear that the legal binding bargain voice that they are not obligated to but outside of that legal binding obligation to me there's more of a personal obligation that we should make an effort to have these discussions as we go through this fiscal reform plan or any fiscal reform changes because you know, continuing to on a case-by-case basis make direction or ask our city staff or OER to reach out to those folks based upon comments that we've heard, I'd rather honestly make it a personal policy or city policy that we make that effort. I think it would show a lot to these folks that we value their service here at City of San José and we have an interest in hearing what their input is. So I don't know how we go about doing something like that, it's just one councilmember raising that issue but I guess you could count on me to maybe suggest something down the road.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And the -- Rick, there are some items here that are part of measure B litigation right? And you mentioned the agreement for January 1st, 2013, for the POA or was it for other bargaining units as well?

>> City Attorney Doyle: It was only the POA that sought that and I think once that was entered into, everybody thought that they were protected.

>> Councilmember Kalra: We previously suspended SRBR with agreement with the bargain units to suspend --

>> City Attorney Doyle: I don't know if there was agreement, I think council --

>> Councilmember Kalra: Not on the Federated but on the sworn, there's been agreement?

>> City Attorney Doyle: No. The council just adopted suspensions for the last, two, three years many probably, now. So it's been an annual suspension.

>> Councilmember Kalra: So even the sworn the Police and Fire --

>> City Attorney Doyle: That's my understanding.

>> Alex Gurza: That's correct, there was no agreement to suspend it. It was a council action.

>> Councilmember Kalra: And the -- and so, but now, since measure B now, that's one item in addition to others that are up for -- that are a part of the litigation and some of which are included in the recommendations today?

>> City Attorney Doyle: Yes.

>> Councilmember Kalra: And you indicated that you feel that some of the ones we are going forward with may be permissible in regards to what you have been advised by some of the council?

>> City Attorney Doyle: It's not all measure B. You imposed the requirement of Medicare, that's in here. You haven't been authorized to have a tier 2 program, which is pre-measure B and measure B. The heart of the issue to cut to the chase is the SRBR which is in litigation but I think again you have been advised by your outside counsel that it's permitted to make the changes.

>> Councilmember Kalra: It doesn't give me -- outside counsel doesn't necessarily give me great comfort and I know that there was just litigation on Friday that was a vested rights issue at least that was lost in the third appellate court and you know, every sign we get from the court system on either like cases or cases regarding vested rights certainly, the cities or counties keep losing. And so I think it's wiser on issues that are up for litigation to wait, if it's a matter of discontinuing the suspension, I'd rather do that some see the suspension rather than have the risk of losing those issues and having to retroactively take action. If we're suspending it, there won't be any retroactive action, the retroactive action is going to happen regardless of the actuarial council action that has ultimately you know overturned I think would be much more complicated and complex. In regards to retirees, I

agree, that you know, that more often than not, because there's so much, that has been involved with the bargaining process over the last few year that the retirees have not been given a voice and because they are not formally their voice, that their interests have not been held in high regard by the council. And I think that a more recent trend has been even pitting retirees versus actives in terms much obligations around I think that's a very dangerous sign. We've done enough pitting one interest against another and I guess that's been par for the course for this coin the last couple of years. There's one more example, pitting the actives versus the retirees very unfairly. I think we need to start discussing these issues as a community and as a family once again.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: .

>> Councilmember Pyle: Thank you, mayor. I'm a bit disturbed by the letters that we've received from the various units that are represented here today. When I see things such as first of all the worry that you're taking vested benefits away from the retirees, but comments like not even receiving copy of the letter, insufficient notice or no notice, that is very, very worrisome. So I don't -- I don't want to take part in something that has that attached to it. For example, indeed the city did not even have the courtesy to provide ALP with a copy placed on the council agenda. I'm not in favor gotcha situations and this certainly looks like one to me and I know I'm being very bold in that statement. But I feel so strongly that good negotiation are based on a good back-and-forth and a good trust factor, that's built up. This to me sends a very chilling message and could, indeed, have a very negative impact on the ultimate result of our negotiations. I think because we haven't heard one thing, or very little, in the way of actions on the part of labor in the last several weeks, it would seem to me that we can certainly wait at least one or two more weeks until there has been sufficient conversation, and/or dialogue, regarding these efforts. So that would -- I can't vote for this today. This, to me, is not ready for prime time. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just so we're all clear here. Rick, my understanding is SRBR was not a negotiated benefit, is that correct? It was created by municipal -- by the council through municipal ordinance?

>> Alex Gurza: If I may, I think it's very important to clarify that the ordinance is -- we don't consider that negotiable. This is implementing legislation. As you can see, the memo comes from the City Attorney. This is implementing things that were in measure B as well as things that were previously negotiated. So for example, let's take the Medicare requirement separately. That was part of the negotiations we had with our bargaining agreement and the council already imposed months ago. This is simply now implementing your prior action here. So we're not really negotiating over the changes that are required in the municipal code in order to make this happen. The SRBR, the elimination of the SRBR, whether it's a vested benefit or not is separate from the issue of whether we meet and confer, that topic of eliminating the SRBR was part of the retirement reform negotiations that occurred over the last year-plus. And this now simply makes it so. The other thing I would like to clarify that in measure B, although it does eliminate the SRBR and require the money go back into the fund, it does indicate and provide the city council with the flexibility to say that if there are supplemental payments that the city council so chooses to America retirees if for example the council decided to design a policeman that provides retirees with supplemental payments, there's still ability to do that with funding that would not come out of the retirement plan.

>> Councilmember Liccardo: Alex, I don't disagree with a word you said, I agree with everything. But that wasn't my question. Let me try to be more specific. Going back before measure B, the creation of SRBR My understanding is that was not something contractual within bargaining.

>> Alex Gurza: I apologize. I didn't know you were talk about the creation of SRBR. It has been created at different times and different systems. I don't know the process at which that got create, it was before my employment with the at the and I don't know exactly how that is. I am familiar with SRBR in Police and Fire which was much more recent. And it really did not come from the bargaining process. However, the both Police and Fire I recall directly, the unions sort of waived their right to meet and confer because it was being offered and they accepted it and they waived the meet and confer over that SRBR. That hopefully answers your question.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. You know, there's been a lot said. But I think the most important thing is the message we're sending. And the message we're sending is that we're implementing the will of the voters when we can. I think it's important that we go forward these documents have been out for a long time. It's not that they just popped out yesterday. The bargaining unit didn't get it any quicker than I got it, it was available to everybody else at the exact same time and we need to own up to the voters' will and start making these implementations as we can. I think it's the right thing to do and I know there's several people that have opposed this all the way long and we can keep having the opposition, but we've got to do our job, and I would like to call the question.

>> Mayor Reed: You don't have to call the question. There is no more requests to speak. On the motion, all in favor? Opposed? Four opposed, Chu Kalra Campos and Pyle opposed, that passes on a seven-4 vote. 4.1, funding commitment for the forward and Monterey family affordable housing, for eden housing and blah blah blah blah blah. Two requests to speak? David Wall and Andre Papolo.

>> Why a third amendment, is there some sort of mismanagement going on that they cannot come up with a program that could be adequately funded up front without coming back with a third amendment for an enabled stabilization program has basically today or tomorrow to exist if it's not already extinguished. But this amendment to this issue also raises a contradiction in terms, which later in today's program, we will show the contradictory nature and hypocritical nature and the selling of council's soul to this very issue. This will be described later in today's show. However, these government-sponsored slums thrown into our different neighborhoods are of no value. They are on borrowed money, from other nations. You have stripped city services to ensure the level of society or civility within neighborhoods from the people or some of the people, not all of them that will live there. But I'm tired of seeing these amendments and also, I'm sick and tired of seeing these affordable housing

projects going up, without citizens being able to vote whether or not they want to see these projects in and up in their neighborhoods to destroy the value of their investment in their real estate, to cause problem, in their neighborhoods, and is this not a second tier of investment that we see? And this will be discussed later in today's program. So I want you all to be reminded of that. I think you should just abandon this ship and let it sink on its own accord. Thank you.

>> Mayor Reed: Andrea Papanastasio.

>> Thank you, mayor, exactly right. Thank you to the county, particularly to Councilmember Kalra and his staff who have worked tirelessly on this project with us for the last several years, the city housing department and Planning, and Building, and Public Works. We are getting ready to close the construction financing on the development in December and start construction on 75 new apartments for low-income families in San José to accompany the 20 apartments for special needs individuals that is already in construction right next door. So we're extremely proud of the long history we've had with the City of San José and we're really happy to have this new community become assets to the slums they are anything but we are really happy to be working with the city on this, thank you again for your commitment to this project.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I voted originally against the rezoning of this land when it came to council so I won't be supporting this matter today. Thank you.

>> Mayor Reed: All in favor, opposed, one opposed, Councilmember Oliverio. 4.2, ordinance to amend the height limitations in airport influences areas, further, other changes.

>> Joe Horwedel: Thank you, Mr. Mayor. just a few comments. There are changes that staff has made along the way, so I wanted to clarify for the council. After the adoption of of the general plan, at the time we had not completed our consultation with the airport land use height regulation within what is called the airport influence

area, the AIA area. This ordinance fills in the missing holes, as a part of that review, and provides certainty now for properties in that area, of how we would regulate height. Additionally it allows additional height in the North San José area. It accommodates the so we are adding the additional height in that area. And then lastly there has been some question about how this regulates heights in the downtown area. This goes and resubstantiates the FAA no hazard. We continued to look at heights in the downtown and the Diridon area as a part of some work we had done about five or six years ago. We will be doing some additional outreach with the development community airport interests around that topic. So come back with some ordinance work to finish the last piece of that. And so staff's available to answer any questions but staff's asking for council approval.

>> Mayor Reed: We have a motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Joe, thank you and thank you for modifications in the recommendation. Am I right, my understanding that the Adobe San José water site would be within the exempted area? In the downtown, it would not be covered by this direction?

>> Joe Horwedel: Right, is that the site for the Adobe parking lot, or the parking lot the water company, is within the downtown frame area, downtown zoning area. So it would still be regulated under the no heights of the no hazard determinations and through the regular design review process.

>> Councilmember Liccardo: Okay, great. And I know we have had some offline conversations and I recognize the futility in some ways of beating our heads against the wall with some of the challenges, regulatory challenges we face in trying to adjust the lines. But I wanted to know as you see this process what, as we're starting to finally see renewed interest in high-rise housing in the downtown. What's the best, clearest path forward for us to engage airlines in a conversation around OEI with the development community to try to find something that appears to address the airline's needs without having the kinds of impacts on our downtown that obviously is constraining our ability to build our downtown.

>> Joe Horwedel: So it's part of what we want to look at is a part of coming back. Staff is not proposing through that process to confined of good to revisit the OEI issue, bigger review of that, that we would say it would need to come through the policy setting. Because it is a significant commitment of work.

>> Councilmember Liccardo: Yeah.

>> Joe Horwedel: There was a lot of work that was done, a lot of analytic work, a lot of debate that with the height ordinance coming back our goal would not be to go through and precisely define all of that. But to create a mechanism of where there is, some gray area or some ultimately policy discretion by the council of how to deal with an issue, how we would address that in the zoning code, versus today it's kind of on an informal policy basis. So that's part of which we have to do that, whole different type of regulation than we've done before. But clearing the question about the custom of developers have asked well can I put two more floors on my building, that's that has some major ramifications in other places, because I think a much broader discussion, we're going to need to have at some point, is it is to do that is probably a year-long project with consultant and staff resources that are not on the table right now.

>> Councilmember Liccardo: As we look at individual sites, and I know the two sites you're referring to, the suggestion is to the extent we revisit any one of those sites, we are essentially pulling the string on a much larger sweater that is going to have us meshed in a year or years long conversation about OEI?

>> Joe Horwedel: That's my sense of what we thought back in 2007 I think it was, we thought it would be a discrete project to go in and do that went into a about a two-year, hundreds of thousands of dollar effort and so that's judge it never rent any further is than that. We could never research a consensus of where to go with you. I don't think there is a quick easy solution, it is one I think that is a fair question to ask and it is one to understand the consequence to. It's not just for an individual property or downtown, but on a citywide basis, what is that choice and consequence?

>> Councilmember Liccardo: I think it would be helpful for us to understand, I recognize particularly with the developments that we want to see happen next year, we don't have enough time to work all that out. Because we expect shovels will hit the ground next year. But going forward, it might be helpful at least to narrow the range of potential stakeholders within whom we need to talk. I know I've had some offline conversation with Bill Sherry about this. I know there's some concern about international and transcontinental flights but it seems to me there are a limited number of carriers who seem to believe that having two corridors is necessary, as opposed to one corridor for OEI. And I would at least like to see if there's a way that we could move forward with an attempt to identify who the stakeholders are that care, because a fair number of airlines don't. And I wonder if there's at least a way to engage those stakeholders in further conversation?

>> Joe Horwedel: I will really refer to Bill and the airport staff's ability to deal with the resources. That's not something I'm prepared to take on.

>> Councilmember Liccardo: I see Bill is wandering on.

>> Mayor Reed: While Bill is coming down, let me add a couple of things. I have talked to lots of airline folks including CEOs and the FAA over the last few years on this topic. And I think the central problem is some airlines care about different things. But there's no way that somebody doesn't care that will impact one or the other whether you have a straight-ahead path or off to the right path, one or more of the airlines cares about that, and that's the problem. You just have to sort of choose who you're going to offend and which part of the market you might restrict depending upon who does what. And it's always been, we don't really want to restrict the market for our airport because we desperately need more flights. And so it's tough to pick among your children, to decide which one of them ask going to have to suffer.

>> Councilmember Liccardo: And I appreciate that mayor. But I think that for instance, we'd all agree right now, we care an awful lot about what all Nippon airways thinks because of the importance of that Tokyo flight, as opposed to say Quatas, whom to my knowledge isn't running any flights to Auckland, right? So I think at least to

be able to know who cares and who doesn't, to understand whether or not this is a conversation worth engaging in. Bill did you want to --

>> Bill Sherry: Thank you, councilmember, Bill Sherry, director of aviation for City of San José. I think for those that were involved in this work effort, I think everyone understands that this is a highly complex issue. I agree with everything that Joe Horwedel said, as a matter of fact everything that's been said so far. From my perspective, this is your airport. And it is not necessarily what an airline desires or doesn't desire. It's really more of what the 11 of you desire. From your airport. You are correct, councilmember, there are two corridors. And some airlines use one, and some airlines use the other. The problem that we had when we were going through this work effort was that airlines, you know, these corridors are maintained for emergency operations. An engine fails on takeoff. What we found was generally the case, is that airlines train their pilots, their flight crews, to handle an emergency, the same regardless of what airport they're at. And if you lose an engine on takeoff, when you don't have a lot of speed, you don't have a lot of altitude, there is quite a lot that has to take place in that cockpit during that period of time in order to keep the airplane flying. Those flight crews are trained to just regularly do that, and consistently do it, without regard to where they are. So if an aircraft lost an engine, the pilot starts to recover, he or she can't say, oh, I'm in San José and I have to do something different. And that's really where the two corridors came in. And so I think we could easily reengage the airlines if that's the will of the council. But I think what you're going to find is that we refined those corridors about as tight as we could. That gave the downtown area the highest heights, but still preserve the airport capacity. It's really down to a policy issue from the council, in terms of the airlines are going to say, we need those corridors. Some airlines will say we need the straight-out, others are going to say we need the West corridor. But than it they are going to hold out saying the emergency paths have to be maintained. Then it becomes a policy decision on behalf the council what you want for your airport.

>> Councilmember Liccardo: I know this is a much bigger conversation but I certainly appreciate the general point about the need for uniformity from pilots in many airlines but they seem to make exceptions for John Wayne airport in Orange County, they seem to make exceptions in San Diego and I don't understand why those airports are unique and San José has to continually take a back seat. And so -- and that's why you know this issue was pushed five years ago. So I guess it would at least be helpful to know what airlines stand where and if it looks like

look, there are just too many airlines to have to be able to try to negotiate with and then we all back off. But it seems to me that if it's the case we know that the overwhelming majority of our airlines seem to feel that one corridor is the one that they need then maybe there's some room to talk.

>> Bill Sherry: The -- and you're testing my memory because we put this down, I guess it was probably 2008 or 9. But I believe to the best of my knowledge that the changes and the compromises that were made at John Wayne and San Diego had to do with noise, it did not have to do with emergency operations. So when you're dealing with a plane that's healthy and you can do different things with it in terms of its performance. But when you're dealing with a plane that's not healthy, things have to be very routine and structured. But again, we're happy, if it's the will of the council -- I think we've got a lot of this information that we can gather, and dust off. Not a lot has changed in the industry in terms of aircraft performance. So if it's the will of the council we can get this out, dusted off, reengage the airlines. But I think we're going to probably find ourselves back right where we were before.

>> Mayor Reed: Let me suggest one additional thing we might want to do that would be her I think, at least could be done more quickly is go back to the FAA. Because when I went in and talk to the FAA they were contemplating doing some work around this issue with a half a dozen airports. And they were going to take a long time, because it's the federal government. But it has been a long time. So I think we at least ought to check in with them to see if they've got something that they think is a method of decision making.

>> Councilmember Liccardo: Yes, I appreciate that suggestion mayor, because I recall the word on high from Washington and it might be helpful if we could get some direction. If I could ask the maker of the motion to include direction and action from the FAA.

>> Mayor Reed: Okay, that's acceptable to the make are of the motion. Councilmember Herrera.

>> Councilmember Herrera: Joe, I just wanted you to comment with regard to any changes you have with regard to Reed Hillsdale airport. through our work with the county airport land use commission. So it kind of just filled in the missing piece that we had already done.

>> Councilmember Herrera: So not being an expert in every single terminology here, I'll have to go online and learn a little bit more about it, but can you just tell me quickly are there are other projects that we're contemplating in that area that would be negatively impacted by any of these changes?

>> Joe Horwedel: No, because the impacts we have around Reed Hillview are really around the occupancy and use, density of activity so this did not change that at all. This only affected height and we really don't have height, it will tall use he in Evergreen. So it really doesn't have consequence from that standpoint.

>> Councilmember Herrera: That 120 feet, we haven't looked higher than that at all, throw, 98?

>> Joe Horwedel: No.

>> Mayor Reed: I do want to thank staff for getting this in in a timely manner. It is important to Sam Sunday and others, they are moving ahead with a significant development project in North San José. This is one of the things they were concerned about when they first started down the path. Thanks to staff for getting this here so we can get this as part of the action. We have one request to speak, Mr. Wall.

>> I'd like to thank PBCE and airport staff for all your work. The 79-page Document was rather a work in product in itself. The downtown business association raises some very interesting concerns, and some of the building were already over the height requirement. Now, in reference to the single corridor, I would ask, what about the different types of corporate rigs that come in versus the Dreamliner of all Nippon airways, number 1, and why don't we have universe sitting in these airplanes that they are not going to come down in San José or other places to create another dramatic event? Now the gulfstream 5s and citations I think coming over my backyard seem to be their line of choice outside of those aging 737s from southwest airlines. Now it will be spectacular to see one of

those Dreamliners blot out the sun as they come in pilot training because an engine goes out versus making sure engines do not go out, should be an issue for discussion. I also would like to know what impact military aircraft, it is always interesting to see how the C-141s take up the 69 lie. And it's always a pleasure to see those planes come into our airport. But I think this, today, shows that the envision 2040 plan will be repealed at some point as being the work product of a group of arm scratching monkeys. I'd say no to this plan whatsoever. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. We have a motion to approve with a friendly amendment regarding the direction of staff. All in favor, opposed, none opposed, motion is approved. We have rezoning property at north side of Coleman avenue item 4.3. We have a motion to approve. There are no requests to speak on the motion, all in favor, opposed, none opposed, that's approved. Item 4.4, the vacation of a portion of Emery street from Stockton avenue to Laurel street.

>> Councilmember Oliverio: Mayor Reed, thank you I'd like to make a motion, but I'd like the members of the public to come forward and speak on this item.

>> Mayor Reed: We have requests to speak on this item, David Wall, Jeff Bidola, Keith Brummer.

>> I'm on record every time Bellarmine is on the outstanding people in our community, well, some of them anyway. I think that charging God's holy church in reference to St. Bellarmine, Robert Bellarmine, you should look up on the Internet to find out he is a doctor of the church which is a very rare and distinct designation. november 6th, 2012, the resolution will be conditional upon the completion of the above mentioned sales agreement. It is not listed here the sales agreement and how much. I'm ecclesiastical record to drop all fees and refund the fees of \$5920 and to give the property outright because who I mean you're basically if you don't do this, you're putting your hands into God's collection plate. And stealing. Now, on judgment day, this record will be put forth, I mean I'm not the one that's going to go down to the fiery pits on this one. But for you who vote against doing what I suggest, well you're held to a higher duty and it would be ministers of the people and therefore, the fires may burn a lot longer and harder. So you know I'd just give them the property and be done with it. But it's up to your conscience because now it's a matter of record for all time that I brought this to you and you can't wiggle it out

when you're before God and he said you know councilmember, you had the opportunity. David warned you. He studies San José government, he knows what goes on. He tried to keep you from the fire.

>> Supervisor Yeager: Pits. I guess that decision is not up to mine but I hope I have an influence.

>> Mayor Reed: Jeff bedola, Keith Brummer, Chris Tullin.

>> Hi, this is a minority report. Adoption of the resolution isn't the same as approving it. Irregularities. Number 1, neighborhood consent of the road closure is flawed. Review of impacts was not done. Review is part of the project cycle. Its absence is more telling because further action, this vacation follows it. Whether that disagreement is even legal deserves a look. How can Bellarmine traffic be excluded from city streets? Okay? 3, execution of the agreement is flawed, too. The fence that was installed has no gate. This violates public right-of-way and is an ongoing wrong and ought to be addressed before the process goes further. There's no mention of this impediment or correcting it in the resolution. With open discussion, other ideas could have been offered. I seize additional value for Emery street not being considered. My work as chairman of the college park neighborhood association traffic and safety committee drew unwanted attention to Bellarmine's application and I was let go. Also, was attacked I think in a public meeting held to discuss my proposal for mitigating traffic from the closure. I have evidence, and there are witnesses, choose to not go along with abuses of process, that's what will enable the city to move forward. That's why ethics in public administration is so important. I am neutral about the proposal but not the process. The ends don't justify the means. You can't defer this. Look into these things and maybe while keeping all appears you know helped. Thank you.

>> Mayor Reed: Keith Brumer, Chris Tulin, Scott soaper.

>> Hello some my name is Chris Tulin. I'm the president of the college park neighborhood association and I'm here representing the college park neighborhood association board here. College park had endorsed the closure of Emery street demonstrated by our active participation in the process for road closure. College park voted for the approve of the road closure. We encourage council to adopt the resolution to vacate the portion of

Emery street from Stockton or the Laurel to allow the sale of said property to Bellarmine. I would like to reiterate the conditions important to college Park brought up at the October 16th council meeting. Specifically we wanted to ensure that the following was included in the resolution. One, that the vacant section of Emery street will continue to be designated as a pickup and dropoff area for the Bellarmine students and visitors. Two, the fence blocking access to Emery Street at Laurel remain in place. While the association would have been supportive of a gate, with limited access, for reaching the CalTrain station, our preference is no gate at all. And have pedestrian access go onto Bellarmine through the Stockton street area and not from Laurel. We would please ensure that this is considered, in the Emery street vacation resolution. Thank you.

>> Mayor Reed: Scott Soper, Tom Gornt.

>> Good afternoon, two weeks ago I was asked to speak on behalf of the association because Chris was out of town. We're limited to one minute because of length of meeting however, I did manage to request a clarification because of the map showing a pedestrian easement which seemed to indicate that the fence would not be across the bottom of Laurel Street and that there would be public access from Laurel where currently there isn't. That was adopted by the council so sort of my understanding is a resolution before you now has incorporated those clarifications. And I think you can check that against the video and I've requested that the City Clerk be able to verify that if you ask him. The status quo now with the existing fence is a you result of years of work between the city, the neighborhood and Bellarmine in order to allow the expansion and improvements of the Bellarmine campus and eliminate those impacts to the neighborhood. block of the fire station which would otherwise was routinely blocked by traffic trying to drop students off. And the fence prevents student dropoffs at that juncture of the neighborhood. Now it does require the people who could previously walk straight through the CalTrain station, which only runs twice a day in each direction five days a week ten stops a week in each direction, it requires them go one of block one way or the other, all around, either through the Bellarmine campus or through Asbury street and down. I would ask under those circumstances do we support it, continue to support it or the resolution as it sits before you should specify that the fence remains and that the public access to the vacated portion of Emery Street be from the Stockton side only not Laurel thank you.

>> Mayor Reed: Tom Gornt.

>> I'm Tom Gornt. I'm the CFO at Bellarmine college prep. Bellarmine has been working with the college park neighborhood association since 2003 to reduce school-related traffic in the residential area surrounding the school. In 2009 and working with the neighbors, the city transportation Public Works and Planning Department, along with the district 6 councilman's office the street was temporarily closed for a one-year study period. Traffic studies were conducted in 2010 the decision to permanently close the one block portion of Emery Street between Stockton and Laurel was made was supermajority of Bellarmine's neighbors decided the closure was in the best interest of the neighbors around the neighborhood and the city. Since the closure, the neighbor complaints about double parking red zone park and other traffic violations created by school related traffic have been reduced to almost zero. With the renovation is of the Bellarmine baseball field and setback requirements it became necessary to request that the city vacate the street. There has been a planning director's hearing that was held on October 24th and included in that there was a PD amendment that was approved at that time. It's PD A-12-005-1. And included in that is what Mrs. Tulin suggested, that the street remain as a designated drop-off, point is included in that amendment. That the street is unbuildable property because of the utility easements that run through it and it will remain in its current state and final reply pedestrian and emergency vehicle access will be maintained. So I ask for your approval of this resolution, thank you. And also, the discounted price that Mr. Wall is suggesting.

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

>> Councilmember Oliverio: Thank you, mayor Reed. I think the testimony from Chris Tule and Scott soaper and desires of both the future owner, since the city would be vacating as well as the neighborhood. So I would simply make a motion to put forward the staff memorandum for vacation of a portion of Emery street, including the public service easement, the sanitary sewer easement and the 20 foot emergency access easement, however omitting the 12-foot pedestrian access easement.

>> Mayor Reed: All right, we have a motion. Any discussion on the motion? On that motion all in favor, opposed, none opposed, that's approved. Our next item is item 4.5, development services update and economic strategy top 5 work plan priorities. I would like to commend the staff, we have a lot of projects that are underway in the city. Two years ago we had a jobs and probably close to a billion dollars of projects already under construction or will soon be under construction as a result of that good work. But we have to stay focused on jobs and revenue, huge opportunities, and our staff is working hard to make sure that we're successful. And I'm going to turn it over to who -- I don't know who is going to kick off the presentation, probably Kim Walesh.

>> Kim Walesh: Good afternoon. I'm here with Joe Horwedel and Laurel Prevetti, assistant director. Last October you as council adopted an 18 month work plan to implement the economic strategy and you identified these top five priorities and told us to spend 80% of our time advancing those priorities. So we had a progress review on this in the CED committee last March and we just had a similar progress review last month. So we want to start by thanking the CED committee, led by chair Councilmember Herrera and with councilmembers Kalra, Oliverio and Liccardo they have been a very important sounding board for us the last 18 months as we implemented this plan. As we step back we feel like staff from all of our CED, CSA departments have really made very significant progress advancing these priorities. And I know you know we've done that in a time of very significant staff transitions and vacancies and organizational change. So we've been very actively working with developers and companies on their growth and expansion plans in San José. We've seen growing confidence in our city, definitely growing interest in San José. We're blessed to be in one of the healthiest, probably the healthiest commercial real estate markets in the nation. And lucky for us markets are tightening clearly north of us so we are very well positioned now to attract the next round of large development projects as well as leases for those companies looking for 50,000 plus square feet of space. So I know you know we've been work on major development projects in North San José, a new office building in Santana Row, our whole goal is to get them to and through permit process. We have seen a real uptick in the STI-ITI projects. Our staff have processed 270 projects since March and as you know these projects really reflect renovation and reinvestment in buildings in San José. Our business outreach team has been very, very active since July. We've had meetings with 80 companies. We exceeded our goal to fiscal year 2011-2012. Now, the purpose of these meetings is clearly to get a pipeline of new leasing and expansion activities. But we also have found there's lots of other ways we can help

our companies here, with hiring and taking advantage of existing programs like the enterprise zone and the foreign trade zone. Also, as you know, council approved a whole portfolio of policy incentives earlier this year. And these, we can say are definitely having an impact. So you'll recall the North San José traffic impact fee reduction to incentivize earlier development of up to a million square feet of industrial space in North San José. We expect applications to be filed that will exceed that and may, in fact, be having a conversation with you about possible extension of that. The reduction in construction taxes has attracted a lot of interest, and very significant use of that. It's been a decisive factor and a number of projects for companies like Synaptics, Flextronics, Polycom, Move.com, IBM many others. And of course the downtown high rise incentives. We have one specific proposal for the 1 South market project, are in in conversation with a number of other high rise sites in downtown. So I just want to close by saying in addition to these major development projects that advance jobs and revenue I think we also need to recognize other projects that have moved forward in the last six months that will positively affect San José for years to come. Among them, the finalization of the earthquakes land purchase for the stadium, the breaking ground of the BART to Berryessa project, the new air service and a lot of excitement around the envision 2040 as we kick off the urban village planning project and start talking with developers outside our area as well as local developers about opportunity sites.

>> Joe Horwedel: Also wanted to go through and talk about the -- how we are in delivering our services, we are at a record pace right now. In all parts of our business, as Kim noted, the refilling of vacant industrial space is a very important part of our business. We also have a large amount of new construction going on, in North San José of residential. And are working, we just issued a building permit for Cisco for their first garage to intensify their campus. And making major efforts with Samsung in getting that project moving forward. That all takes staff. And the council you have approved a number of positions in development services at mid year as well as in our current budget. And we have been hiring like crazy. It is something that we are spending an extensive amount of resources both within our departments but also in human resources to support that effort. We have identified some areas where we can do better in that and so we are identifying just as we are deploying now flexible staffing meaning contract staffing, in building, and in planning. We are looking with human resources for them to bring in some contractual staff to help us fill the remaining positions that we are seeing in our world. We received over 50 applications for each of the three positions that we have in the downtown association has for our project expediter

and our small business ambassador position he. It was great to see the interest from both inside and outside the city around those positions. These are positions that we jointly marketed with the downtown association so candidates to any one of those three saw how all three of them fit together. And it is a new business model that we will be operating here really about how to not just focus on the Samsungs of the world or some of the 50,000 foot but it is to actually get down and deal with the people in the 1,000 foot spaces. So there is staffing around that. We are continuing as I said to hire, we are looking at breaking out of some of the city's normal processes, to actually anticipate what's going on six months, a year ahead of staffing. What we are now seeing is just the turnover of staff we've exhausted recruitment lists, brought back everybody we had laid off that was in positions to come back. And so we are running the challenges where people are all retiring, and we kind of know that they're going to do that. But we don't have a replacement form or somebody to step in and start learning the job for them. So we are also starting to do some things where we're advancing some positions so the City Manager's office has been really helpful in advancing temporary overstrength positions so that we can have continuity of the skills of the staff, the transfer of knowledge, the history of projects, to make sure that we don't lose that as staff leave the city. And then lastly, the customer service initiative. We have made a real major investment in how we're delivering our services to our customers. That is gone to the CED committee, we've been working with the chamber, it's development review subcommittee about that project. It is being involved or integrated into the performance evaluations that we're doing with staff about what expectations are and being more specific. We actually have today, in San Diego, a number of our mid level managers that are meeting with the City of San Diego staff and some of their developers about how they deliver a project ombudsman type project and a project for their larger development projects down into the mid size. As we really wanted to go through for those types of projects to really succeed it can't just be the manager or the leader of the project to say this is what we want to do, we want to make sure from the understanding what we need to be doing and kind of finding the entrepreneurial ideas around that and really coming forward, back with how to implement that. And so that's why we sent them down there today to San Diego. And we're going to be looking for some other opportunities what are the best practices that other communities have that we can pull back and go and continue to reinvent ourselves.

>> Kim Walesh: That concludes our opening remarks.

>> Mayor Reed: Thank you. I had some questions about your slides. The work at the speed of business slide and the staffing issues. So we approve 21 positions in January, 19 positions in June. So 40 positions that we approved knowing that business was growing and we wanted to capture it. How close are we to filling those positions? I know you're hiring going through the process but are you there yet?

>> Joe Horwedel: No, we have 25 positions just in PBCE to fill out of 225 positions, so we hired ten planners in the last month and a half which more than doubled our staff so I think we had a last offer that went out Friday or yesterday to the last planner. We have some positions that are in the supervisory that we have not gone after filling because we were focused on front line so now we're coming back to start filling some of the supervisory positions which will create or front line position he. Electrical inspector we need to go back out again and probably find another one or two electrical inspectors. We are recruiting for engineers right now, for plan check. For both a senior or associate, and a brand-new class of kind of journeyman entry type level engineer we have never had before we are in the midst of that. We are recruiting for the small business and project expediter so it's kind of continual.

>> Mayor Reed: It's going to be a while before you're fully staffed but there's a lot of work and opportunity there and we have to work in days, not weeks. And what's the -- how long does it take now to get an appointment to come in for STI or one of our programs that we're trying to get people to use?

>> Joe Horwedel: STI we were about three weeks out. So that's further than we would like so that's one of the ramping up to shorten that back down. We have a little bit of capacity so when we do find somebody who really needs to be in we're able to get them in, in a day or two. We've got a little bit of stretch in that but generally we're three weeks out. Inspections we were out over a week, we got back to next day inspections until a couple weeks ago when we did two weeks of training for all the inspectors that took essentially half the staff off line. We backed up and then we're not catching ourselves back up again so I think we're kind of at an equilibrium with inspection. Planning we just today reinstated a second planner answering questions in the permit center so that was one of the positions we got in the budget. That person's now on board so that's allowing us to shorten up the time people have to wait to get general inquiries answered which generally feed into either a building permit or

planning permit so that's been kind of long overdue getting that one filled. And then on the planning side of it we do have a contract staff planner who is work clearing off some of the backlog that we had off of people's desks. We're doing the same with building, we brought in two plan checkers for two weeks, cleared away a bunch of backlog. We're bringing some more I think it's next Monday for another couple of weeks to work our way back to equilibrium.

>> Mayor Reed: I think it's important to stay there at that level so that if we have to use contract people to fill in or whatever we have to do, retiree rehires whatever it is because if we miss a project, that could cost us a million dollars worth of tax revenues and fees and things. And there are a lot of projects moving so the staffing is a critical part of it. Now I don't know how much additional staffing work our human resources department can handle because they've got demands all over the organization. But this has to be a high priority, because if we're leaving revenue on the table then we don't have revenue to hire people to do things.

>> Joe Horwedel: Right. And that is, we had a meeting that City Manager hosted with all the affected departments, including HR about what we need to do to get all of those positions filled. And so with that we're going to be doing the contractual human resources staffing to help with those recruitments, I'd asked my admin staff to look at where we need to do some additional work to help with that. Because literally, it's just you know, we've closed for the small business expediter, small business ally a couple of weeks ago and we got the applications today. It's just everybody is running fast so things don't get where they need to. So we're trying to reduce those bottle necks or reduce them.

>> Mayor Reed: We spent a people come and invest in San José. Office of economic development generating the work, now we have to deliver and that's often harder but if we don't have the staffing, we have to figure out a way to do it. I had a couple of slides I wanted to put up. The first slide is, why you guys are so busy? That's nine months of 2012 for some -- that's just some of the companies. Those are kind of driving-industry companies that went through our expedited permitting process. And 2011 looks about like that. This is big are than 2011. With any luck 2013 will be even bigger. But there's a lot of work that's gone into those, we have a lot of success stories, a lot of great things that have been done by the entire organization. But I'd like to have many, many, many

more low goes on this next year when we look at this and we need the staffing to be able to do that. I had another slide. Because here's things that aren't on that logo slide. This was attached to the memorandum that I put out. There's probably about \$1.6 billion worth of projects that are circulating our city in one form or another, trying to get underway. And that's why I have this real sense of urgency, knowing that the Silicon Valley rolls in waves. And if you're not prepared for the wave when it comes in, it might knock you over. We want to capture as much of this as we can. There are others. There are other parts that are moving. I think I mentioned in my memorandum that there are at least several dozen companies that are look for 50,000 square feet or more currently in the market. And I have been told by one of our billion dollar investors in the city that their market research tells them that there's probably 200 to 300 companies that are going to need 50 to 100,000 square feet that are going to be moving in our region over the next couple of years. And these things happen periodically in Silicon Valley. We don't know Howe how long it's going to last. Keep pulling for the national economy I think ocontinue to grow a little bit. But it's just huge opportunities and we want to capture this because ultimately, it does translate into revenues for our General Fund. Even though it goes through the Redevelopment Agency and successor agency as a direct impact on our General Fund, and we generated a billion dollars worth of investment a scum of years ago with the work that we did, there's another billion here at least and I think we can do a billion worth in the next six months. But there are lots of other projects that aren't on this list or the other list that are moving and we have to be able to deal with it. I had one other slide. We sent out had this -- my memorandum, some people had some comments that came back. This is a selection of those. I'd just like to point out the one on the bottom right-hand from Tinsdale Sobrato, there is probably nobody in the valley has more experience doing development over a longer period of time that Sobrato organization and as you know, Tim steele says the technology grows and retracts in waves and when that wave is coming in you have to be ready or you miss and you're out of the game. So we have to be ready. If you look around us, at the kind of development that's going on to the north and other cities, we have millions of square feet that are already under construction. Millions in the pipeline planning process. And we don't want to be left behind. And so this is an opportunity that we want to capture for the jobs, and certainly for the revenue. Because as you all know we could spend a few more dollars if we had a few more dollars delivering a lot more services to our people. I want to thank Office of Economic Development, Planning, Building, and Code Enforcement, city attorney's office and others that get involved in this

to deliver on these projects to make them happen. We got a great opportunity and I think the next year's going to be really good for us with all of the work that we put in on this. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you, Mayor Reed. I also wanted to thank staff, everyone who's involved to bringing this issue forward and of course my colleagues who serve on the CED committee, especially chair Rose for her steadfast leadership and also to the mayor for his forward-thinking and really laying out what we need to do in terms of attracting more economic development in the next six months to a year. I think that as we're moving forward towards economic development we can all agree that it's important for San José to remain competitive in the eyes of those who have major projects in the pipeline as well as those who want to bring business to our city. The mayor's recommendation of expediting the permitting process will only help and will not harm us in any way and I think that the recommendation of adding or forming the ad hoc committee on economic competitiveness is a good one. It's a much needed one and I'm really excited that I've been nominated to serve with councilmembers Herrera and Liccardo along with the mayor on this committee. I think that we're going to do exceptional work, I think we need to get these projects moving as fast as we can at the speed of business as we all like to say. So with that I would like to make a motion to approve the mayor's memorandum dated November 1st, 12.

>> Councilmember Herrera: Second.

>> Mayor Reed: All right we have a motion to approve the memorandum. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks Mayor. I notice in the overhead when you listed that the key priority projects, and I know it's not an exclusive list, but you did include the Sun Garden Center. And I noted that was I think just accidentally omitted from the written document, I'd just ask that the make-up of the motion might incorporate as part of one of the priority projects.

>> Vice Mayor Nguyen: Actually, thank you, Councilmember Liccardo. The Sun Garden project is something I actually wanted to speak on, I got excited and forgot about it. If you would allow me.

>> Councilmember Liccardo: Please do.

>> Vice Mayor Nguyen: Say something about that. This project is very exciting. It's going to be developed in an area where we have seen so many social problems, including the issue of homelessness, loitering, prostitution, just a lack of retail stores in this particular area. And so we're really excited to work with Michael Mulcahy and his participates to bring this project to District 7. And staff is aware of this but essentially this is \$42 million investment from these folks and it's going to generate a half million dollars of sales tax for the city as well as 50 million in property taxes for the city. Like the mayor said we won't be able to continue to provide the services that we want without supporting projects that will help us generate tax revenue and other revenues. So in addition, this project can provide 400 to 600 construction jobs. And I think that one of the exciting things for me is that it's going to be a part of the future three creek trail and they're working with the neighbors to make sure that they're going to be a part of this process moving forward. So thank you, Councilmember Liccardo for mentioning that and yes, I will include that.

>> Councilmember Liccardo: Thank you for doing that.

>> Mayor Reed: Let me just add to that. That my memorandum was not an attempt to provide a completely list. There is many, many more. This is a partial list and that one certainly needs to be part of what we do.

>> Councilmember Liccardo: I appreciate it's not exclusive but certainly it's meaningful to certainly prospective tenants that we would like to move through chute more quickly. I just want to be clear about the item that's identified in the but point on page 6, the steering committee for the one voice approach to SB 375. Who would be sort of the person who's coordinating that, would that be you, Laurel or someone in economic development?

>> Laurel Prevetti: Actually we've got a committee already set up with the City Manager's office, Department of Transportation, myself representing planning and the housing department. So it's kind of co--led because as you know SB 375 it is more of a transportation issue in terms of where are we going what transportation grants other

times it's more of a land use issue so it really is a partnership. I am actively involved representing the city on the regional planning committee that ABAG has. So to the extent that I can represent the city it's my honor to do so.

>> Councilmember Liccardo: Okay. Reason why I ask is, I know some of my colleagues on VTA will recall last week, we had a pretty active discussion on VTA about the habitat conservation plan and what might be done regionally and I think it would be really helpful to have staff engagement in that process both VTA and with other city staffs. And so I'd be happy to talk more off line about how we might do that but I think that's going to be strategically important for San José. And then finally with regard to the customer service initiative Joe I appreciate your speaking to it. My recollection was that there was some discussion about that coming back to CED and to council. When do you anticipate that?

>> Joe Horwedel: I think the December meeting is going to get cancelled for CED so I think it's the January date that everything is moving to that point.

>> Councilmember Liccardo: Okay, greatly, could I ask the maker of the motion to incorporate that as well?

>> Vice Mayor Nguyen: Absolutely.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. Kim I would like to say thank you for mentioning Santana Row and I really appreciate the Planning Department's expediting the hearings before council and having that flexibility to have those hearings during the day. It makes a major difference for them versus having to wait three or four weeks, they are consumed about the entitlement process rather than going out to get a tenant. I really appreciate that. Joe or Laurel the mention of contract staff to help clear out the backlog, do you have all the flexibility you need to hire contract staff to fill the gap in between hiring, for example you said, an electric tricks or

electrical inspector was difficult. Do you have the flexibility to bring someone to manage that so we can keep up to speed?

>> Joe Horwedel: Yes, we have currently four contracts that are available for building and fire that are for plan check and inspection. We've used them in building for the plan check piece of it. We have not used it yet for inspection. We have a number of retiree rehires that we are using for electrical. In planning we have two contract firms and we are using both of them now.

>> Councilmember Oliverio: So do you feel you have all the flexibility you need to react to the market?

>> Joe Horwedel: Yes.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to thank Kim and Joe and Laurel and staff for the excellent work they've been doing. It's been a pleasure as the chair working with the committee, and in making great progress, with really limited resources so I just wanted to say that. I'm very supportive of the mayor's memo and honored to be part of that effort to move these projects forward. Looking forward to that.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Yes hopefully with a quick question. Since our first priority is working at the speed of business, and moving things through quickly, what specifically are we using as measurements, what measures are we using, how are we tracking them and where are we reporting them to make sure we are meeting up to that number 1 commitment specifically for the job creation and revenue generation?

>> Joe Horwedel: So I can talk to the measures we use in development services for speed of business. First of all on the reporting side of it we report them in the budget process. We report them through the CED committee and then we also report those through our regular meetings we have with the development committee through the development review subcommittee at the Chamber of Commerce. We use a number of measures that were created with our customers about what acceptable service standards were for different types of delivery of that service. We are going through a continual reevaluation now to see where it makes sense to tighten those up and reconcile them so that's kind of an ongoing basis and I think you'll see some of that coming in this year's budget of some suggestions around that.

>> Kim Walesh: We track the revenue associated that we've had a direct hand in and job creation as part of our performance measures so those are reported in the service efforts and accomplishments report and through the budget process.

>> Councilmember Constant: I just think it's important if it's our top priority which it is that we have a way of getting that information to the council on a regular basis. You know not just annually or having to dig through a CED committee report. I think that would help all of us who aren't involved in the committee level.

>> Joe Horwedel: And I think that's one of the things with the ad hoc committee that the mayor has proposed creating that that would be one of the things we would share with them at each meeting is how we prepare month to month because we do prepare those numbers monthly.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, Kim, the 18 months, you mentioned we were here last October, so it's not 18 months, maybe it was in the memo I read. Why are we coming back earlier than the 18 months?

>> Kim Walesh: I think you directed us to report back every six months on our progress.

>> Councilmember Rocha: So council we're going every six months for --

>> Kim Walesh: Yes, we report to the committee on progress and then it's rolled forward to council. We cross referenced --

>> Councilmember Rocha: The loan item.

>> Kim Walesh: Exactly. What's coming next sometime after March will be the creation of what could be the final 18 month work plan for the five-year strategy that was adopted in 2010.

>> Councilmember Rocha: Okay, so that would be in March?

>> Kim Walesh: In the springtime the full council involvement with that setting direction.

>> Councilmember Rocha: Okay I have a question really only suited for the mayor given he was on the memo. Maybe this was discussed at Rules and I was not privy to the discussion. Regarding the ad hoc, somewhere in here if it's listed and I missed it the last paragraph of the first page background so I'm curious as to the scope of this ad hoc and its purpose and goals and outcomes.

>> Mayor Reed: Well, it's ad hoc so it's not well defined but it's intended to be short term really focused on six months, whether it's going to be three meetings or four meetings yet to be seen with really the general focus on what are the projects, how are we doing and what policy issues, what regulatory issues, what staffing issues might be in the way of trying to -- of getting to success. And if there's something like that a policy then we need to bring it back to the council. So beyond that it's not well defined because it is ad hoc and it's really intended to deal with this specific topic -- deal with this specific topic. There are lots and lots of things still going on that would run through CED committee in regular course, just to pull this forth and focus on it.

>> Councilmember Rocha: How is that any different than the CED committee ?

>> Mayor Reed: It's to take one small area and pull it out and focus on it. The CED committee would still have all the other things that the staff is working on that would come to the CED committee. But this is really to pile a lot of attention on this just because it's a very short term opportunity, very important something to focus on.

>> Councilmember Rocha: Is it going to be staffed by city staff I'm assuming how many departments OED, Planning, Building, and Code Enforcement? City Attorney?

>> Mayor Reed: These are the people that are already doing the work. All of this work has to be done, the permitting and all that sort of thing is done anyway. This is really a chance to report it in a public way to the council. That will allow us to identify impediments that really are in the way of staff. So you've probably experienced this from time to time. You ask a question, the staff will say that, well, I don't know if we can do that, there is a council policy.

>> Councilmember Rocha: That is a venue for discussing that?

>> Mayor Reed: There is a policy let us give it to the council and let the council make a decision, quickly, not circle it for six months and say that's really a problem.

>> Councilmember Rocha: And the airport competitive ad hoc committee is that one still meeting?

>> Mayor Reed: It's kind of run down in terms of the work, it's not officially disband he.

>> Councilmember Rocha: Officially?

>> Mayor Reed: It's ad hoc. When it runs out of work it runs out of work.

>> Councilmember Rocha: How long has that been going?

>> Mayor Reed: I think a year, I've kind of forgotten. I think a year.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: Any other questions or comments? We have one request from the public to speak, that would be Mr. Wall.

>> Sir, look speed of business versus the speed of waving taxes, fees, et cetera, when you yourself have projected, \$22 million deficit, really \$22.5 million and growing. The question would be, how prudent is this be waiving taxes and all these fees and entitlements when you are fating a deficit that may not be able to give our learned folks at PBCE to give predictions or your forecasting is very, very poor in the past and I don't support it. Let's look at the downtown high rise incentives. Incentives for residential downtown high rise projects include 50% reduction in taxes. That's nice. Ton of people, 50% reduction tax for the building. Fee deferral until occupancy. Continuation of park fee reductions, and suspension of affordable housing requirements. Now, this goes back to item, what was it 4.1? So here's a government that can say, okay, downtown, we're going to suspend the affordable housing requirements. But if you are in the hinterland, you have to build all this affordable crap. Mr. Mayor, we had building height requirements well of course developers are showing an interest in high rise developments, where the reduction or -- with an increase in heights or whatever, because you're reducing all these fees and cramming all these people into a little area. With the parks and everything else, it's not going to be funneled, all I can say is ladies and gentlemen at home, these are the same people that have run this city into the ground with their financial projections and now they're coming up with a new model that says hey, look at the pretty birdie in the window without looking at the deficit you're going to step in starting fiscal 2012-2013. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve the memorandum as modified. On the motion, all in favor, opposed, none opposed, motion is approved. Our next item and last on the

list is 9.1, amendment to the agreement at Macias, Gini & O'Connell for financial audit services. We have a motion to approve. By the Vice Mayor. I have no requests -- no, I do have one request to speak, Mr. Wall.

>> To date I have yet to hear an apology from a high strung councilmember, about not thanking Mr. Richard Keit of the Redevelopment Agency about this so-called hidden report that surfaced in the Mercury News and of course the yellow journalism substandard reporting of the secret report that wasn't secret at all. Yet Mr. Keit is running an outstanding successor agency. January to June to fund this outstanding successor agency. And yet we have an audit here and I guess an audit is required, because someone some somewhere, realized that councils shouldn't have redevelopment agencies because they run up debt they cannot pay. They take money away from schools to where governor Brown has to come up with proposition 30 and some other lady for prop 38. When you look at this and you have to approve this audit reflect back in time of all your forecasting that you did, selling your projects to the public, what you did. And then coming up to where you're so substandard you're going to be losing money on your Redevelopment Agency debt. Starting next year. I thank Mr. Keit and the successor agency and I'm just wondering at what point in time that this councilmember that took all this free press from the Mercury News will come to lord Jesus and repent of that sin and sin no more on this type of issue? Thank you, councilmember from District 3.

>> Mayor Reed: That concludes the public testimony on item 9.1. We have a motion to approve. On that motion? All in favor? Opposed? None opposed, we have a -- one more item on our agenda, 9.1 is approved, open forum is our last item. Jeff Bidola and Mr. David Wall. Mr. Wall you've got the microphone, go first.

>> Today, we have an issue that I raised in Rules Committee about how the independent police auditor has been politicking on camera on television camera in what appears to be her uniform and city office to basically tell people that don't do the death penalty, the death penalty is broken, I enthuse were her correct words. This is a memo that showed up on the public record. Now, I asked the question, how can a public official appear on television camera or supporting a political position, unless of course had council authority to do this. Because if a police officer or firefighter or a City Attorney, deputy City Attorney were to do so, they would be fired in a heartbeat. So I think there has to be some questions to this issue. Besides I think the death penalty is not broken

because President Obama could give executive order to a couple of seal teams and exterminate death row inmates in a couple of hours, I don't understand why that suspect being done. That memo sets the tone right there. The other memo has to do with having to expend my federal District Court on the sewer service and use charge and the storm sewer charge and how they are formulated. I just put this out on the public record. I reference it today so you're all made aware of it. The formulation for these charges are governed by proposition 218, which is an amendment to the state constitution for State of California. With reference and deference to how these rates are calculated, back in the '70s by some state-appointed board. One of the arguments I will assert is the constitution trumps some state or board. And over 37 years of done-doing, is rather damning. So here it is for the record. I'm going to continue my administrative remedy. Thank you very much.

>> Mayor Reed: Jeff bidola.

>> Customer service feedback. I'm not sure I was well served. I spoke a little earlier on 4.4. I heard after public comment, the proposal to the pedestrian easements and it was approved. That came up and was approved and there was no chance to comment on what was substantially a new issue was not relevant to the decision made here. That's not sympathy with justice in the councils of America. Also, the public notice said, all persons interested in or objecting to the proposal, that's not a logically distinct dichotomy and doesn't cover neutrals. If it's interpreted, if interest is interpreted in the legal sense. These points are problems with the customer service process. Thank you.

>> Mayor Reed: That concludes the open forum, that concludes our meeting, happy election day. We're adjourned.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call this meeting to order. This is the San José city council meeting for November 6th, 2012. We will start with an invocation. Councilmember Pyle will introduce the invocators.

>> Councilmember Pyle: Thank you, mayor. Since Veterans Day is on November 11th, and there will be no council meeting next Tuesday, we will be doing our own celebration today. And we are celebrating two occasions: One, election day, and two Veterans Day, two truly patriotic events. Honoring our veterans on election day makes sense on so many levels. Our veterans past and present have and continue to protect our right to vote, protect our country, come to aid in our time of crisis and are always ready to help all of us. Voting is both an honor and a duty. So I hope you have or will join me in voting today and giving respect to all of our armed forces. Joining me now or join me now in welcoming from the United States army. Staff sergeant first class Jesse Hanson with the American flag, staff sergeant Casey Brooks with the California flag. And staff sergeant Juan Aromblez with the San José flag. Assisting them is Wilfred Fernando and Kimberly Spike. With us today also, we need to give a very hearty welcome to Joyce Randolph, an extremely talented singer and retired San José employee and to sing the national anthem. Thank you all for being here today.

>> O say can you see ∂ ∂ by the dawn's early light ∂ ∂ what so proudly we hailed ∂ ∂ at the twilight's last gleaming ∂ ∂ whose broad stripes and bright stars ∂ ∂ through the perilous fight ∂ ∂ O'er the ramparts we watched ∂ ∂ were so gallantly streaming ∂ ∂ the rocket's red glare ∂ ∂ the bombs bursting in air ∂ ∂ gave proof through the night ∂ ∂ that our flag was still there ∂ ∂ O say, does that star spangled banner ∂ ∂ yet wave ∂ ∂ O'er the land of the free ∂ ∂ and the home of the brave ∂∂ [cheering and applause]

>> Mayor Reed: And now please remain standing for the pledge of allegiance. [pledge of allegiance]

>> Order, halt, rise, right march.

>> Mayor Reed: Our first item of business are the orders of the day. We have a request to add a ceremonial item for recognizing the month of November as Sikh awareness month in the City of San José. Any other changes to the printed agenda? We have a motion to approve the orders of the day. On that motion, all in favor? Opposed? None opposed, motion is approved. Please note that we will be adjourning this meeting in memory of Esther Medina, social activist, stalwart of the disenfranchised. Executive director of MACSA. Esther passed away October 17th at the age of 76. Councilmember Campos has some comments.

>> Councilmember Campos: Thank you, mayor. Good afternoon. It gives me great honor to be able to enter this adjournment into the public record of Esther Medina. Esther passed away on October 17, 2012, surrounded by her loving family. She was 76. Esther was born in Ventura, California December 15, 1936 and grew up in San José. She is survived by her husband, Juan San Miguel, daughter Cameo Burton, the star of her eye, her grandson, Cooper Burton, her son, Derrick Gonzales, daughter-in-law Janine Gonzales, sisters Pilar Briones, Emily Gonzales, Rose Valdez, and many nieces and nephews. Esther will always be remembered for her advocacy on behalf of Latinos and women and the underserved. She was a tireless advocate and will always be known as a legendary champion for the Latino community. Esther was the youngest of seven children and was born in a migrant farm workers camp in California. She began picking fruit at the age of five. In her later years Esther learned to style hair and opened several businesses around the beauty industry. But her career in fashion was not fulfilling her passion to help others and make a difference in people's lives. Longing to make a difference in her communities she sold her businesses in the early '70s and worked in our community. This was a beginning of a life of advocacy and community involvement for Esther. In 1982, Esther took over as executive director of the Mexican American Community Service Agency. During this time the agency was going through many changes, but 22 years later, she -- because of Esther's ability to transform the center and transform our city through nonprofits, MACSA was providing low income housing for seniors, running youth programs in schools and the youth center and operating adult day health care services. As a single mother during most of her time -- during most of her time at MACSA she made it a point to be the first example to her children. She was a woman who was a leader not only in the community but a leader to her children. Est they're was driven by the love of her culture and the connection she had with those who struggled in poverty, and who experienced inequality. She was a strong presence in the community, and was influential to so many who had the privilege to work with her. On a personal note. Esther was a friend. She was an early mentor of mine. I think you could -- you could make an argument, there are so many physicians, attorneys, teachers, public servants, that have -- that were mentees because Esther saw something in them. Esther was a feminist, she was a Chicana. She was a Chicana activist back when it wasn't -- you weren't supposed to be doing those things in the '60s and '70s. Esther pushed the envelope and as a result San José and Santa Clara Valley is a much better place for many of us. Every single one of us on the city council, back in the '70s Esther was a stalwart in making sure that this city went to district-

wide elections. So the folks in our neighborhoods can have tangible representatives that they can go to every day. You know, Esther was part of that. We are all going to miss Esther but I know that her family is going to miss their mother, their wife, their grandmother. And I just want to, again, thank you, in public, for being so unselfish, with your mother and your wife, because she really changed this valley. Thank you. [applause]

>> Mayor Reed: Thank you, Councilmember Campos. Next item is the closed session report. City Attorney.

>> City Attorney Doyle: Yes, mayor. The mayor and council met in closed session this morning. We were given authority to file litigation in one matter. The nature of the action and the name of the case will be provided upon filing upon request.

>> Mayor Reed: We'll now take up the ceremonial items. We would like to start by inviting Councilmember Herrera and representatives of the United veterans council to join me at the podium. today we're presenting a proclamation designating November 11th as Veterans Day in the City of San José. In honor of those who served our nation in the United States armed forces which does include Councilmember Herrera and myself, and some of the folks you see in front of us. Obviously, it's no surprise that November 11th is an important day, it is Veterans Day and national holiday, so we welcome those who are here, and Councilmember Herrera has some comments.

>> Councilmember Herrera: Thank you, mayor and today, the City of San José joins communities across the nation to proclaim Sunday, November 11th as Veterans Day to honor the service and sacrifice of veterans throughout our nation's history. I want to thank Dave Sanders U.S. Air Force Sergeant, retired, and current president of the United Veterans Council, American Legion District 13 Commander EVC past president and Evergreen resident Dennis Fogge, and Ron Wanhades, commander of military order of the purple heart for joining us today. The United veterans council was founded in October of 1922 to support the welfare of all veterans. Their dependents, especially the veterans hospitalized in Veterans Administration hospitals within the Santa Clara County. But in addition to their wonderful work on behalf of he veterans the United veterans council also hosts the Veterans Day parade in City of San José each year. This year marks the 90th year. A moment of

silence at the 11th hour of the 11th day of the 11th month. This origin of the holiday began in 1919 as armistice day. This day was a day to reflect on the heroism of our soldiers and the opportunity for America to, as president Wilson put it, to show their sympathy with peace and justice in the councils of the nation. In 1954 the day was renamed Veterans Day both to honor all military veterans and to be a day dedicated to the cause of world peace. So on this veterans day we should reflect on the bravery and self sacrifice of every man and woman that serves our country in the military. They serve to protect our freedom, our rights, our way of life, but we should also reflect on the fact that through their service our men and women in the military keep our nations safe from harm and make our world a safer and hopefully a more peaceful place. And as was brought up earlier, the right to vote, a precious right for us, is a hard-earned right, won and protected by those who serve us in the military. As a Vietnam era veteran and one of two veterans on the city council it has been an honor to support our men and women in uniform, both veterans and active duty. Also want to say we also should acknowledge that we have men and women serving today in harm's way across the world. So please come out and show your support for our veterans by attending the Veterans Day parade this Saturday at the plaza de Cesar Chavez on Market Street. This year vice admiral Paul Zunkund of the United States Coast Guard will serve as the grand marshal and there will be bands and floats from all across Northern California. So we want to encourage everybody to come out and show your support. I also want to acknowledge one of our own here, Stu Lavate and all city staff that serve in the military. At this time I would like to ask Mayor Reed to present Dave Sanders of the United veterans council with a proclamation for Veterans Day. [applause]

>> Respected members of the city council, ladies and gentlemen, on behalf of the members of the United veterans council of Santa Clara County, I accept this proclamation on their behalf and for them. It is horrible to correct any member of our political system, however, if you go to the parade on Saturday, you'll be able to help us set up for it because it's Sunday. So it will be Sunday. There is confusion in the fog of war due to the fact that officially it will be observed on Monday. So somewhere in between we're going to have a wonderful parade on Sunday at 11:00 at the 11th hour on the 11th day. And please, come out and show your support. For our current troops that are serving in harm's way. And also, be thankful that our mayor has a wonderful daughter whose husband is also serving for us, and thank you very much and God bless America.

>> Mayor Reed: Now I'd like to invite Councilmember Chu and Kelly Estes to join Councilmember Herrera and me at the podium as we commend Kelly Estes for her dedication and commitment to spearheading the veterans proactive assistance task force. Councilmember Chu has some of the details.

>> Councilmember Chu: Thank you mayor. We are here today to commend Kelly Estes, for her commitment and dedication to spearheading the veterans proactive assistance task force. Kelly started her volunteer in service to the community at a very young age. When she was 14 she began her service as a member of the Santa Clara County youth task force. When she participated in let teams focus on social issues most notably if cyberbullying and amounts teams. Kelly was appointed by supervisor Ken Yeager and became the youngest sitting human relations commissioner at age 21 she was named commissioner of the year by her peers and took on the role of the chair for the justice review committee. The youngest ever to hold that position. Due to her family's long history of service, Kelly has a unique passion for military veterans. Especially those attempting to reintegrating in our community, and inflicted with posttraumatic stress disorder or PTSD. Due to Kelly's strong belief that PTSD among service veterans often lead to criminal activities, in 2010, Kelly began her effort to assemble what has become the Santa Clara County veteran proactive assistance task force. And here today, to support Kelly, are Charlene Domingo from the blue star moms, Dave Walker, who is retired from the Campbell police department and Richard Herrera, director of Santa Clara County veterans service organization, and Lance Lucas is Santa Clara County superior court judge. So at this time, I would ask the mayor to do the honor, present the commendation to Kelly Estes. Thank you.

>> Good afternoon, and thank you for inviting me to participate in your city council meeting today and for recognizing the work I am doing on behalf of our veterans. I'm truly humbled. I've served as a volunteer in Santa Clara County since I was 14 years old and had the pleasure of participating in many meaningful projects. However over the past two years I've had the opportunity to many of whom are present here today. Coming from a family of combat veterans who have served this country who have suffered and been awarded medals for their courage in battle I have always had a special place in my heart for those who have served and sacrificed. Through my work as a Santa Clara County human relations commissioner I have worked to make veterans a priority in the community. When I set out to create the veterans proactive assistance task force a

year and a half ago the vision he was a proactive approach to resources in our community. After putting together the initial strategy I approached District Attorney Jeff Rosen for support. Fortunately Mr. Rosen had an incredible amount of respectful support that he and his office have so graciously provided. Over the last two years I have traveled the state and met with many people, representing some of the most important resources offered to our veterans. Getting to know each person and the incredible stories that inspire them to dedicate their lives to our vets. I believe that the task force is not complete with the best advisors to realize our potentiality as a body to assessing our prevent incarceration before it occurs. I'm proud to say that we as a body are advocate that law enforcement work serious crime being committed. Young people are returning from battle with both mental and physical wounds that go unaddressed for years. Until they result in broken relationships, with family and friends, and criminal acts which often result in harmful results to the community and its citizens. So I dedicate this service to those heroes who didn't come home from war and to those who did whose lives are ever changed and whose families are struggling for answers. I thank you for this commendation. It means the world to me. I hope you have a happy Veterans Day and God bless you all.

>> Mayor Reed: Now I'd like to invite representatives from the office of economic redevelopment, women impacting public policy and representatives of knowledge is's neighborhood business associations declaring November 24th, 2012. Councilmember Herrera has the details .

>> Councilmember Herrera: This one is on a Saturday. Thank you, Mayor Reed. Today we're proclaiming small business Saturday to recognize the importance of small businesses play in strengthening our economy. And I wanted to introduce those who have joined us today to acknowledge their efforts in supporting small businesses. Diana Dacci who is the director for special projects for the organization women impacting public policy, from our City's office of economic development, we have B.J. Sims and Des Woodworth. They are working on our city's efforts under the shop San José initiative. So when you think of shopping, shop in San José. Abby Swartz, the South Bay manager for yelp. chief technology officers at shopsan José.com, a Website that also supports local businesses. We have representatives in are San José's chamber of commerce that serves as advocates for their members, pat Saucedo, vice president of the dennis King executive director of the Hispanic Chamber of Commerce Silicon Valley and we have executive director of the Japantown business

association. And representatives from Willow Glen business and professional association, executive director Valerie Merklin and business manager Cynthia Gutierrez. The small business Saturday. Maul business Saturday is a day dedicated to supporting small businesses on one of the busiest shopping weekends of the year, Saturday, November 24th, right after Thanksgiving. This national initiative encourages consumers to make their choice, to make their purchases within their own community, by shopping small at their favorite local stores to help fuel the economy. Our local effort the shop San José initiative under the Work2Future program under about the advantages of shopping locally. Namely, that what they want is here in San José. That local jobs are created here when you shop here. And that the environment benefits from less driving. And that public services are sustained by local purchases. These objectives are well aligned with the small business Saturday efforts which strive to remind consumers that they can make a decision this holiday season to patronize the businesses that contribute to the vibrancy of their own community. There are over 45,000 small businesses in San José which form a vital element to local job creation. 11.5 billion is spent on goods and services annually by 319,000 San José households, a figure that will grow outstrips of that other large Bay Area communities. The small business Saturday campaign is striking a chord throughout the nation due to American Express and hundreds of businesses and organizations. by coordinating with local groups. Thank you for your efforts to make small business Saturday a success, for those interested in knowing more about small business Saturday I encourage you to, visit Facebook and search for small business Saturday. You can also visit www.shopsanjos.org/bis. To say a few words and mayor, present her with the commendation . Proclamation. [applause] Good afternoon. I'd like to thank Mayor Reed, Councilmember Herrera and the rest of the councilmembers along with Des Wood worth, who has been instrumental in bringing this proclamation today. I am here on behalf of as Councilmember Herrera has said, I'm here on behalf of women impacting public policy and small -- business Saturday coalition to accept this proclamation. We are thrilled with the momentum this year going into 2012 as Councilmember Herrera said. It will be on November 24th, this year. So we hope that everybody in this room will be out that day shopping and supporting small businesses. I'm also here to congratulate the mayor, and the councilmembers, as well as the economic development group, for all the initiatives that they do have, that they have taken for small businesses. I think that a number of the cities around the country certainly look at San José and look to emulate the model that they have taken on in support of small business. On a final note, just to let you know that last year, we had small business Saturday drove over 100 million Americans to shop, which is a significant number. And we're looking

forward to that same level of success. And if not more this year. And take us into a great momentum into 2013. So thank you, mayor for this proclamation. [applause]

>> Mayor Reed: Like to invite Councilmember Constant, Bill Sherry, and Ruth Panelina to join me at the podium as we're commending Niederlander organization for its contributions to the arts and musical theater in San José celebrating its 100th anniversary. Niederlander organization began in 1912 founded by David T. Niederlander, now it's third generation, one of the largest most experienced operators of live theater. The family owns, operates and presents in theaters across the world. They have produced and co-produced and participated in many, many successful shows, co-produced and invested in a number of musicals, revivals, touring productions, you name it, they've done it. Broadway San José is part of the Niederlander organization and where Silicon Valley can find some of the best shows touring the U.S. Contribution to arts and theaters in San José working with Team San José in our facilities and we are looking forward to a very long relationship. Maybe we'll make another 100 years here in San José, so thank you very much.

>> Mayor Reed, councilmembers, San José, and our partners at Team San José, I want to on behalf of the entire Niederlander organization tell you how honored I am to accept this commendation and I want to invite everybody here in the entire city to continue to support the arts and go out and see theater, go to the symphony, do ballet, whatever makes you happy. The museum. It's all wonderful and it helps the city. And I hope you're right, we're here for another 100 years. Thank you. [applause]

>> Mayor Reed: I'd like to invite Councilmember Kalra and our Sikh community members to join me at the podium, to recognize the Sikh community, I know we had a large group here. Councilmember Kalra has some of the details.

>> Councilmember Kalra: Thank you, mayor. We did have a reception beforehand. I did want to introduce, there is a number of people who are going to come down. There are a few folks from organizations, I will introduce, including Cimarron core, pushpinda, J.J. Singh, Dr. santa Clara university, Habir Bahtia, who worked hard with my office to put this together, and Nurinder Singh, as well as other individuals behind me. In June passed a, of

course subsequently on August 5th, the senseless act of hate took the lives of opportunities for us to help do outreach and educate the greater community about Sikh Americans. Today, we do have the opportunity to honor the memory of those lost on that day and recognize and appreciate the important role that Sikh Americans have played in our state and beyond. Sikhs have been ever present in American history make significant contributions to our great nation in the areas of agriculture, trucking, medicine and technology as well as business entrepreneurs. During the early 20th century thousands of Sikhs helped expand the California frontier including their work on farms, lumber mills, mines and railroads. And of course, Dr. Dulip Singh sound was not only a Sikh American Indian American he was the first Asian American indianaian American to ever be a member of the California -- from California to be member of Congress although that may change later on today with a couple of Indian Americans that are running in this state. Today, an estimated 250,000 Americans of Sikh origin, reside here in California alone. Here in the Bay Area the San José Gurdwara has a nearly 30-year history and is now the largest Sikh temple in North America. polling place today so you can definitely see it's become a community center beyond just its place as a house of worship. On this historical day here at City Hall I'm proud to honor the Sikh community for all their hard work and from distinguishing themself through faith and service earlier I had recognized Habir Bahtia and to my left you see a canvas there which is a canvas of solidarity that was put together during a peace rally we had after the Wisconsin shooting. It was done in conjunction with supervisor Dave Cortese and Congressman Mike Honda. What was a blank slate that evening you can see is a beautiful representation for how the community has come together in the wake of that tragedy. As an Indian honor to proclaim the month of November as Sikh awareness month here in San José with the hope to further -- to further the diversity of our community and afford all residents the opportunity to better understand recognize and appreciate people of Sikh heritage and I'd ask mayor if you could present the commendation to a number of our community members. I know that we have with us here Dr. Sukminder Singh who will be saying a few words. [applause]

>> Mayor, and councilman and ladies and gentlemen, this means all is one and Sikhs from the beginning Sikhs have proved themselves as significant contributors to a health and a successful economic as scientists farmers and teachers in all walks of life. The largest the largest raisin grower is a Sikh and the largest transportation company is by Sikhs and by all, the father of fiberoptics is a Sikh, without his invention high speed communication

would not be possible. ethnic groups we all could be considered as equal and multiple instrument of an orchestra. If played, and led it can emit heavenly music and I thank the City of San José, God bless America.

>> So often Sikhs young and old unfortunately have been the target of bullying and hate crimes across the globe. Specifically after the tragic shootings at oak creek the media gave great visibility to this issue. So the events that playing us in the Bay Area, what are we to do that? Have we done enough? Those are questions that I pose to councilmembers and the community here. this proclamation is a sign of hope. It is a representation the commitment that the city is making to create a safer and stronger San José, for its Sikhs and for all its residents. But that first step has to be about education and awareness. The second step that we continue to stand against hate crimes towards anyone. And that third and final step which is a very critical piece going forward is that you involve the diversity, including the Sikhs when it comes to planning and policy development. So those packets that are being given to each of the councilmembers which are information about the Sikh community, the Sikh history and some of the relevant organizations and we hope today's proclamation is a call to action that in November and beyond, that we all become aware and encourage our schools and districts to do so, as well. And hopefully set a precedent for other cities to follow. The organizations like Sikh coalition will be reaching out to you councilmembers and hopefully you will give them your time and listen to them about the education programs. On behalf of all the Sikh community that's sitting in the audience if I could just have you stand. And all those behind me who are leaders, community activates, and organizational leaders -- activists, and organizational leaders, we heartily thank you for proclaiming November as Sikh recognition month and we thank you. [applause]

>> Mayor Reed: Configuration item we're going to take up is item 3.4, regarding the issuance of City of San José refunding bonds series 2012. We have our city staff here to make a presentation. Julia Cooper.

>> Good afternoon, mayor and members of the city council, Julia Cooper, acting director of finance. I have David Zolazi from the finance department here with me. We have the bond counsel and if we have any additional questions. It is a very brief presentation regarding the series 2012 A airport bonds the action for you today is to refund \$49.1 million of outstanding bonds, the 2000 bonds, and they will are sold through private placement with Bank of America public capital corporation. This is really a unique activity to create some much needed savings

for airport and do it in a relatively inexpensive way and a short time frame. Essentially just as a comparison, when we do a public offering it usually takes seven months optimistically to complete that transaction. This transaction from start to finish and that's finished today and we're going to close in the next couple of days was three months. Additionally, it reduces the cost of issuance that we have to pay to underwrite the bonds on a public basis, produce an official statement all those additional costs. Those get reduced from almost 800, \$no Child Left Behind,000 to do it on a public offering, this is \$200,000 on a public issuance. The bonds have a maturity of 2018, it is a relatively short period of time for the refunding although we're going to realize approximately \$5.2 million in savings. Approximately about \$1 million a year which is going to translate in the reduction of the CPE to about 26 cents. To so it is going to produce some much-needed savings for airport. The savings are comparable. Our financial advisor did do some analysis and if we had done this on a public offering basis, we would more savings through this transaction. So that's what we have before you, today. And if you have any questions we're available to answer those questions.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I'd like to move for approval.

>> Second.

>> Mayor Reed: We have a motion to approve. I have one request to speak, Mr. Wall.

>> I think moving for approval without thanking our finance people from the dais is inappropriate and immature. I mean after all, let me quote some from page 2. Quote, based on the current market pricing the city estimates refunding savings of approximately \$5 million or approximately 10% of the par amount, 2002 A bonds refunded. Such estimated savings are well above the City's saving objectives. Period close quotes. Now, you know it's really hard for me to stand but you know what, I'm going to stand to thank you. I haven't seen any city department save so much money. I thank you, and look at the folks that sit before you. I swear, there are injustices in this world, the injustice is that they are elected. Good job, as far as the 26 cents for the cost per plane

em19ment. That's negligible compared to what's really needed but the savings are great. I would also like to thank our airport people and I'll give the council one last chance to thank these great city servants that you are taking away their pay their benefits making them pay for their retirement benefits but notice city employees how they look down in their own shame. Thank you so much.

>> Mayor Reed: That concludes the public testimony. On this item we have a motion to approve. On the motion, all in favor, opposed, none opposed, that's approved. We'll now move to the consent calendar. I have some requests to speak on the consent calendar, some items that will be pulled. 2.5 travel reports, 2.6 retirement report and I have a request to speak on 2.10, little Saigon. Is there a motion on the balance? Motion is to approve the balance of the consent calendar. Mr. Wall, you want to speak on the consent calendar.

>> On item 2.3, committee reports. On the public record there was a memo entitled Mayor Reed gives 100,000 to Councilmember Herrera's campaign. Is this to feed the monkey on his back? Now, this is an election special that was posted in October. The firefighters and the police officers of our city have found some interesting things about Councilmember Herrera and they're listed Web pages for you to make your own decision. I'm not a spokesperson nor agent nor principal of the San José Police Officers Association or the firefighters. But I thank them very much for their service. In my opinion, Mayor Reed's 100,000 donation to Councilmember Herrera's election campaign can be described as the mayor holding a peeled banana so the monkey will do as his honor wishes. Question, if the monkey fails to perform as his honor wishes will the mayor have to spank his monkey? Monkey business is a sticky business. What will his honor do if the 100,000 of sticky money has to be returned? What then will the monkey do. No one should have a monkey on their back even an organ grinder keeps the monkey on a short leash. Once again this is an election issue. You should look on those Web pages and make a concerned and informed decision on yourself as to the conduct of Councilmember Herrera and her past financial dealings, with her company. She often references her financial expertise and her company throughout her committee assignments without referencing what happened to her bankrupt company the police officers and firefighters have never lied to me. Have always helped me in my neighborhood and I'm very, very grateful for their continuous help, their service and their dedication to the city that has stolen their retirement and reduced their pay and benefits. Thank you very much.

>> Mayor Reed: That concludes the testimony on the most of the consent calendar. On that motion to approve the balance, all in favor? Opposed, none opposed, okay we still have 2.5, 2.6 and 2.10. On 2.5, that's travel reports, I just wanted to make some comments on the trip to San Diego that I took last week. I spent a day hearing from San Diego about how they do economic development. Got some really interesting ideas of how they handle financing and how they manage their downtown and I got a chance to spend some time talking with mayor Sanders about their efforts to do pension reform and how they've turned their city around. They have been a couple of years ahead of San José about pension and retirement issues. We've had a chance to learn from them. All in all I thought it was -- I was only there for part of the trip but I got some excellent ideas. I thought it was of benefit to talk to people who have already had these problems that we still have to solve. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor.. I wanted to report I was also on that trip. Particularly helpful was a group conversation we had with a gentleman by the name of Coe Lemandry, the head of the community business district down there, remarkable things they have done to revitalize the urban district of San Diego, really sparked conversation about how we as a city could step back and allow a CBD to really take initiative in the rights of way and in the public spaces and really moving private investment in a way that can really revitalize a lot of struggling areas. So I hope that there will be more to come in terms of our development up here along the ways that Coe has led us.

>> Councilmember Constant: Mayor just real quick.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I was also on the stip and I stayed just a little bit longer, took a later trip out so I could have an opportunity to tour their convention center which they have done a couple of remodels on, getting ready to embark on a large expansion which they modeled right after our T.O.T CCFD, they basically copied what we did and they are expanding their convention center as well. And then took the opportunity to go get a visit of

the family domestic violence center in San Diego which is well-known throughout the state as an exemplar of how family violence centers should be put together and work. Had an opportunity to talk to their executive director at length and looking forward to see as we kind of refocus on the domestic violence issues as we move forward being able to take our family domestic violence center which was one of the first and make it one of the greatest. Thanks.

>> Mayor Reed: I think that concludes the trip reports. Item 2.6 is a report from our retirement board liaison. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I have updates from two different board meetings and I'm going to pass out something that the Federated board asked me to pass out to all the members of the council. This is a new newsletter that they have asked their investment consultant which is Meketa investments to provide a newsletter which can be shared with stakeholders, plan members, both retired and current active, as well as policy makers. It takes the first step at education for the members. This one in particular discusses the asset allocation strategy that they are moving to. It's written in plain English so it's easy to understand. Has a glossary on page 3 of any technical terms that people may not be familiar with. This is the first of what they hope will be a series of informations that they put out to stakeholders, so that they can be aware of everything that's going on. They do get an update in their flash report of performance, as of September 30th, of this year. At that point, the fund had just over \$1.9 billion in assets, and their fiscal year to date returns were 5.1%. That covers the period of July through September. They had a discussion about the timing of their reports, and I know that some of my colleagues have asked me why the reports get reported out so late. And the investment consultant gave them a chart of how they produce their reports. And in essence, after the close of a month, it takes 12 business days for the investment consultant to be able to prepare the report with all the different results that are needed and then present it to the board. And then obviously after they present it to the board I'll give the update here. Federated board also established the contribution rates for our tier 2 pension plan for the new employees. I'll go over the number briefly for you. On the city side the contribution going towards pension is 6.13% of pay, which as you know is considerably less than what we're paying in the current tier 1. Medical 6.87%, both of those are the same percentage for the employee and the city. On the dental coverage, it is 0.39% for the employee and 1.04% for the city, making the total contribution rate for the employee 13.39% and the total contribution rate for the city,

14.04%. Both boards had their investment consultants do an impact of the lump sum contributions. We've had some discussions here at the council level and we've also had the discussions in the budget process of what are the impacts on the retirement system for the lump sum contribution he of pension each fiscal year. We know that it benefits the city by having a positive impact to our General Fund. They did a -- on the Federated side an analysis from 1995 to current. Not that we've been prefunding that time but to give a historical reference of what the impact of the fund had been had we been prefunding for that period. We do know that the last four years we actually have prefunded. They were able to calculate the difference to the pension fund and the difference for the pension fund for four-year period for the Federated side was in cash, I don't have a percentage but in cash, a minus 1.1 million so it had a negative impact to the fund. However, if you look at a longer period of time, in this case they looked images since 1995, had we been prefunding that entire time, it would have had a positive impact to the pension fund to the sum of 47.4 million. And they broke it up, if you look at the last 18 years there would have been a positive impact in 13 of the 18 years. One year where it was neutral and the balance, it would have a slight negative impact. Moving on to the Police and Fire retirement board meeting, they had exact same type of analysis done by their consultant. They do use a different consultant. They looked at the last four years and then the last 15 years. They determined on the Police and Fire retirement system, for the four years that we have been prefunding, it's made a positive impact to the Police and Fire fund of 4.7 million. Had that been, had that same prefunding been in place for the previous 15 years, the positive impact to the fund would be \$20.1 million. In the 15 years that they analyzed, ten of those years there would have been a positive impact, two years there would have been a neutral impact and three years there would have been a slight negative impact. Other things that happened at the Police and Fire board, the Police and Fire board is continuing to allocate and diversify their assets. Under the new asset that they allocated, the chair of the investment committee stated that the Police and Fire retirement board chose not to come from retirement staff. The Federated board took the staff recommendation and implemented it. The Police and Fire side decided not to do that. They instead worked directly with their investment committee with their investment consultant which is Nepc, to East recommended by staff. The results of that show that, if you compare just the two plans on performance based on their asset allocation for the fiscal year to date, the Police and Fire plan outperformed the Federated plan by 0.6%. On a calendar year to date which would be January 1 to now, it's outperformed by 2.4% and over the last rolling 12-month period it outperformed busy 2.0 PERS. And to give you a perspective, the Police and Fire fund has about

2.8 billion that are managed so that 2% where difference in the 12 months equates to about \$58 million. The calendar year to date difference is about \$69.6 million dollars. they wanted to make sure I reported that out. Investment returns as of September 30th of 2012, again \$2.8 billion in assets and their return during that period which is July to the end of September is 5.7%. I know that was a really long report but I know they had a lot of activity in the last two board meetings.

>> Mayor Reed: I have one request to speak on this item. Mr. Wall.

>> Councilmember Constant, I'd like to thank you to the retirement boards that you've been assigned to. Your conduct has been more than exemplary. But Mr. Mayor and city should reflect on the entire history of this issue. First of all the unfunded liabilities had council funded retirement liabilities for both retirement systems, we would have a different story today. We also have a tremendous number of police officers that have just up and left this city because of the abject lies told to them, at the date of their hire by the council at the time period of their hire, only to have the rug pulled out from underneath them. This include the firefighters and all city employees. You have to face the chastisement you all have to rise to the level of financial accountability and respectability. I think at some point in time you're going to have to come to the conclusion that every employee is going to have to be hired on an aknewity based program, this is going to have to be done to retain the civil service because the civil service is being destroyed under your watch and the watch of the other councilmembers. With the loss of the civil service system the door swings up wide for corruptions at contracts and what have you. But once again let us bring to the forefront for today's discussion on election day, you folks, this council has had a material hand to basically eviscerate the senior staff of the police department and the fire department, the attorney's office and all other necessary city offices and departments. It can be shown that you have already started to mitigate your damages, with pay amendments to the municipal code for water pollution control plant personnel. You should be ashamed of yourself on this day.

>> Mayor Reed: That concludes the public testimony. No further on that item. We'll move to 2.10, the little Saigon highway signage solution.

>> Vice Mayor Nguyen: Thank you, mayor. In September 2012, for little Saigon on highway 101 and also formally recognize and designate the area of Story Road and highway 101 as little Saigon. It's been five years since I first brought this project to the City and County. Tao we had a similar discussion on June 5th, 2007, which is the primary election day and it's interesting how it's also an election today that we are also finally at a place where we ask move forward with this project. It's been more than 35 years since the first wave of Vietnamese refugees made their mark on this wonderful city. So for me, the official achievements for tens of thousands of Vietnamese who are living in San José. And I just wanted to take this opportunity to publicly thank the little Saigon foundation for their continued work and effort to bring this project to this point. I also wanted to thank all city staff who have worked with my office including the mayor's office, and other council offices, including Roxann Miller and Betsy Shotwell from our Sacramento office in giving us guidance and direction on how to move this matter forward. So with that I'd like to make a motion to approve staff recommendation.

>> Second.

>> Mayor Reed: Motion is to approve. We have some requests from the public to speak, we'll take that now, come on down, Barry do, Steven Duvan, H.G. Nguyen, David Wall.

>> Mayor Chuck Reed, vice mayor, just like Vice Mayor Madison Nguyen, the sign little Saigon has been closed. And we hope this will be the final chapter of the chapter. The last minute, Councilmember Kansen Chu has brought the resolution and especially the historic last council meeting September 25th where all of the councilmembers have been spoken and we all come to the majority that the main has been signed up, and as I understand it can the merchant of the City of San José is being in a crunch right now, so we have to privately finance and from now on we memo this will bring back the tour center of little Saigon in all of San José. Thank you.

>>> Stephen Dovan.

>> Good afternoon, my name is Stephen Dovan, this has been a long and winding road, ala the Beatles. I love them because I grew up in the '60s. I want to commend councilmember constant, Chu, and Pierluigi Oliverio, because back on September, 2007 they had the fortitude to vote for little Saigon to be designated in the Story Road corridor. Many cities, big cities, want to tout their image and also want to attract visitors. For example, New York, L.A., Chi, although I've lived here more than 50 years in California I consider San José my home town now. And back in the 60s if you like music like I do, like Motown, there's a song by Dionne Warwick of the Motown do you know the way to little Saigon? There is a ubiquitous saying that says, "here today, gone to Maui" I have a slogan for us, "everyone's gone to little Saigon" so vote your conscience, do the right thing, pass the resolution for little sign gone signage and directional sign in San José and thank you.

>> Mayor Reed: H.J. Nguyen. Van Lo.

>> Mayor Chuck Reed, members of the city council, my name is H.G. Nguyen and I'm the finding president of the Vietnamese many general conference. Very happy to be here today. And I would like to take this opportunity to thanks in advance. To all of the councilmembers, and mayor Chuck Reed. Who will pass the resolution for the signs on the freeways. Today is an auspicious day for the City of San José, I believe. Today, I believe, is a new beginning for the City of San José, so let's join hands together, work together, for the betterment of the City of San José, and the community. And I thank you each and every one of you, and happy Thanksgiving. Thank you.

>> Mayor Reed: David Wall.

>> This issue should never have gone as long as it did. It is a matter of democracy. The Vietnamese Americans have shown how they can actively petition and redress their government by coming not only to council meetings in droves, with speaker cards, but to the rules committee and other council committees in droves, vast numbers, with speaker cards, to redress their government and demand service. Now it is of historical interest to note that during the early days, the Little Saigon campaign wasn't too well received by the mayor or vice mayor. There's a lot of back pedaling going on. This is during the time of the campout outside of city hall by who I believe was Lee Tang and starvation to try to get this issue moved forward. Then the Vietnamese Americans kept pounding the

table, we have not been served, our government is not serving us. So they started coming to council meetings, writing letters on the public record, and becoming outstanding citizens, who they represent. So today who I think is the stalwarts, Councilmember Campos, Councilmember Chu, Councilmember Kalra, others, for the rest of you, hide yourselves behind this great American flag of ours, because a lot of you were not forthcoming for Vietnamese Americans who redressed their government in polite and official ways and are the best embodiment of the threads that comprise our great flag.

>> Mayor Reed: Van Lai and Kim Trang.

>> Honorable mayor and councils. My name is Van Lai. I come here today because I really want to say that we want to appreciate the decision that we finally approve the little Saigon sign and finally designate the little Saigon area. I believe that as a business woman the little Saigon sign will bring more businesses, more taxes for City of San José as well as for district 7. And I believe that going to be mutual benefit from the community side and also from the city side. Therefore, I really like to see that we can work -- continue to work together with City of San José and CalTrans so we can have the little Saigon signage coming earlier as possible. Well, I have to -- one of the things that I wanted to say that finally this is the history of today for little Saigon and also the election day right everyone, I would want to say that thank you for the approval and I want to wish you well on the city. A special thanks for Councilmember Chu. Really spare for this have coming forward and really approve it for this special project, a resolution. A special thanks also for supervisor Dave are Cortese and state simply Nora Campos, thank you and have a good evening.

>> Mayor Reed: Kim Trang.

>> Thank you, mayor Chuck Reed and all city council. We had in the face we had today is a victory day [applause] Thank you I wish you all the best and we're so happy. The other business Story Road, and the still, little Saigon, that mile is a really far away so I'm really happy today, and I thank you all again, thank you.

>> Mayor Reed: Lee Tong.

>> I would say, a short thank you. Thank you on the councilmember, thank you for everybody, for adopting for supporting our little Saigon, thank you very much.

>> Mayor Reed: That concludes the public testimony. On this item. I would just like to note that as I was thinking about this, I came across a Mercury News newspaper story from 1994. About an effort to get highway signs directing people to Saigon, not little Saigon but Saigon, that effort did not work, there was a lot of community opposition. And there were issues with it, so it didn't go forward. It's not been five years, it's been at least 18 years that some of the people here have been working on this issue. So yes, sometimes it takes a while but I do want to thank the people, Barry Do and all the people that worked with him with the foundation to continue to work through the processing, build the public support and get it to a point where we could take this action today. With very little fanfare. We appreciate that. Vice Mayor Nguyen did you have anything -- it's your motion. We have a motion did we get a second?

>> Vice Mayor Nguyen: Yes, we have a motion, that's all I have thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yes, sir, I also wanted to thank Barry Do and all the community members that came forward. We recognize that through the years, that certainly with time we learn from our mistakes and we want to take the opportunity to correct them here. unique and wonderful about our city and I look forward to many years of success for little Saigon.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I also wanted to add my appreciation to the little Saigon foundation and many in the Vietnamese community for your persistence, I want to thank you very much for your patience and also, thank assembly member Nora Campos who really started this freeway destination sign process, as well as

Congresswoman Zoe Lofgren and county supervisors, all of the five supervisors including led by supervisor Dave Cortese. So thank you very much for coming out today.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I too am very pleased to see that this is coming to a wonderful and happy ending. And I would also like to say that I had -- recently had the pleasure of being at the official opening ceremony for the opening of the Vietnamese museum and for any of you who have not had the opportunity to see it yet, it really is worth the trip. It does a wonderful job of explaining the history of the Vietnamese people in America and I think all would appreciate it tremendously. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I just wanted to thank you for your tenacity and for not giving up and seeing that vision of this area in our city. And then also, to thank you for sharing your culture in such a big way, with everyone in this region. So thank you. And we need to get shoppers there, and contribute to our city economy. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just want to thank Vice Mayor and mayor and Councilmember Chu for their memos in supporting this. And I look forward to the signs being there. I think it's appropriate on election day that this is happening. And this didn't happen because of any of us up here. This happened because of you. You made this happen because of your exercise of democracy and your willingness to stick with it until it happened.

>> Mayor Reed: We have a motion to approve. On that motion, all in favor? Opposed? None opposed, it's unanimous. It's approved. Congratulates he. That is concludes our work on the consent calendar, correct, City Clerk? I think we got them all. We'll move then to item 3.1. Report of the City Manager.

>> City Manager Figone: Mr. Mayor, I have no report today, thank you.

>> Mayor Reed: Item 3.3, adoption of a statement of policy and city council questions for the prospective finance director.

>> Motion to approve.

>> Mayor Reed: We have a and a second to approve. Mr. Wall you wanted to make a comment.

>> Executive search firm Terry black LLC who is conducting the recruitment, period close quote. I'm of the opinion that our City Manager is very good and decent, she's educated and can run the city, she's been doing it despite your interferences, but I don't understand why we have to employ an executive search firm because our City Manager will appoint, because of the charter, who she wants to appoint. Now, this is in reference from other executive searches, that I have witnessed throughout my time period as a student of San José government, one which was horrendous, a search for the environmental services department director. You spent tens of thousands of dollars for this search and ended up picking in my opinion the bottom of the barrel, if not the dregs within the cracks of a barrel. So I think the City Manager -- this whole process should be looked at. Because the cost of it, the -- how the firms are chosen, and really, the unnecessariness of it. City Manager knows who to pick for the finance director. It's not that tough. And I think that you should save the money and cut this business out and get some more mileage out of our City Manager which I believe she's capable of if you don't interfere with her and put this executive search firm request for these department directors to rest. I mean, the money could be better served with parks maintenance, whatever you want ops already know who doesn't pan out then you hire the bottom of the barrel, no, this has to change, thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. On that motion, all in favor, opposed, none opposed, motion is approved. Our next item is 3.5, an ordinance to implement retirement benefits in Federated employees retirement system. We have a motion to approve. I have some requests to speak. We'll take the public testimony now, David Wall, Nancy Ostrowsky, Vera Todorov.

>> This ordinance, if you were to apply it just to new hires, I don't like two tier employments. For disclosure purposes I'm a retired City of San José employee. I get my retirement, I'm on a medical retirement. And the lies that have been told to me as a city employee were paramount. I made a decision to work for the city, I was dramatically injured and can't work for the city or anyone else for that matter and yet my retirement benefits by ministerial decree are being materially altered councilmembers that sit before me today. So when you go and vote for these things you should be honest and forthcoming to the public, especially to the people that you're going to hire, and say look, we're going to promise you the world. And then we're going ostab you in the back as we pull the rug out from underneath your feet. And we're going to do it in the name of councillor duties. Well, this business of creating the two-tier system especially within the Public Safety ranks is very ill advised because now you have created institutionalized station because police officers or firefighters wouldn't hesitate to go save somebody. But now because of what you've done to their retirements and their disability retirements they're going to hesitate. That means someone's going to burn to death or someone is going oget shot in the head. But you can sit down and say hey, you did your fiscal duty, you did your jobs but you did it by doing the two-step. You promised the world then back stab and lie. And so on behalf of all city employees and all retirees, thank God for you all and I hope you run for office. Because the people that sit before us, their next election cycles they should be politely excused. Thank you.

>> Mayor Reed: Nancy Ostrowsky, Vera Todorov, Susan De Vincenzi.

>> Good afternoon, Nancy Ostrowsky, senior staff at IFPTE's local 21. Today representing AEA, AMFP and CAMP. A little while ago today we did give a letter over to Alex Gurza and copy all of you with regard to this item 3.5. It's to adopt a proposed ordinance that amends the Federated pension plan including the elimination of SRBR benefit. We've been in consultation with our attorney which prompted this letter. Because this proposed ordinance

affects changes to the pension plan in a number of ways including but not limited not elimination of the SRBR benefit, it encompasses matters within the scope of representation. Under the state law the city must first bargain with local 21 before considering adoption of the proposed ordinance. Please consider this a demand in the polite sense of the word to bargain over both the provisions of the proposed ordinance and the effects of the proposed ordinance. We request the proposed ordinance be withdrawn from consideration by the city council at today's meeting. We note that the changes to the charter brought by measure B are the subject of current litigation including the changes purported to affect the SRBR benefit and on that ground, as well. Council consideration of the proposed ordinance is premature. Thank you.

>> Mayor Reed: Vera Todorov Susan de Vincenzi,.

>> Good afternoon, mayor and councilmembers, Vera Todorov on behalf the association of legal professionals. We submitted a letter to you today. We agree with the ostrowsky just said. I won't repeat what's in that letter except to say it is extremely unwise for the city to change the vested benefits of employees and retirees before all legal challenges are adjudicated. It is also benefit equal value to employees and retirees. I'm particularly however want to comment on the exception, for unit 99 members from being required to enroll in tier 2 retirement that is contained in this ordinance. That was hidden in portion of a staff report back in April. And it's hidden in half of a sentence in this ordinance that there is now an exception to tier 2 that's being proposed to unit nine. If this exception is so great offer it to everybody. If it is something you desire to move forward with offer it to everybody. But the bottom line is, this creates an impact on your existing employees in tier 1 and in tier 2 because it is yet taking another chunk of employees out of those statements. I don't think that was contemplated in measure B or the desire is really what the -- what measure B was about but here you're taking out a certain select group of employees that can opt out of tier 2. And I also think it's discriminatory and retaliatory against bargaining units in the city who are in Federated retirement. What you're saying is your unrepresented employees now have some sort of an option that the rest much us do not have. I agree with the other person who spoke and I agree that all of this is subject to meet and confer. There is an impact impact on our bargaining exclusion of new employees in unit 99 if they desire to be excluded. There's also very, very undefined what this exclusion means, again it's hidden.

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

>> Thank you, we need to meet and confer.

>> Mayor Reed: (saying names) Bob Leninger.

>> Good afternoon I'm Susan de Vincenzi use it imposes changes retroactively on people who are already retired. That is patently unfair. And the provision of measure P that relates to the repeal of the SRBR, is subject to a legal challenge. Not only by the police officers, the firefighters but also, the San José retired employees association. We've also challenged other provisions of measure B that this ordinance would impact. And we were told that no changes -- no measure B provisions were going to be implemented until the legal aspects had been worked out. Apparently that's not true. This ordinance expressly incorporates all of measure B into the municipal code. So at the very least, I think you should wait until the legal challenges have been resolved before you make any more changes.

>> Mayor Reed: Bob Leninger, Yolanda Cruz.

>> Thank you Bob Leninger, president of the San José retired that we urge that you do not vote to adopt this ordinance today. We have -- you're aware of our lawsuit and this is one of the areas that we're challenging. We made a lot of efforts, going back many months, years, to sit down and talk about this issue based on what we thought was guidance for many of you to make amendments that would have been substantial concessions, that was not done. No one wanted to listen to us. We're in court and I think retirees deserve their day in court and an ordinance like this is premature. Give the retirees their day in court, give the issue its day in court.

>> Mayor Reed: Yolanda Cruz.

>> Mayor Reed and councilmembers. First I want to state that AFSCME also believe these are conditions of meet and confer. But we are here asking you to reconsider approving these ordinances today. We believe these changes are not only premature with the pending litigation on measure B but all of the Federated bargaining units are currently in negotiations. To move forward and bargaining process to proceed and having potential options be questioning the sincerity and or the purpose of continuing with the process for anything more than an exercise in futility. In addition, including language to include a defined contribution retirement plan without considering of the implications of such an action is also quite concerning. The question I have for you is, what is the rush? These are very complex issues and need to be explored and evaluated through the negotiation process. Moving forward without working in collaboration with all stakeholders is just wrong and will likely have a negative impact on any negotiation process and your employees past, future and present. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. Questions by council? Councilmember Chu.

>> Councilmember Chu: Thank you staff. What is the hurry why captain we wait until ail the litigation is settled before we go in and change the ordinance?

>> City Attorney Doyle: Councilmember, this is a matter that there's a stipulation with the Police Officers Association in the litigation, that none of the measure B matters would take effect until January 1st, 2013. And so that is the -- none of this takes effect until January 13th, 2016, with the exception of tier 2 employees that are required to join Medicare. What this does, I.T. does a number of things, this ordinance. This ordinance deals with the elimination of SRBR in conformance with what measure B requires, again effective January 1st, 2013. The -- it also deals with requiring individuals who are age 65 or older to enroll in Medicare. Again, that's consistent with what has been determined by council. The -- it deals with the tier 2 provisions, and the -- and incorporates some of those changes. It also deals with some of the actuarial requirements. There is a provision in measure B actuarial soundness so that the two are consistent. And so a lot of this is just -- this isn't all of measure B. These are the items with respect to measure B that the council has been advised through outside counsel you can move forward on so that's what's being proposed.

>> Councilmember Chu: Isn't it required to meet with the bargaining unit on those items?

>> City Attorney Doyle: I can ask staff to address that. On much of this measure B there has been meet and confer. Alex is coming down but he can address specifically the meet and confer issues.

>> Alex Gurza: Good afternoon, mayor and council, Alex Gurza, deputy City Manager. I do not handle negotiations with the association of legal professionals the attorney answer union so I can't speak to that particular bargaining unit but I can speak to the general issues about meet and confer. As the council is aware we engaged in a long process of meeting and conferring on retirement reform which included items that are now in the charter under measure B as well as some items that are outside of the ballot measure. And so we met, we the city believes that we met our meet and confer obligation during that process. These are simply implementing ordinances that implement what we have met and conferred about. So for example the requirement to have parties meet and confer that wasn't in measure B but that was a proposal that we made during the bargain and the city council imposed earlier this year that provision and this simply implements that part of it. So happy to answer any other questions about the meet-and-confer process.

>> Councilmember Chu: Thank you for the explanation. Just to be consistent with my previous vote I will not be supporting this motion. Because I think SRBR, we can change the form but instead of totally eliminating it. Thank you.

>> Mayor Reed: I would like to add one item to the -- to respond to your question, Councilmember Chu of why now. We have a budget shortfall next year of about \$22 million, in the next fiscal year. We do not have sufficient ongoing funds to cover that shortfall. The SRBR is something where there would be some savings. But we have to get this approved so that the retirement plans and actuaries can consider the savings out of the elimination of SRBR. And of course they are in the process of doing their valuations now. And if this is effective January 1st, we hope that they will be willing to consider this as part of their calculations for what we have to pay in the next year. Even though we have had suspended SRBR for a couple of years with a couple of different actions that we've taken. We haven't gotten the benefit of that because we haven't adopted this ordinance. So with the

adoption of this ordinance we hope and anticipate that the actuaries for the retirement boards will consider that as they're doing the valuation for next year which will have an impact on the shortfall for this next fiscal year. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I've missed one part that Mr. Gurza spoke about and that was recently he voted to impose and was that with reference to the SRBR suspension?

>> City Attorney Doyle: No, it was not the -- SRBR suspension, SRBR is the measure B tier 2.

>> Councilmember Rocha: Sorry I was writing as you were talking. I missed that one part if you wouldn't mind repeating that.

>> Alex Gurza: The requirement for the employees to be in Medicare that was part of the imposition. meet-and-confer obligation, there still is a meet-and-confer obligation was all inside and outside the ballot measure.

>> Councilmember Rocha: Thank you very much. I did have a couple, two questions and if you could speak to I'll ask the City Attorney I guess. Precedent in adopting ordinances that have a -- one component or the entire part. Under legal challenge. Is that something that was common? Honestly, sounds a little odd for us to go forward and adopt an ordinance where some of it is being challenged legally, unless there's a challenge. I know the mayor just spoke to the fiscal necessity.

>> City Attorney Doyle: It is common it is we're not in court with an ordinance being challenged. It is an injunction. We had an agreement with the POA that nothing would be effective until January 1st, 2013. So that's the reason and I think you know we're just bringing forward what we believe based on the advice the council's been given for what is permissible. It's not all of measure B but it is what is permissible pursuant to what we've been advised.

>> Councilmember Rocha: So to paraphrase I guess the components of it that have the best legal standing as far as we're concerned.

>> City Attorney Doyle: Yes, and some state constitution, tier 2 you've adopted, there are some things we want to make hurry with tier 2 and Medicare that's an important thing to move forward as well.

>> Councilmember Rocha: Thank you for clarifying that. Looking forward on some of these items I recognize the necessity of them. I guess the SRBR and the potential legal exposure we might face on this one is the one I've been scratching my head. Let's just say hypothetically, what about us making folks whole or any potential exposure we show ourselves fiscally?

>> City Attorney Doyle: I think at that point you would have to work with the retirement systems to address that issue. And so there is that exposure, potentially.

>> Councilmember Rocha: Well and why wouldn't we just continue the suspension? We're obviously not distributing those dollars. What's --

>> City Attorney Doyle: I think to the mayor's point of what the savings are. If you just suspend it, the actuary is unlikely to include it in any -- in any analysis or any -- their view of --

>> Councilmember Rocha: Their view of nonpayment? And that payment is what time of year ?

>> City Attorney Doyle: It steeples move but January is where we get the first and March is when they do.

>> Alex Gurza: We'll know the actual numbers by January or February and what we're hoping is the actuaries will take into account the complete elimination of SRBR when they determine the rates that will be effective in July of 2013.

>> Councilmember Rocha: Okay, thank you. In the ordinance language that's attached I see that we have in red the changes to the ordinance itself. In the third whereas the city wishes to discontinue the use of the SRBR. That was in there, when was that modification made?

>> City Attorney Doyle: When the city wishes to discontinue the use of the SRBR reserve?

>> Councilmember Rocha: Yes.

>> City Attorney Doyle: That's all part of measure B.

>> Councilmember Rocha: So it's already showing that part of it.

>> City Attorney Doyle: This is consistent with just implementing measure B. So I don't know -- are you asking, is this new language or is this existing language? I'm not sure of the question.

>> Councilmember Rocha: Well, I don't remember reading that way in measure B. So this ordinance reflects measure B?

>> City Attorney Doyle: This ordinance implements measure B. What measure B says is it's enabling and it gives you parameters. And then it says the council by ordinance shall adopt, various measures to implement measure B and this is one of those. The recitals, we call them recitals, the whereas provisions are merely statements of intent of why you're moving forward.

>> Councilmember Rocha: Okay, thank you. One last question. The comment in respect to exemption for unit 99, in the tier 2, can you speak to that please?

>> City Manager Figone: Yes, and then Alex can fill in, if I miss something. Under section 3.2803.28, page 3, it allows the offering of a defined contribution element only. And why this is important now, is because we are out

for recruitment, for some very important positions, including a police chief. I'll be looking for an airport director, in the not too distance future, about seven key vacancies open. And if we get an individual who is not part of the city system, who is the preferred candidate, maybe on their second career, doesn't need to have our traditional retirement benefits, but might want more on the pay line, this is going to give us more flexibility in the tool kit. Why unit 99, because right now unit 99 is not a bargaining unit and I can advance this to council. It's enabling here and I guess if, in the future, a bargaining unit was interested in this, we could certainly meet and confer over that. So that is why that is very important from my perspective right now.

>> Councilmember Rocha: Thank you. And how many members are in unit 99 now?

>> City Manager Figone: About 200.

>> Councilmember Rocha: This would be available to existing or only future?

>> City Manager Figone: Only future, yes.

>> Councilmember Rocha: This is not a question but more of a comment. And how we have discussions with our retiree association. And we had this discussion when we went through measure B in the pension reform items and some concern that they don't have a place at the bargaining table. And I think this council at one point didn't make it clear that we'd like to have discussion with them and make the effort to have discussions with them. But that really wasn't memorialized or codified. Reaching out to retirees if you don't mind me asking?

>> City Manager Figone: Well clearly conversation is always a possibility. I think the important thing to consider is, are retirees although they are very important stakeholders, really no longer have a bargain voice, now that's not necessarily something we want to hear. But from the standpoint of traditional meet and confer that would not be recommended. Clearly, to get input and we do often seek that input, and I think it's just a matter of how it gets factored in, especially as you're going through some very difficult reforms, which are very challenging for those who have already left the city.

>> Councilmember Rocha: So the legal, binding, bargaining voice. Did the attorney, were you going to speak on something?

>> City Attorney Doyle: The only thing I'd add, the draft ordinance has been sent to the retirement boards for consideration and comment. The boards haven't heard anything back, I don't know if they have had an opportunity to discuss it. The second reading would be November 27th. Between now and then the boards would certainly have the opportunity and we would relay any comments back to the council but that could be an opportunity or potential forum for the retirees to address their concerns with the retirement boards since the retirement boards had the fiduciary obligation to their employees which are the retirees.

>> Councilmember Rocha: Thank you. I guess to the point that -- I understand that was explained to me in the past and we've also made it fairly clear that the legal binding bargain voice that they are not obligated to but outside of that legal binding obligation to me there's more of a personal obligation that we should make an effort to have these discussions as we go through this fiscal reform plan or any fiscal reform changes because you know, continuing to on a case-by-case basis make direction or ask our city staff or OER to reach out to those folks based upon comments that we've heard, I'd rather honestly make it a personal policy or city policy that we make that effort. I think it would show a lot to these folks that we value their service here at City of San José and we have an interest in hearing what their input is. So I don't know how we go about doing something like that, it's just one councilmember raising that issue but I guess you could count on me to maybe suggest something down the road.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And the -- Rick, there are some items here that are part of measure B litigation right? And you mentioned the agreement for January 1st, 2013, for the POA or was it for other bargaining units as well?

>> City Attorney Doyle: It was only the POA that sought that and I think once that was entered into, everybody thought that they were protected.

>> Councilmember Kalra: We previously suspended SRBR with agreement with the bargain units to suspend --

>> City Attorney Doyle: I don't know if there was agreement, I think council --

>> Councilmember Kalra: Not on the Federated but on the sworn, there's been agreement?

>> City Attorney Doyle: No. The council just adopted suspensions for the last, two, three years many probably, now. So it's been an annual suspension.

>> Councilmember Kalra: So even the sworn the Police and Fire --

>> City Attorney Doyle: That's my understanding.

>> Alex Gurza: That's correct, there was no agreement to suspend it. It was a council action.

>> Councilmember Kalra: And the -- and so, but now, since measure B now, that's one item in addition to others that are up for -- that are a part of the litigation and some of which are included in the recommendations today?

>> City Attorney Doyle: Yes.

>> Councilmember Kalra: And you indicated that you feel that some of the ones we are going forward with may be permissible in regards to what you have been advised by some of the council?

>> City Attorney Doyle: It's not all measure B. You imposed the requirement of Medicare, that's in here. You haven't been authorized to have a tier 2 program, which is pre-measure B and measure B. The heart of the issue

to cut to the chase is the SRBR which is in litigation but I think again you have been advised by your outside counsel that it's permitted to make the changes.

>> Councilmember Kalra: It doesn't give me -- outside counsel doesn't necessarily give me great comfort and I know that there was just litigation on Friday that was a vested rights issue at least that was lost in the third appellate court and you know, every sign we get from the court system on either like cases or cases regarding vested rights certainly, the cities or counties keep losing. And so I think it's wiser on issues that are up for litigation to wait, if it's a matter of discontinuing the suspension, I'd rather do that some see the suspension rather than have the risk of losing those issues and having to retroactively take action. If we're suspending it, there won't be any retroactive action, the retroactive action is going to happen regardless of the actuarial council action that has ultimately you know overturned I think would be much more complicated and complex. In regards to retirees, I agree, that you know, that more often than not, because there's so much, that has been involved with the bargaining process over the last few year that the retirees have not been given a voice and because they are not formally their voice, that their interests have not been held in high regard by the council. And I think that a more recent trend has been even pitting retirees versus actives in terms much obligations around I think that's a very dangerous sign. We've done enough pitting one interest against another and I guess that's been par for the course for this coin the last couple of years. There's one more example, pitting the actives versus the retirees very unfairly. I think we need to start discussing these issues as a community and as a family once again.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: .

>> Councilmember Pyle: Thank you, mayor. I'm a bit disturbed by the letters that we've received from the various units that are represented here today. When I see things such as first of all the worry that you're taking vested benefits away from the retirees, but comments like not even receiving copy of the letter, insufficient notice or no notice, that is very, very worrisome. So I don't -- I don't want to take part in something that has that attached to it. For example, indeed the city did not even have the courtesy to provide ALP with a copy placed on the

council agenda. I'm not in favor gotcha situations and this certainly looks like one to me and I know I'm being very bold in that statement. But I feel so strongly that good negotiation are based on a good back-and-forth and a good trust factor, that's built up. This to me sends a very chilling message and could, indeed, have a very negative impact on the ultimate result of our negotiations. I think because we haven't heard one thing, or very little, in the way of actions on the part of labor in the last several weeks, it would seem to me that we can certainly wait at least one or two more weeks until there has been sufficient conversation, and/or dialogue, regarding these efforts. So that would -- I can't vote for this today. This, to me, is not ready for prime time. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just so we're all clear here. Rick, my understanding is SRBR was not a negotiated benefit, is that correct? It was created by municipal -- by the council through municipal ordinance?

>> Alex Gurza: If I may, I think it's very important to clarify that the ordinance is -- we don't consider that negotiable. This is implementing legislation. As you can see, the memo comes from the City Attorney. This is implementing things that were in measure B as well as things that were previously negotiated. So for example, let's take the Medicare requirement separately. That was part of the negotiations we had with our bargaining agreement and the council already imposed months ago. This is simply now implementing your prior action he. So we're not really negotiating over the changes that are required in the municipal code in order to make this happen. The SRBR, the elimination of the SRBR, whether it's a vested benefit or not is separate from the issue of whether we meet and confer, that topic of eliminating the SRBR was part of the retirement reform negotiations that occurred over the last year-plus. And this now simply makes it so. The other thing I would like to clarify that in measure B, although it does eliminate the SRBR and require the money go back into the fund, it does indicate and provide the city council with the flexibility to say that if there are supplemental payments that the city council so chooses to America retirees if for example the council decided to design a policeman that provides retirees with supplemental payments, there's still ability to do that with funding that would not come out of the retirement plan.

>> Councilmember Liccardo: Alex, I don't disagree with a word you said, I agree with everything. But that wasn't my question. Let me try to be more specific. Going back before measure B, the creation of SRBR My understanding is that was not something contractual within bargaining.

>> Alex Gurza: I apologize. I didn't know you were talk about the creation of SRBR. It has been created at different times and different systems. I don't know the process at which that got create, it was before my employment with the at the and I don't know exactly how that is. I am familiar with SRBR in Police and Fire which was much more recent. And it really did not come from the bargaining process. However, the both Police and Fire I recall directly, the unions sort of waived their right to meet and confer because it was being offered and they accepted it and they waived the meet and confer over that SRBR. That hopefully answers your question.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. You know, there's been a lot said. But I think the most important thing is the message we're sending. And the message we're sending is that we're implementing the will of the voters when we can. I think it's important that we go forward these documents have been out for a long time. It's not that they just popped out yesterday. The bargaining unit didn't get it any quick are than I got it, it was available to everybody else at the exact same time and we need to own up to the voters' will and start making these implementations as we can. I think it's the right thing to do and I know there's several people that have opposed this all the way look and we can keep having the opposition, but we've got to do our job, and I would like to call the question.

>> Mayor Reed: You don't have to call the question. There is no more requests to speak. On the motion, all in favor? Opposed? Four opposed, Chu Kalra Campos and Pyle opposed, that passes on a seven-4 vote. 4.1, funding commitment for the forward and Monterey family affordable housing, for eden housing and blah blah blah blah. Two requests to speak? David Wall and Andre Papolo.

>> Why a third amendment, is there some sort of mismanagement going on that they cannot come up with a program that could be adequately funded up front without coming back with a third amendment for an enabled stabilization program has basically today or tomorrow to exist if it's not already extinguished. But this amendment to this issue also raises a contradiction in terms, which later in today's program, we will show the contradictory nature and hypocritical nature and the selling of council's soul to this very issue. This will be described later in today's show. However, these government-sponsored slums thrown into our different neighborhoods are of no value. They are on borrowed money, from other nations. You have stripped city services to ensure the level of society or civility within neighborhoods from the people or some of the people, not all of them that will live there. But I'm tired of seeing these amendments and also, I'm sick and tired of seeing these affordable housing projects going up, without citizens being able to vote whether or not they want to see these projects in and up in their neighborhoods to destroy the value of their investment in their real estate, to cause problems in their neighborhoods, and is this not a second tier of investment that we see? And this will be discussed later in today's program. So I want you all to be reminded of that. I think you should just abandon this ship and let it sink on its own accord. Thank you.

>> Mayor Reed: Andrea Papanastasio.

>> Thank you, mayor, exactly right. Thank you to the county, particularly to Councilmember Kalra and his staff who have worked tirelessly on this project with us for the last several years, the city housing department and Planning, and Building, and Public Works. We are getting ready to close the construction financing on the development in December and start construction on 75 new apartments for low-income families in San José to accompany the 20 apartments for special needs individuals that is already in construction right next door. So we're extremely proud of the long history we've had with the City of San José and we're really happy to have this new community become assets to the slums they are anything but we are really happy to be working with the city on this, thank you again for your commitment to this project.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I voted originally against the rezoning of this land when it came to council so I won't be supporting this matter today. Thank you.

>> Mayor Reed: All in favor, opposed, one opposed, Councilmember Oliverio. 4.2, ordinance to amend the height limitations in airport influences areas, further, other changes.

>> Joe Horwedel: Thank you, Mr. Mayor. just a few comments. There are changes that staff has made oalong the way, so I wanted to clarify for the council. After the adoption of of the general plan, at the time we had not completed our consultation with the airport land use height regulation within what is called the airport influence area, the AIA area. This ordinance fills in the missing holes, as a part of that review, and provides certainty now for properties in that area, of how we would regulate height. Additionally it allows additional height in the North San José area. It accommodates the so we are adding the additional height in that area. And then lastly there has been some question about how this regulates heights in the downtown area. This goes and resubstantiates the FAA no hazard. We continued to look at heights in the downtown and the Diridon area as a part of some work we had done about five or six years ago. We will be doing some additional outreach with the development community airport interests around that topic. So come back with some ordinance work to finish the last piece of that. And so staff's available to answer any questions but staff's asking for council approval.

>> Mayor Reed: We have a motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Joe, thank you and thank you for modifications in the recommendation. Am I right, my understanding that the Adobe San José water site would be within the exempted area? In the downtown, it would not be covered by this direction?

>> Joe Horwedel: Right, is that the site for the Adobe parking lot, or the parking lot the water company, is within the downtown frame area, downtown zoning area. So it would still be regulated under the no heights of the no hazard determinations and through the regular design review process.

>> Councilmember Liccardo: Okay, great. And I know we have had some offline conversations and I recognize the futility in some ways of beating our heads against the wall with some of the challenges, regulatory challenges we face in trying to adjust the lines. But I wanted to know as you see this process what, as we're starting to finally see renewed interest in high-rise housing in the downtown. What's the best, clearest path forward for us to engage airlines in a conversation around OEI with the development community to try to find something that appears to address the airline's needs without having the kinds of impacts on our downtown that obviously is constraining our ability to build our downtown.

>> Joe Horwedel: So it's part of what we want to look at is a part of coming back. Staff is not proposing through that process to confined of good to revisit the OEI issue, bigger review of that, that we would say it would need to come through the policy setting. Because it is a significant commitment of work.

>> Councilmember Liccardo: Yeah.

>> Joe Horwedel: There was a lot of work that was done, a lot of analytic work, a lot of debate that with the height ordinance coming back our goal would not be to go through and precisely define all of that. But to create a mechanism of where there is, some gray area or some ultimately policy discretion by the council of how to deal with an issue, how we would address that in the zoning code, versus today it's kind of on an informal policy basis. So that's part of which we have to do that, whole different type of regulation than we've done before. But clearing the question about the custom of developers have asked well can I put two more floors on my building, that's that has some major ramifications in other places, because I think a much broader discussion, we're going to need to have at some point, is it is to do that is probably a year-long project with consultant and staff resources that are not on the table right now.

>> Councilmember Liccardo: As we look at individual sites, and I know the two sites you're referring to, the suggestion is to the extent we revisit any one of those sites, we are essentially pulling the string on a much larger sweater that is going to have us meshed in a year or years long conversation about OEI?

>> Joe Horwedel: That's my sense of what we thought back in 2007 I think it was, we thought it would be a discrete project to go in and do that went into a about a two-year, hundreds of thousands of dollar effort and so that's judge it never rent any further is than that. We could never research a consensus of where to go with you. I don't think there is a quick easy solution, it is one I think that is a fair question to ask and it is one to understand the consequence to. It's not just for an individual property or downtown, but on a citywide basis, what is that choice and consequence?

>> Councilmember Liccardo: I think it would be helpful for us to understand, I recognize particularly with the developments that we want to see happen next year, we don't have enough time to work all that out. Because we expect shovels will hit the ground next year. But going forward, it might be helpful at least to narrow the range of potential stakeholders within whom we need to talk. I know I've had some offline conversation with Bill Sherry about this. I know there's some concern about international and transcontinental flights but it seems to me there are a limited number of carriers who seem to believe that having two corridors is necessary, as opposed to one corridor for OEI. And I would at least like to see if there's a way that we could move forward with an attempt to identify who the stakeholders are that care, because a fair number of airlines don't. And I wonder if there's at least a way to engage those stakeholders in further conversation?

>> Joe Horwedel: I will really refer to Bill and the airport staff's ability to deal with the resources. That's not something I'm prepared to take on.

>> Councilmember Liccardo: I see Bill is wandering on.

>> Mayor Reed: While Bill is coming down, let me add a couple of things. I have talked to lots of airline folks including CEOs and the FAA over the last few years on this topic. And I think the central problem is some airlines care about different things. But there's no way that somebody doesn't care that will impact one or the other whether you have a straight-ahead path or off to the right path, one or more of the airlines cares about that, and that's the problem. You just have to sort of choose who you're going to offend and which part of the market you

might restrict depending upon who does what. And it's always been, we don't really want to restrict the market for our airport because we desperately need more flights. And so it's tough to pick among your children, to decide which one of them ask going to have to suffer.

>> Councilmember Liccardo: And I appreciate that mayor. But I think that for instance, we'd all agree right now, we care an awful lot about what all Nippon airways thinks because of the importance of that Tokyo flight, as opposed to say Quatas, whom to my knowledge isn't running any flights to Auckland, right? So I think at least to be able to know who cares and who doesn't, to understand whether or not this is a conversation worth engaging in. Bill did you want to --

>> Bill Sherry: Thank you, councilmember, Bill Sherry, director of aviation for City of San José. I think for those that were involved in this work effort, I think everyone understands that this is a highly complex issue. I agree with everything that Joe Horwedel said, as a matter of fact everything that's been said so far. From my perspective, this is your airport. And it is not necessarily what an airline desires or doesn't desire. It's really more of what the 11 of you desire. From your airport. You are correct, councilmember, there are two corridors. And some airlines use one, and some airlines use the other. The problem that we had when we were going through this work effort was that airlines, you know, these corridors are maintained for emergency operations. An engine fails on takeoff. What we found was generally the case, is that airlines train their pilots, their flight crews, to handle an emergency, the same regardless of what airport they're at. And if you lose an engine on takeoff, when you don't have a lot of speed, you don't have a lot of altitude, there is quite a lot that has to take place in that cockpit during that period of time in order to keep the airplane flying. Those flight crews are trained to just regularly do that, and consistently do it, without regard to where they are. So if an aircraft lost an engine, the pilot starts to recover, he or she can't say, oh, I'm in San José and I have to do something different. And that's really where the two corridors came in. And so I think we could easily reengage the airlines if that's the will of the council. But I think what you're going to find is that we refined those corridors about as tight as we could. That gave the downtown area the highest heights, but still preserve the airport capacity. It's really down to a policy issue from the council, in terms of the airlines are going to say, we need those corridors. Some airlines will say we need the straight-out, others are

going to say we need the West corridor. But than it they are going to hold out saying the emergency paths have to be maintained. Then it becomes a policy decision on behalf the council what you want for your airport.

>> Councilmember Liccardo: I know this is a much bigger conversation but I certainly appreciate the general point about the need for uniformity from pilots in many airlines but they seem to make exceptions for John Wayne airport in Orange County, they seem to make exceptions in San Diego and I don't understand why those airports are unique and San José has to continually take a back seat. And so -- and that's why you know this issue was pushed five years ago. So I guess it would at least be helpful to know what airlines stand where and if it looks like look, there are just too many airlines to have to be able to try to negotiate with and then we all back off. But it seems to me that if it's the case we know that the overwhelming majority of our airlines seem to feel that one corridor is the one that they need then maybe there's some room to talk.

>> Bill Sherry: The -- and you're testing my memory because we put this down, I guess it was probably 2008 or 9. But I believe to the best of my knowledge that the changes and the compromises that were made at John Wayne and San Diego had to do with noise, it did not have to do with emergency operations. So when you're dealing with a plane that's healthy and you can do different things with it in terms of its performance. But when you're dealing with a plane that's not healthy, things have to be very routine and structured. But again, we're happy, if it's the will of the council -- I think we've got a lot of this information that we can gather, and dust off. Not a lot has changed in the industry in terms of aircraft performance. So if it's the will of the council we can get this out, dusted off, reengage the airlines. But I think we're going to probably find ourselves back right where we were before.

>> Mayor Reed: Let me suggest one additional thing we might want to do that would be her I think, at least could be done more quickly is go back to the FAA. Because when I went in and talk to the FAA they were contemplating doing some work around this issue with a half a dozen airports. And they were going to take a long time, because it's the federal government. But it has been a long time. So I think we at least ought to check in with them to see if they've got something that they think is a method of decision making.

>> Councilmember Liccardo: Yes, I appreciate that suggestion mayor, because I recall the word on high from Washington and it might be helpful if we could get some direction. If I could ask the maker of the motion to include direction and action from the FAA.

>> Mayor Reed: Okay, that's acceptable to the make are of the motion. Councilmember Herrera.

>> Councilmember Herrera: Joe, I just wanted you to comment with regard to any changes you have with regard to Reed Hillsdale airport. through our work with the county airport land use commission. So it kind of just filled in the missing piece that we had already done.

>> Councilmember Herrera: So not being an expert in every single terminology here, I'll have to go online and learn a little bit more about it, but can you just tell me quickly are there are other projects that we're contemplating in that area that would be negatively impacted by any of these changes?

>> Joe Horwedel: No, because the impacts we have around Reed Hillview are really around the occupancy and use, density of activity so this did not change that at all. This only affected height and we really don't have height, it will tall use he in Evergreen. So it really doesn't have consequence from that standpoint.

>> Councilmember Herrera: That 120 feet, we haven't looked higher than that at all, throw, 98?

>> Joe Horwedel: No.

>> Mayor Reed: I do want to thank staff for getting this in in a timely manner. It is important to Sam Sunday and others, they are moving ahead with a significant development project in North San José. This is one of the things they were concerned about when they first started down the path. Thanks to staff for getting this here so we can get this as part of the action. We have one request to speak, Mr. Wall.

>> I'd like to thank PBCE and airport staff for all your work. The 79-page Document was rather a work in product in itself. The downtown business association raises some very interesting concerns, and some of the building were already over the height requirement. Now, in reference to the single corridor, I would ask, what about the different types of corporate rigs that come in versus the Dreamliner of all Nippon airways, number 1, and why don't we have universe sitting in these airplanes that they are not going to come down in San José or other places to create another dramatic event? Now the gulfstream 5s and citations I think coming over my backyard seem to be their line of choice outside of those aging 737s from southwest airlines. Now it will be spectacular to see one of those Dreamliners blot out the sun as they come in pilot training because an engine goes out versus making sure engines do not go out, should be an issue for discussion. I also would like to know what impact military aircraft, it is always interesting to see how the C-141s take up the 69 lie. And it's always a pleasure to see those planes come into our airport. But I think this, today, shows that the envision 2040 plan will be repealed at some point as being the work product of a group of arm scratching monkeys. I'd say no to this plan whatsoever. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. We have a motion to approve with a friendly amendment regarding the direction of staff. All in favor, opposed, none opposed, motion is approved. We have rezoning property at north side of Coleman avenue item 4.3. We have a motion to approve. There are no requests to speak on the motion, all in favor, opposed, none opposed, that's approved. Item 4.4, the vacation of a portion of Emery street from Stockton avenue to Laurel street.

>> Councilmember Oliverio: Mayor Reed, thank you I'd like to make a motion, but I'd like the members of the public to come forward and speak on this item.

>> Mayor Reed: We have requests to speak on this item, David Wall, Jeff Bidola, Keith Brummer.

>> I'm on record every time Bellarmine is on the outstanding people in our community, well, some of them anyway. I think that charging God's holy church in reference to St. Bellarmine, Robert Bellarmine, you should look up on the Internet to find out he is a doctor of the church which is a very rare and distinct designation. november 6th, 2012, the resolution will be conditional upon the completion of the above mentioned sales agreement. It is not

listed here the sales agreement and how much. I'm ecclesiastical record to drop all fees and refund the fees of \$5920 and to give the property outright because who I mean you're basically if you don't do this, you're putting your hands into God's collection plate. And stealing. Now, on judgment day, this record will be put forth, I mean I'm not the one that's going to go down to the fiery pits on this one. But for you who vote against doing what I suggest, well you're held to a higher duty and it would be ministers of the people and therefore, the fires may burn a lot longer and harder. So you know I'd just give them the property and be done with it. But it's up to your conscience because now it's a matter of record for all time that I brought this to you and you can't wiggle it out when you're before God and he said you know councilmember, you had the opportunity. David warned you. He studies San José government, he knows what goes on. He tried to keep you from the fire.

>> Supervisor Yeager: Pits. I guess that decision is not up to mine but I hope I have an influence.

>> Mayor Reed: Jeff bedola, Keith Brummer, Chris Tullin.

>> Hi, this is a minority report. Adoption of the resolution isn't the same as approving it. Irregularities. Number 1, neighborhood consent of the road closure is flawed. Review of impacts was not done. Review is part of the project cycle. Its absence is more telling because further action, this vacation follows it. Whether that disagreement is even legal deserves a look. How can Bellarmine traffic be excluded from city streets? Okay? 3, execution of the agreement is flawed, too. The fence that was installed has no gate. This violates public right-of-way and is an ongoing wrong and ought to be addressed before the process goes further. There's no mention of this impediment or correcting it in the resolution. With open discussion, other ideas could have been offered. I seize additional value for Emery street not being considered. My work as chairman of the college park neighborhood association traffic and safety committee drew unwanted attention to Bellarmine's application and I was let go. Also, was attacked I think in a public meeting held to discuss my proposal for mitigating traffic from the closure. I have evidence, and there are witnesses, choose to not go along with abuses of process, that's what will enable the city to move forward. That's why ethics in public administration is so important. I am neutral about the proposal but not the process. The ends don't justify the means. You can't defer this. Look into these things and maybe while keeping all appears you know helped. Thank you.

>> Mayor Reed: Keith Brumer, Chris Tulin, Scott soaper.

>> Hello some my name is Chris Tulin. I'm the president of the college park neighborhood association and I'm here representing the college park neighborhood association board here. College park had endorsed the closure of Emery street demonstrated by our active participation in the process for road closure. College park voted for the approve of the road closure. We encourage council to adopt the resolution to vacate the portion of Emery street from Stockton or the Laurel to allow the sale of said property to Bellarmine. I would like to reiterate the conditions important to college Park brought up at the October 16th council meeting. Specifically we wanted to ensure that the following was included in the resolution. One, that the vacant section of Emery street will continue to be designated as a pickup and dropoff area for the Bellarmine students and visitors. Two, the fence blocking access to Emery Street at Laurel remain in place. While the association would have been supportive of a gate, with limited access, for reaching the CalTrain station, our preference is no gate at all. And have pedestrian access go onto Bellarmine through the Stockton street area and not from Laurel. We would please ensure that this is considered, in the Emery street vacation resolution. Thank you.

>> Mayor Reed: Scott Soper, Tom Gornt.

>> Good afternoon, two weeks ago I was asked to speak on behalf of the association because Chris was out of town. We're limited to one minute because of length of meeting however, I did manage to request a clarification because of the map showing a pedestrian easement which seemed to indicate that the fence would not be across the bottom of Laurel Street and that there would be public access from Laurel where currently there isn't. That was adopted by the council so sort of my understanding is a resolution before you now has incorporated those clarifications. And I think you can check that against the video and I've requested that the City Clerk be able to verify that if you ask him. The status quo now with the existing fence is a you result of years of work between the city, the neighborhood and Bellarmine in order to allow the expansion and improvements of the Bellarmine campus and eliminate those impacts to the neighborhood. block of the fire station which would otherwise was routinely blocked by traffic trying to drop students off. And the fence prevents student dropoffs at that juncture of

the neighborhood. Now it does require the people who could previously walk straight through the CalTrain station, which only runs twice a day in each direction five days a week ten stops a week in each direction, it requires them go one of block one way or the other, all around, either through the Bellarmine campus or through Asbury street and down. I would ask under those circumstances do we support it, continue to support it or the resolution as it sits before you should specify that the fence remains and that the public access to the vacated portion of Emery Street be from the Stockton side only not Laurel thank you.

>> Mayor Reed: Tom Gornt.

>> I'm Tom Gornt. I'm the CFO at Bellarmine college prep. Bellarmine has been working with the college park neighborhood association since 2003 to reduce school-related traffice in the residential area surrounding the school. In 2009 and working with the neighbors, the city transportation Public Works and Planning Department, along with the district 6 councilman's office the street was temporarily closed for a one-year study period. Traffic studies were conducted in 2010 the decision to permanently close the one block portion of Emery Street between Stockton and Laurel was made was supermajority of Bellarmine's neighbors decided the closure was in the best interest of the neighbors around the neighborhood and the city. Since the closure, the neighbor complaints about double parking red zone park and other traffic violations created by school related traffic have been reduced to almost zero. With the renovation is of the Bellarmine baseball field and setback requirements it became necessary to request that the city vacate the street. There has been a planning director's hearing that was held on October 24th and included in that there was a PD amendment that was approved at that time. It's PD A-12-005-1. And included in that is what Mrs. Tulin suggested, that the street remain as a designated drop-off, point is included in that amendment. That the street is unbuildable property because of the utility easements that run through it and it will remain in its current state and final reply pedestrian and emergency vehicle access will be maintained. So I ask for your approval of this resolution, thank you. And also, the discounted price that Mr. Wall is suggesting.

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

>> Councilmember Oliverio: Thank you, mayor Reed. I think the testimony from Chris Tule and Scott Soaper and desires of both the future owner, since the city would be vacating as well as the neighborhood. So I would simply make a motion to put forward the staff memorandum for vacation of a portion of Emery street, including the public service easement, the sanitary sewer easement and the 20 foot emergency access easement, however omitting the 12-foot pedestrian access easement.

>> Mayor Reed: All right, we have a motion. Any discussion on the motion? On that motion all in favor, opposed, none opposed, that's approved. Our next item is item 4.5, development services update and economic strategy top 5 work plan priorities. I would like to commend the staff, we have a lot of projects that are underway in the city. Two years ago we had a jobs and probably close to a billion dollars of projects already under construction or will soon be under construction as a result of that good work. But we have to stay focused on jobs and revenue, huge opportunities, and our staff is working hard to make sure that we're successful. And I'm going to turn it over to who -- I don't know who is going to kick off the presentation, probably Kim Walesh.

>> Kim Walesh: Good afternoon. I'm here with Joe Horwedel and Laurel Prevetti, assistant director. Last October you as council adopted an 18 month work plan to implement the economic strategy and you identified these top five priorities and told us to spend 80% of our time advancing those priorities. So we had a progress review on this in the CED committee last March and we just had a similar progress review last month. So we want to start by thanking the CED committee, led by chair Councilmember Herrera and with councilmembers Kalra, Oliverio and Liccardo they have been a very important sounding board for us the last 18 months as we implemented this plan. As we step back we feel like staff from all of our CED, CSA departments have really made very significant progress advancing these priorities. And I know you know we've done that in a time of very significant staff transitions and vacancies and organizational change. So we've been very actively working with developers and companies on their growth and expansion plans in San José. We've been growing confidence in our city, definitely growing interest in San José. We're blessed to be in one of the healthiest, probably the healthiest commercial real estate markets in the nation. And lucky for us markets are tightening clearly north of us so we are very well positioned now to attract the next round of large development projects as well as leases for those companies looking for 50,000 plus square feet of space. So I know you know we've been work on major

development projects in North San José, a new office building in Santana Row, our whole goal is to get them to and through permit process. We have seen a real uptick in the STI-ITI projects. Our staff have processed 270 projects since March and as you know these projects really reflect renovation and reinvestment in buildings in San José. Our business outreach team has been very, very active since July. We've had meetings with 80 companies. We exceeded our goal to fiscal year 2011-2012. Now, the purpose of these meetings is clearly to get a pipeline of new leasing and expansion activities. But we also have found there's lots of other ways we can help our companies here, with hiring and taking advantage of existing programs like the enterprise zone and the foreign trade zone. Also, as you know, council approved a whole portfolio of policy incentives earlier this year. And these, we can say are definitely having an impact. So you'll recall the North San José traffic impact fee reduction to incentivize earlier development of up to a million square feet of industrial space in North San José. We expect applications to be filed that will exceed that and may, in fact, be having a conversation with you about possible extension of that. The reduction in construction taxes has attracted a lot of interest, and very significant use of that. It's been a decisive factor and a number of projects for companies like Synaptics, Flextronics, Polycom, Move.com, IBM many others. And of course the downtown high rise incentives. We have one specific proposal for the 1 South market project, are in in conversation with a number of other high rise sites in downtown. So I just want to close by saying in addition to these major development projects that advance jobs and revenue I think we also need to recognize other projects that have moved forward in the last six months that will positively affect San José for years to come. Among them, the finalization of the earthquakes land purchase for the stadium, the breaking ground of the BART to Berryessa project, the new air service and a lot of excitement around the envision 2040 as we kick off the urban village planning project and start talking with developers outside our area as well as local developers about opportunity sites.

>> Joe Horwedel: Also wanted to go through and talk about the -- how we are in delivering our services, we are at a record pace right now. In all parts of our business, as Kim noted, the refilling of vacant industrial space is a very important part of our business. We also have a large amount of new construction going on, in North San José of residential. And are working, we just issued a building permit for Cisco for their first garage to intensify their campus. And making major efforts with Samsung in getting that project moving forward. That all takes staff. And the council you have approved a number of positions in development services at mid year as well as in

our current budget. And we have been hiring like crazy. It is something that we are spending an extensive amount of resources both within our departments but also in human resources to support that effort. We have identified some areas where we can do better in that and so we are identifying just as we are deploying now flexible staffing meaning contract staffing, in building, and in planning. We are looking with human resources for them to bring in some contractual staff to help us fill the remaining positions that we are seeing in our world. We received over 50 applications for each of the three positions that we have in the downtown association has for our project expediter and our small business ambassador position he. It was great to see the interest from both inside and outside the city around those positions. These are positions that we jointly marketed with the downtown association so candidates to any one of those three saw how all three of them fit together. And it is a new business model that we will be operating here really about how to not just focus on the Samsungs of the world or some of the 50,000 foot but it is to actually get down and deal with the people in the 1,000 foot spaces. So there is staffing around that. We are continuing as I said to hire, we are looking at breaking out of some of the city's normal processes, to actually anticipate what's going on six months, a year ahead of staffing. What we are now seeing is just the turnover of staff we've exhausted recruitment lists, brought back everybody we had laid off that was in positions to come back. And so we are running the challenges where people are all retiring, and we kind of know that they're going to do that. But we don't have a replacement form or somebody to step in and start learning the job for them. So we are also starting to do some things where we're advancing some positions so the City Manager's office has been really helpful in advancing temporary overstrength positions so that we can have continuity of the skills of the staff, the transfer of knowledge, the history of projects, to make sure that we don't lose that as staff leave the city. And then lastly, the customer service initiative. We have made a real major investment in how we're delivering our services to our customers. That is gone to the CED committee, we've been working with the chamber, it's development review subcommittee about that project. It is being involved or integrated into the performance evaluations that we're doing with staff about what expectations are and being more specific. We actually have today, in San Diego, a number of our mid level managers that are meeting with the City of San Diego staff and some of their developers about how they deliver a project ombudsman type project and a project for their larger development projects down into the mid size. As we really wanted to go through for those types of projects to really succeed it can't just be the manager or the leader of the project to say this is what we want to do, we want to make sure from the understanding what we need to be doing and kind of finding the entrepreneurial

ideas around that and really coming forward, back with how to implement that. And so that's why we sent them down there today to San Diego. And we're going to be looking for some other opportunities what are the best practices that other communities have that we can pull back and go and continue to reinvent ourselves.

>> Kim Walesh: That concludes our opening remarks.

>> Mayor Reed: Thank you. I had some questions about your slides. The work at the speed of business slide and the staffing issues. So we approve 21 positions in January, 19 positions in June. So 40 positions that we approved knowing that business was growing and we wanted to capture it. How close are we to filling those positions? I know you're hiring going through the process but are you there yet?

>> Joe Horwedel: No, we have 25 positions just in PBCE to fill out of 225 positions, so we hired ten planners in the last month and a half which more than doubled our staff so I think we had a last offer that went out Friday or yesterday to the last planner. We have some positions that are in the supervisory that we have not gone after filling because we were focused on front line so now we're coming back to start filling some of the supervisory positions which will create or front line position he. Electrical inspector we need to go back out again and probably find another one or two electrical inspectors. We are recruiting for engineers right now, for plan check. For both a senior or associate, and a brand-new class of kind of journeyman entry type level engineer we have never had before we are in the midst of that. We are recruiting for the small business and project expediter so it's kind of continual.

>> Mayor Reed: It's going to be a while before you're fully staffed but there's a lot of work and opportunity there and we have to work in days, not weeks. And what's the -- how long does it take now to get an appointment to come in for STI or one of our programs that we're trying to get people to use?

>> Joe Horwedel: STI we were about three weeks out. So that's further than we would like so that's one of the ramping up to shorten that back down. We have a little bit of capacity so when we do find somebody who really needs to be in we're able to get them in, in a day or two. We've got a little bit of stretch in that but generally we're

three weeks out. Inspections we were out over a week, we got back to next day inspections until a couple weeks ago when we did two weeks of training for all the inspectors that took essentially half the staff off line. We backed up and then we're not catching ourselves back up again so I think we're kind of at an equilibrium with inspection. Planning we just today reinstated a second planner answering questions in the permit center so that was one of the positions we got in the budget. That person's now on board so that's allowing us to shorten up the time people have to wait to get general inquiries answered which generally feed into either a building permit or planning permit so that's been kind of long overdue getting that one filled. And then on the planning side of it we do have a contract staff planner who is working clearing off some of the backlog that we had off of people's desks. We're doing the same with building, we brought in two plan checkers for two weeks, cleared away a bunch of backlog. We're bringing some more I think it's next Monday for another couple of weeks to work our way back to equilibrium.

>> Mayor Reed: I think it's important to stay there at that level so that if we have to use contract people to fill in or whatever we have to do, retiree rehires whatever it is because if we miss a project, that could cost us a million dollars worth of tax revenues and fees and things. And there are a lot of projects moving so the staffing is a critical part of it. Now I don't know how much additional staffing work our human resources department can handle because they've got demands all over the organization. But this has to be a high priority, because if we're leaving revenue on the table then we don't have revenue to hire people to do things.

>> Joe Horwedel: Right. And that is, we had a meeting that City Manager hosted with all the affected departments, including HR about what we need to do to get all of those positions filled. And so with that we're going to be doing the contractual human resources staffing to help with those recruitments, I'd asked my admin staff to look at where we need to do some additional work to help with that. Because literally, it's just you know, we've closed for the small business expediter, small business ally a couple of weeks ago and we got the applications today. It's just everybody is running fast so things don't get where they need to. So we're trying to reduce those bottlenecks or reduce them.

>> Mayor Reed: We spent a people come and invest in San José. Office of economic development generating the work, now we have to deliver and that's often harder but if we don't have the staffing, we have to figure out a way to do it. I had a couple of slides I wanted to put up. The first slide is, why you guys are so busy? That's nine months of 2012 for some -- that's just some of the companies. Those are kind of driving-industry companies that went through our expedited permitting process. And 2011 looks about like that. This is big are than 2011. With any luck 2013 will be even bigger. But there's a lot of work that's gone into those, we have a lot of success stories, a lot of great things that have been done by the entire organization. But I'd like to have many, many, many more low goes on this next year when we look at this and we need the staffing to be able to do that. I had another slide. Because here's things that aren't on that logo slide. This was attached to the memorandum that I put out. There's probably about \$1.6 billion worth of projects that are circulating our city in one form or another, trying to get underway. And that's why I have this real sense of urgency, knowing that the Silicon Valley rolls in waves. And if you're not prepared for the wave when it comes in, it might knock you over. We want to capture as much of this as we can. There are others. There are other parts that are moving. I think I mentioned in my memorandum that there are at least several dozen companies that are look for 50,000 square feet or more currently in the market. And I have been told by one of our billion dollar investors in the city that their market research tells them that there's probably 200 to 300 companies that are going to need 50 to 100,000 square feet that are going to be moving in our region over the next couple of years. And these things happen periodically in Silicon Valley. We don't know Howe how long it's going to last. Keep pulling for the national economy I think ocontinue to grow a little bit. But it's just huge opportunities and we want to capture this because ultimately, it does translate into revenues for our General Fund. Even though it goes through the Redevelopment Agency and successor agency as a direct impact on our General Fund, and we generated a billion dollars worth of investment a scum of years ago with the work that we did, there's another billion here at least and I think we can do a billion worth in the next six months. But there are lots of other projects that aren't on this list or the other list that are moving and we have to be able to deal with it. I had one other slide. We sent out had this -- my memorandum, some people had some comments that came back. This is a selection of those. I'd just like to point out the one on the bottom right-hand from Tinsdale Sobrato, there is probably nobody in the valley has more experience doing development over a longer period of time that Sobrato organization and as you know, Tim steele says the technology grows and retracts in waves and when that wave is coming in you have to be ready or you miss and

you're out of the game. So we have to be ready. If you look around us, at the kind of development that's going on to the north and other cities, we have millions of square feet that are already under construction. Millions in the pipeline planning process. And we don't want to be left behind. And so this is an opportunity that we want to capture for the jobs, and certainly for the revenue. Because as you all know we could spend a few more dollars if we had a few more dollars delivering a lot more services to our people. I want to thank Office of Economic Development, Planning, Building, and Code Enforcement, city attorney's office and others that get involved in this to deliver on these projects to make the happen. We got a great opportunity and I think the next year's going to be really good for us with all of the work that we put in on this. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you, mayor Reed. I also wanted to thank staff, everyone who's involved to bringing this issue forward and of course my colleagues who serve on the CED committee, especially chair Rose for her steadfast leadership and also to the mayor for his forward-thinking and really laying out what we need to do in terms of attracting more economic development in the next six months to a year. I think that as we're moving forward towards economic development we can all agree that it's important for San José to remain competitive in the eyes of those who have major projects in the pipeline as well as those who want to bring business to our city. The mayor's recommendation of expediting the permitting process will only help and will not harm us in any way and I think that the recommendation of adding or forming the ad hoc committee on economic competitiveness is a good one. 23rd it's a much needed one and I'm really excited that I've been nominated to serve with councilmembers Herrera and Liccardo along with the mayor on this committee. I think that we're going to do exception work, I think we need to get these projects moving as fast as we can at the speed of business as we all like to say. So with that I would like to make a motion to approve the mayor's memorandum dated November 1st, 12.

>> Councilmember Herrera: Second.

>> Mayor Reed: All right we have a motion to approve the memorandum. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I notice in the overhead when you listed that the key priority projects, and I know it's not exclusive list, but you did include the sun garden center. And I noted that was I think just accidentally omitted from the written document, I'd just ask that the make are of the motion might incorporate as part of one of the priority projects.

>> Vice Mayor Nguyen: Actually, thank you, Councilmember Liccardo. The sun garden project is something I actually wanted to speak on, I got excited and forgot about it. If you would allow me.

>> Councilmember Liccardo: Please do.

>> Vice Mayor Nguyen: Say something about that. This project is very exciting. It's going to be developed in an area where we have seen so many social problems, including the issue of homelessness, loitering, prostitution, just a lack of retail stores in this particular area. And so we're really excited to work with Michael Mulcahy and his participates to bring this project to District 7. And staff is aware of this but essentially this is \$42 million investment from these folks and it's going to generate a half million dollars of sales tax for the city as well as 50 million in property taxes for the city. Like the mayor said we won't be able to continue to provide the services that we want without supporting projects that will help us generate tax revenue and other revenues. So in addition, this project can provide 400 to 600 construction jobs. And I think that one of the exciting things for me is that it's going to be a part of the future three creek trail and they're working with the neighbors to make sure that they're going to be a part of this process moving forward. So thank you, Councilmember Liccardo for mentioning that and yes, I will include that.

>> Councilmember Liccardo: Thank you for doing that.

>> Mayor Reed: Let me just add to that. That my memorandum was not an attempt to provide a completely list. There is many, many more. This is a partial list and that one certainly needs to be part of what we do.

>> Councilmember Liccardo: I appreciate it's not exclusive but certainly it's meaningful to certainly prospective tenants that we would like to move through chute more quickly. I just want to be clear about the item that's identified in the but point on page 6, the steering committee for the one voice approach to SB 375. Who would be sort of the person who's coordinating that, would that be you, Laurel or someone in economic development?

>> Laurel Prevetti: Actually we've got a committee already set up with the City Manager's office, Department of Transportation, myself representing planning and the housing department. So it's kind of co--led because as you know SB 375 it is more of a transportation issue in terms of where are we going what transportation grants other times it's more of a land use issue so it really is a partnership. I am actively involved representing the city on the regional planning committee that ABAG has. So to the extent that I can represent the city it's my honor to do so.

>> Councilmember Liccardo: Okay. Reason why I ask is, I know some of my colleagues on VTA will recall last week, we had a pretty active discussion on VTA about the habitat conservation plan and what might be done regionally and I think it would be really helpful to have staff engagement in that process both VTA and with other city staffs. And so I'd be happy to talk more off line about how we might do that but I think that's going to be strategically important for San José. And then finally with regard to the customer service initiative Joe I appreciate your speaking to it. My recollection was that there was some discussion about that coming back to CED and to council. When do you anticipate that?

>> Joe Horwedel: I think the December meeting is going to get cancelled for CED so I think it's the January date that everything is moving to that point.

>> Councilmember Liccardo: Okay, greatly, could I ask the maker of the motion to incorporate that as well?

>> Vice Mayor Nguyen: Absolutely.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. Kim I would like to say thank you for mentioning Santana Row and I really appreciate the Planning Department's expediting the hearings before council and having that flexibility to have those hearings during the day. It makes a major difference for them versus having to wait three or four weeks, they are consumed about the entitlement process rather than going out to get a tenant. I really appreciate that. Joe or Laurel the mention of contract staff to help clear out the backlog, do you have all the flexibility you need to hire contract staff to fill the gap in between hiring, for example you said, an electric tricks or electrical inspector was difficult. Do you have the flexibility to bring someone to manage that so we can keep up to speed?

>> Joe Horwedel: Yes, we have currently four contracts that are available for building and fire that are for plan check and inspection. We've used them in building for the plan check piece of it. We have not used it yet for inspection. We have a number of retiree rehires that we are using for electrical. In planning we have two contract firms and we are using both of them now.

>> Councilmember Oliverio: So do you feel you have all the flexibility you need to react to the market?

>> Joe Horwedel: Yes.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to thank Kim and Joe and Laurel and staff for the excellent work they've been doing. It's been a pleasure as the chair working with the committee, and in making great progress, with really limited resources so I just wanted to say that. I'm very supportive of the mayor's memo and honored to be part of that effort to move these projects forward. Looking forward to that.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Yes hopefully with a quick question. Since our first priority is working at the speed of business, and moving things through quickly, what specifically are we using as measurements, what measures are we using, how are we tracking them and where are we reporting them to make sure we are meeting up to that number 1 commitment specifically for the job creation and revenue generation?

>> Joe Horwedel: So I can talk to the measures we use in development services for speed of business. First of all on the reporting side of it we report them in the budget process. We report them through the CED committee and then we also report those through our regular meetings we have with the development committee through the development review subcommittee at the Chamber of Commerce. We use a number of measures that were created with our customers about what acceptable service standards were for different types of delivery of that service. We are going through a continual reevaluation now to see where it makes sense to tighten those up and reconcile them so that's kind of an ongoing basis and I think you'll see some of that coming in this year's budget of some suggestions around that.

>> Kim Walesh: We track the revenue associated that we've had a direct hand in and job creation as part of our performance measures so those are reported in the service efforts and accomplishments report and through the budget process.

>> Councilmember Constant: I just think it's important if it's our top priority which it is that we have a way of getting that information to the council on a regular basis. You know not just annually or having to dig through a CED committee report. I think that would help all of us who aren't involved in the committee level.

>> Joe Horwedel: And I think that's one of the things with the ad hoc committee that the mayor has proposed creating that that would be one of the things we would share with them at each meeting is how we prepare month to month because we do prepare those numbers monthly.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, Kim, the 18 months, you mentioned we were here last October, so it's not 18 months, maybe it was in the memo I read. Why are we coming back earlier than the 18 months?

>> Kim Walesh: I think you directed us to report back every six months on our progress.

>> Councilmember Rocha: So council we're going every six months for --

>> Kim Walesh: Yes, we report to the committee on progress and then it's rolled forward to council. We cross referenced --

>> Councilmember Rocha: The loan item.

>> Kim Walesh: Exactly. What's coming next sometime after March will be the creation of what could be the final 18 month work plan for the five-year strategy that was adopted in 2010.

>> Councilmember Rocha: Okay, so that would be in March?

>> Kim Walesh: In the springtime the full council involvement with that setting direction.

>> Councilmember Rocha: Okay I have a question really only suited for the mayor given he was on the memo. Maybe this was discussed at Rules and I was not privy to the discussion. Regarding the ad hoc, somewhere in here if it's listed and I missed it the last paragraph of the first page background so I'm curious as to the scope of this ad hoc and its purpose and goals and outcomes.

>> Mayor Reed: Well, it's ad hoc so it's not well defined but it's intended to be short term really focused on six months, whether it's going to be three meetings or four meetings yet to be seen with really the general focus on what are the projects, how are we doing and what policy issues, what regulatory issues, what staffing issues might be in the way of trying to -- of getting to success. And if there's something like that a policy then we need to bring it back to the council. So beyond that it's not well defined because it is ad hoc and it's really intended to zeal with this specific topic -- deal with this specific topic. There are lots and lots of things still going on that would run through CED committee in regular course, just to pull this forth and focus on it.

>> Councilmember Rocha: How is that any different than the CED committee ?

>> Mayor Reed: It's to take one small area and pull it out and focus on it. The CED committee would still have all the other things that the staff is working on that would come to the CED committee. But this is really to pile a lot of attention on this just because it's a very short term opportunity, very important something to focus on.

>> Councilmember Rocha: Is it going to be staffed by city staff I'm assuming how many departments OED, Planning, Building, and Code Enforcement? City Attorney?

>> Mayor Reed: These are the people that are already doing the work. All of this work has to be done, the permitting and all that sort of thing is done anyway. This is really a chance to report it in a public way to the council. That will allow us to identify impediments that really are in the way of staff. So you've probably experienced this from time to time. You ask a question, the staff will say that, well, I don't know if we can do that, there is a council policy.

>> Councilmember Rocha: That is a venue for discussing that?

>> Mayor Reed: There is a policy let us give it to the council and let the council make a decision, quickly, not circle it for six months and say that's really a problem.

>> Councilmember Rocha: And the airport competitive ad hoc committee is that one still meeting?

>> Mayor Reed: It's kind of run down in terms of the work, it's not officially disband he.

>> Councilmember Rocha: Officially?

>> Mayor Reed: It's ad hoc. When it runs out of work it runs out of work.

>> Councilmember Rocha: How long has that been going?

>> Mayor Reed: I think a year, I've kind of forgotten. I think a year.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: Any other questions or comments? We have one request from the public to speak, that would be Mr. Wall.

>> Sir, look speed of business versus the speed of waving taxes, fees, et cetera, when you yourself have projected, \$22 million deficit, really \$22.5 million and growing. The question would be, how prudent is this be waiving taxes and all these fees and entitlements when you are fating a deficit that may not be able to give our learned folks at PBCE to give predictions or your forecasting is very, very poor in the past and I don't support it. Let's look at the downtown high rise incentives. Incentives for residential downtown high rise projects include 50% reduction in taxes. That's nice. Ton of people, 50% reduction tax for the building. Fee deferral until occupancy. Continuation of park fee reductions, and suspension of affordable housing requirements. Now, this goes back to item, what was it 4.1? So here's a government that can say, okay, downtown, we're going to suspend the affordable housing requirements. But if you are in the hinterland, you have to build all this affordable crap. Mr. Mayor, we had building height requirements well of course developers are showing an interest in high rise developments, where the reduction or -- with an increase in heights or whatever, because you're reducing all

these fees and cramming all these people into a little area. With the parks and everything else, it's not going to be funneled, all I can say is ladies and gentlemen at home, these are the same people that have run this city into the ground with their financial projections and now they're coming up with a new model that says hey, look at the pretty birdie in the window without looking at the deficit you're going to step in starting fiscal 2012-2013. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve the memorandum as modified. On the motion, all in favor, opposed, none opposed, motion is approved. Our next item and last on the list is 9.1, amendment to the agreement at Macias, Gini & O'Connell for financial audit services. We have a motion to approve. By the Vice Mayor. I have no requests -- no, I do have one request to speak, Mr. Wall.

>> To date I have yet to hear an apology from a high strung councilmember, about not thanking Mr. Richard Keit of the Redevelopment Agency about this so-called hidden report that surfaced in the Mercury News and of course the yellow journalism substandard reporting of the secret report that wasn't secret at all. Yet Mr. Keit is running an outstanding successor agency. January to June to fund this outstanding successor agency. And yet we have an audit here and I guess an audit is required, because someone some somewhere, realized that councils shouldn't have redevelopment agencies because they run up debt they cannot pay. They take money away from schools to where governor Brown has to come up with proposition 30 and some other lady for prop 38. When you look at this and you have to approve this audit reflect back in time of all your forecasting that you did, selling your projects to the public, what you did. And then coming up to where you're so substandard you're going to be losing money on your Redevelopment Agency debt. Starting next year. I thank Mr. Keit and the successor agency and I'm just wondering at what point in time that this councilmember that took all this free press from the Mercury News will come to lord Jesus and repent of that sin and sin no more on this type of issue? Thank you, councilmember from District 3.

>> Mayor Reed: That concludes the public testimony on item 9.1. We have a motion to approve. On that motion? All in favor? Opposed? None opposed, we have a -- one more item on our agenda, 9.1 is approved, open forum is our last item. Jeff Bidola and Mr. David Wall. Mr. Wall you've got the microphone, go first.

>> Today, we have an issue that I raised in Rules Committee about how the independent police auditor has been politicking on camera on television camera in what appears to be her uniform and city office to basically tell people that don't do the death penalty, the death penalty is broken, I enthuse were her correct words. This is a memo that showed up on the public record. Now, I asked the question, how can a public official appear on television camera or supporting a political position, unless of course had council authority to do this. Because if a police officer or firefighter or a City Attorney, deputy City Attorney were to do so, they would be fired in a heartbeat. So I think there has to be some questions to this issue. Besides I think the death penalty is not broken because President Obama could give executive order to a couple of seal teams and exterminate death row inmates in a couple of hours, I don't understand why that suspect being done. That memo sets the tone right there. The other memo has to do with having to expend my federal District Court on the sewer service and use charge and the storm sewer charge and how they are formulated. I just put this out on the public record. I reference it today so you're all made aware of it. The formulation for these charges are governed by proposition 218, which is an amendment to the state constitution for State of California. With reference and deference to how these rates are calculated, back in the '70s by some state-appointed board. One of the arguments I will assert is the constitution trumps some state or board. And over 37 years of done-doing, is rather damning. So here it is for the record. I'm going to continue my administrative remedy. Thank you very much.

>> Mayor Reed: Jeff bidola.

>> Customer service feedback. I'm not sure I was well served. I spoke a little earlier on 4.4. I heard after public comment, the proposal to the pedestrian easements and it was approved. That came up and was approved and there was no chance to comment on what was substantially a new issue was not relevant to the decision made here. That's not sympathy with justice in the councils of America. Also, the public notice said, all persons interested in or objecting to the proposal, that's not a logically distinct dichotomy and doesn't cover neutrals. If it's interpreted, if interest is interpreted in the legal sense. These points are problems with the customer service process. Thank you.

>> Mayor Reed: That concludes the open forum, that concludes our meeting, happy election day. We're adjourned.