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>> Mayor Reed: Good morning, call the meeting to order, our city council meeting, first item on the agenda is our labor update as usual. We'll hear the update and then we'll go into closed session and return into open session and 1:30 for the open session agenda. So to kick off the update, Alex Gurza.

>> Alex Gurza: Good morning, mayor and members of the city council, Alex Gurza deputy City Manager. Late Friday, at approximately 5 p.m., and a little bit later, we received proposals, one from IFPTE, which represents AEA, AMSP and CAMP, and then we also received a joint proposal from Police and Fire. The correspondence continued on the weekend, on Saturday, and the city responded to those bargaining units yesterday afternoon. The proposals and our response are before you in hard copy form, and that's the end of our presentation this morning.

>> Mayor Reed: Thank you. Nancy Ostrowsky wants to speak. That's the only card I have. So if anybody else wants to speak, come on down.

>> Good morning, mayor and city council, and City Manager and city staff. As you know, IFPTE local 21, CAMP, AEA, and AMSP delivered to you and your negotiating team a comprehensive and legally allowable pension reform proposal, and I wanted to update you on very recent developments. Yesterday our membership ratified the proposal with an 87% yes vote. If we are able to come to an agreement with the city, then the city will have met its obligation under the Seal Beach. See attached e-mail from our attorney. I have a letter for you. It would negate a vested-rights challenge in court and it would negate curb complaints as to good-faith bargaining. We want to guys a couple of additional points. Our proposal actually provides for a legally allowable mechanism to capture, via salary reductions, additional savings from those that wish to remain in tier 1. It reduces accrual rate, lowers the cola, increases the age, and uses three years to determine the final average salary for those in tier 2, and lowers the max benefit amount, increases the age of retirement to 65, lowers the cola, lowers the accrual rate for those newly hired. In addition, under all three tiers, SRBR would be eliminated. IFPTE local 21 would also agree to immediately implement the new-hire plan and not wait until a vote of the people and the many months it would take to put that plan together. There is ample time to work through any outstanding issues, and I've attached a legislative mechanism to allow you to place two items before the voters, and pull one back, by March 14th. We

ask that you support legal and allowable pension reform and work with those bargaining units that want pension reform. Thank you, and I'm going to give our letter, our handout from our attorney, and also, the legislative piece to the clerk for you. Thank you.

>> Mayor Reed: That's the only card I had. Anybody else speaking? Okay, thank you. We're going to go into closed session, we'll be back here at 1:30.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for March 6th, 2012. We'll start our meeting with an invocation. Councilmember Liccardo will introduce the invocator.

>> Councilmember Liccardo: Thank you, mayor. I am honored to introduce Nancy Palmer Jones who has been with us before. Nancy, of course, is the senior minister at First Unitarian Church, where she has been since 2005. The church was founded a bit before that, though. Back in 1856 they held their first congregation gathering at City Hall. It's a church dedicated to justice, equity and compassion for all relations and their mission is to make love visible, word indeed. Reverend Jones has been a remarkable force in the doubt. Nancy palmer Jones congregation there on third street and they have been a wonderful source of unity, and solace I think for many of us who have been in her services in the past. Just to tell you a bit about her personally, she is has a background in acting and editing which can certainly be displayed during her wonderful sermons. She's a member of the Unitarian universalist justice changes consultancy, dedicated to justice and antiowe repetition group, she has a degree from a small school up in Palo Alto called Stanford and then went on to get her master's in divinity from Harvard in 2002 and she spent time with congregations in -- back East at Freeport and New York and Wellfully Hills, Massachusetts, but we are glad, we're thrilled she's here in San José, and hopefully to stay, and back after a brief sabbatical, she is here now. And so with that I'd like to welcome Nancy palmer Jones.

>> Love will guide us. We say at the first Unitarian church of San José. Neither sentimental nor cynical. This muscular love is our name for the holy. For what we hold of highest worth, it is our true north. So I invite you to come with me on a tiny momentary journey and close your eyes for just a moment and breathe easily. In these few moments of silence, allow a word or a phrase to rise in your heart, a name for that deepest value, your sense of life purpose, and I know you are all here with a sense of purpose today. Is what is that name for the holy that has guided you here today? What is your true north? Friends, may you write this name on your heart, on your mind, on your agenda, or your palm. And may it guide you in every word and deed today. Thank you. Thank you to the city council. Thank you to all of you for your service. And for your witness. Amen.

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

>> Mayor Reed: I have no changes to the printed agenda. Under orders of the day.

>> Move to approve.

>> Second.

>> Mayor Reed: Motion is to approve orders of the day. All in favor, opposed, none opposed, those are approved. Closed session report, City Attorney.

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

>> Mayor Reed: Thank you, we're going to have a couple of ceremonial items today, I'm going to invite Councilmember Constant and the Moreland 1962 world championship team to join me at the podium. Today we're commending the Moreland little league 1962 world championship team as they celebrate the 50th anniversary of their perfect season. It's not that we're 50 years late, but we are. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. We have several members of the 1962 team with us today. And we're here to talk about the Moreland little league which was founded in 1959. I guess I should point out that I wasn't quite born yet when they won this. So I hope they forgive me for not being at the Gail. But the Moreland little league's mission is to develop strong basketball skills, develop an appreciation of the game among the players and coaches, establish the league as a long lasting institution, and provide an arena for community involvement. The 1962 team portrayed this mission perfectly. They had a perfect 13-0 season. The team overcame challenges. Each member came from very diverse ethnic working class families. They didn't even have uniforms to play. They practiced on homemade baseball fields with a make-believe home run fence, parking cones, and chalked curved lines. But they continued on their winning streak and won the world championship in a stadium in front of 20,000 fans. The 1962 team demonstrated a passion for the game of baseball and brought pride to City of San José. They remained Northern California's only little league World Series champions in history. This year the Moreland little league has dedicated their season to this 1962 World Series team. I'm very

proud to have the Moreland little league right in the center of my district. And thrilled that my son, and his grandfather, both -- my son plays now and his grandfather played back in the very first year that that organization started. This Saturday, they have their opening ceremonies, and it's going to be a great time. But we want to take just a moment to express our appreciation, and join the Moreland little league in their season and providing this commendation and I believe Mike is going to speak a little bit.

>> Thank you. Thank you, thanks to the people of San José, and I would like to thank all the parents. I'd like to thank the government, of San José, for being supporters of school sport, and for the youth, and I'd like to thank the parents, and my dad, that was the founder of the league, and it's really a special thing to see the efforts that this community has put forth for youth sports. And I thank you very much. [applause]

>> Mayor Reed: Now I'd like to invite Forrest Williams to join me at the podium. Yes, he's here. We're recognizing the week of March 6th in San José as science fair week. Former Councilmember Williams is going to tell us what happens in science fair week in San José.

>> Thank you, mayor. And city council members. For this proclamation. As you know, on the 6th and 7th of March we host the synopsis championship science fair here in San José. It's at the convention center south hall. We have over 1,000 students participating. We have over 554 of those students are female. Which is encouraging, in terms of getting females involved in the science curriculum. There are 507 male students. There are over 816 projects. Come by and see what your tomorrow will be. We must encourage our students, and our effort here is to awaken in each student the interest and desire for science and engineering. For those keys will unlock the future to us. As we know, there's nothing new under the sun. It must be discovered. And our youth, we should encourage them to discover the solutions for the future, the ones that we have created for them. So there will never be a lack of work for them. Because we have problems, still yet to be solved. Our star and stellar student last year was Angela Zang. She had her project reviewed by the president of the United States. Ironically, I wrote the president, asking him to come and do a video, not to come out here but just do a video, extolling the virtue of the students and how he supported the science. I did not get the video or DVD. We said we are going to get to the White House anyway. So Angela Zang got to the White House. She is one of our students. All I use that as an

example is that we have the ability. Let's give our students the chance. I want to thank you again for the proclamation. And come by. You can come by tomorrow after 2:00 and I will guide you through the fair. Thank you very much. Thank you, mayor. [applause]

>> Mayor Reed: First item on our agenda is item 3.5. Revised retirement reform ballot measure. After we get done with that we have a few more things to take up, we've agendized this to be taken up first in the afternoon. And we've got a pretty good crowd here. Not everybody in the audience is yet asked to speak. But a lot of you have. So when we get into the public testimony I'm going to limit the testimony to one minute per person so we have everyone chance to speak and we have ample time for council discussion of the issues. Back in December, December 6th the city council approved resolution language and question for the ballot to be submitted to the registrar of voters. We directed the staff not to submit that until necessary. Which is I guess on the 9th of March is the last day to submit it. So that we would have an opportunity to continue in a mediation process with our 11 unions. The City Manager has made recommendations for some changes in what we did in December. And that is what is in front of us today. If the council can't come to a resolution today then the council action in December will stand. But in front of us are recommendations from the manager to change some of the provisions of the ballot measure and the charter. And so I'm going to turn it over to the City Manager, to start that presentation.

>> City Manager Figone: Thank you, mayor. I do have a few brief comments, many of them along the same lines as your introduction. The revised ballot language that I'm recommending to the city council today includes many significant changes from where we started in July of last year. This movement is the result of long hours of negotiations and mediation sessions with the City's 11 bargaining units over the past eight months. The city has revised the proposed ballot language seven times and deferred a decision to bring a measure to the voters two times. Since December, we've met with our bargaining units, 20 times in mediation sessions in a committed effort to reach an agreement. So from my perspective the council is not making a sudden or precipitous decision today. It is the product of serious continuous and committed discussions with our 11 bargaining units. Although we were not able to ultimately achieve agreement on ballot language, what you have before you today does reflect these discussions. And with that I'll turn it over to staff for a very brief presentation.

>> Alex Gurza: Good afternoon, Alex Gurza, Deputy City Manager. Just a very brief presentation starting with first the timeline. This is clearly not the timeline from when we started this process back with the first draft of the ballot measure in July but since December. On December 6th, 2011, the city council approved a ballot measure that was dated December 5th for a June 2012 election but you directed us not to submit that ballot measure to the registrar of voters to allow us to reengage our bargaining units in mediation with an attempt -- by attempting to reach an agreement. Today March 6th is your last council meeting to approve a ballot measure for a June 2012 election. Because it must be submitted to the registrar of voters by March 9th. So as the City Manager indicated unfortunately, we were not able to reach an agreement with any of our bargaining units. However, as we have in all of the versions of the ballot measure, we have taken into account those discussions. And the City Manager's recommendation includes changes that are as a result of the mediation process. If the council does not approve the recommendations that the City Manager has put before you today, then the December 6th ballot measure draft is what would be submitted to the registrar of voters for the June election. This is, I realize, very small print here. But we will make this available on our Internet site. This is essentially I'm not going to go through it all but a very high level and when I say very high, very high level overview of the ballot measure. It does not summarize all of the ballot measure but it highlights primarily the current employees which is we're calling tier 1, the opt in program which is the middle column and then the right column is tier 2 for new employees. And what's in bold are really highlighting the changes from the December ballot measure to today. There are other changes and the ballot measure that we submitted with the City Manager memo clearly reflects all of the language changes from December. But just to highlight, the ballot measure does not at all change the benefits. The current level of benefits what we're calling tier 1. The benefits themselves do not change. The cost sharing however does change, the amount that employees contribute do change and there's been a significant change from the December ballot measure to the one that's before you today and that is in the amount of additional contributions that employees would be contributing. The previous ballot measure had a maximum of 25% of pay. At 5% per year. And these are maximums. The revised ballot measure reduced that maximum to 16%. It again doesn't mean that we're going to reach the maximum but it sets that as the maximum and that it would grow no more than 4% per year. When I say grow it could also go down because the amounts are elemented by 50% of the unfunded liability, when that amount reduces it could also adjust downwards as well. And the other important change is the

previous ballot measure had the additional employee contributions starting this coming fiscal year. The revision puts it out a year so that the additional contributions would not take effect until June 23rd of 2013. On the opt-in plan which is again the optional program that employees could choose, the basis of the -- or the main element has not changed from December although there was discussion and a change based on the 30 year and out provision. We have a provision in our plans that say once an employee reaches 30 years of service they can retire regardless of the age. That previously was going to be phased out beginning from the first year. This really puts off that phasing out of that 30 year and out requirement so it doesn't even begin to phase out for five years until 2017. The purpose of that change was to not create a disincentive for employees who may be close from that 30 years from opting in to the least expensive opt-in program. And then lastly on the new employee tier, I want to emphasize that the ballot measure, in and of itself, does not establish a second tier. It establishes parameters around the second tier. It gives options for that could look like, it could be divined contribution, it could be defined benefit. But it puts parameters that if the city were to provide a defined benefits plan, that it has limits on the benefits themselves, and that's what this column here represents. Is the maximum benefits for a defined benefit plan. There are a couple of changes, the most notable one is the previous version of the ballot measure indicated that in no event shall the city pay more than 9% towards any plan, whatever that might be. But the idea was to share the cost 50-50. What the ballot measure now says, that if the city provided the defined benefit plan the cost will be shared 50-50 and the City's costs would not be limited by the 9%. So in the City Manager's council memo we gave an example. So if in the future that cost for example would be 20% total of compensation, city would pay 10%, the employees would pay 10. So the 9% is still there if the city were to provide additional supplementary benefits, and that's clearly delineated in the ballot measure. The next slide is for Police and Fire. Again I've sort of laid the foundation there. There essentially the ballot measure has in the past been almost the same. Virtually identical for Police and Fire and Federated, except for the age. Police and Fire under the ballot measure can retire earlier than our civilian work force, and the changes in the ballot measure that I described early also apply here for the police and fire plan. And that's the end of our presentation.

>> Mayor Reed: Thank you. I'm going to take the public testimony at this time. A lot of people want to speak. I want to make sure everybody gets a chance. When I call your name please come on down to close off the

microphone. Please come on down. Larry Stone, David Wall, Stephen McMann. Again, speakers will have one minute.

>> Mr. Mayor, members of the council, I'm Larry Stone, your county assessor. I'm here to support public pension reform. I've been an elected official for 33 years, first as a councilmember, then as a mayor, and now the assessor. I'm a major beneficiary of the PERS pension system. But we need reform, not -- we need significant reform, not just incremental reform. Why? Because the current system is simply not sustainable. It's not sustainable in a good economy, and it's not sustainable in a bad economy. And we've had both in the past, and we will have both in the future. We need this reform. I want my employees to have a competitive compensation system and I want them to have a good pension plan. But I want them -- I want them to have one that's sustainable. And the current system here in San José and in the county of Santa Clara is not sustainable. Out of 16 budgets in the city of Sunnyvale I voted against one and that's when we went to 2% at 55. Now we're 2.5% at 55 in the county and you have a similar plan here. We need that pension reform in order for local governments and even the state government to survive. So I urge you -- your yes vote on these proposals. Thank you.

>> Mayor Reed: David Wall. Stephen McMann. Cesar Diaz.

>> It is interesting to note that the previous speaker, a politician, is somewhat like the rest of you in that the politicians did not do their duty in funding pensions over the years. My concern here is how the word estimate was omitted from the use of the \$650 million quote that was used in the budget study back in February 14th of last year. Mayor and City Manager both have communication directors, they have dedicated staff, budgets for consultants. Therefore, the word omission is not negligence. It's intentional. And such an intentional conduct, Mr. Mayor, puts yourselves in the shoes of misleading and deceiving the public for a political goal. That's unfortunate. [applause]

>> Mayor Reed: Stephen McMann followed by Cesar Diaz and Bob Keefe.

>> My name is Stephen Mcmann. I am president of the San Jose Teachers Association. I proudly represent over 1700 teachers in San Jose Unified School District, the largest district in the county. I think during challenging fiscal times like this it is easy to scapegoat groups, and I want to go on the record in saying I'm utterly disappointed in how union has become a bad word. Unions have a proud history in this country, and there's a lot of pride people should take in being in a union. I'm proud to be a union member, and this debate has become so political that when you hear the word union, it's automatically negative and evil. I think we should change the tenor of the discussion to ensure that unions are valued and have a good place in our society and collective bargaining is a fundamental right that is recognized worldwide. The second point I want to make is responsibility. Previous city councils negotiated these contracts and signed on to these agreements. You are now faced with an incredibly difficult challenge, everyone appreciates that. But you are elected to solve that challenge. The citizens of San Jose put you in those seats to deal with this difficult problem the City of San José is facing. They also expect future elected leaders to be able to negotiate contracts with the employee groups with the entire package on the table, not piecemeal out one by one. I think by going to the voters with an issue like this, you're abdicating your responsibility to negotiate a contract. And I'd urge you to vote no on the ballot.

>> Mayor Reed: Sorry, your time is up. Cesar Diaz is the next speaker. [applause]

>> My name is Cesar Diaz. I'm a resident of San José. I'm political organizer for ACLU, United Service Workers West, represent thousands of members in San José. I'm here today on behalf of our members, and families, the city, and -- the city is in debt, we know that. We know that the city need to looking for ways to balance the budget. Budget by cutting cuts. We understand most things we done, we cannot support the ballot measure that is base of the false information. We cannot make drastic changes on hardworking families, pensions, and lie to the voters by saying the ballot measure will solve the problems when we don't know the numbers. Before anything, we are asking to state join added committee to be part of the version to to review --

>> Mayor Reed: Sorry, your time is up. Next speaker is Bob Keeve and Dan Kraus. If you want to speak put in a card just like everybody else.

>> I'm here to support the -- is it okay to go ahead?

>> Mayor Reed: Yes, Bob.

>> I'm here to support the mayor. I'm here to support those of you who support the mayor. I'm here against delay. I think that the longer we delay the greater is our peril. I hope you all act and act very quickly. Thank you.

>> Mayor Reed: Dan Rodriguez, Warren Kraus. Paul Prange. Dan Rodriguez. Warren Kraus. Paul Prange. And then LaVerne Washington.

>> Good morning, Mr. Mayor and city council. I'm here to speak against the proposal that you guys have put out. It's based on a lie. Everybody knows it now, everybody can see it. There's no question whether it's a lie or not. \$650 million is definitely a lie. It's not true. \$300 million now, maybe even lower once they do an investigation. Why don't you guys wait for that, the real number to come out, and then maybe at that point you can kind of make a decision like this that's going to be a real one not something that's based on a lie and fear that was imposed on the citizens of San José by the mayor and the Mercury News. Thank you.

>> Mayor Reed: Warren Kraus. [applause] Will be followed by Paul Prange and LaVerne Washington.

>> Good afternoon, mayor and honorable councilmembers. My name is Warren Kraus grew up here in the City of San José and have many friends and team here. Just want to say that moving forward with this illegal ballot measure is only going to serve to create a rift between the citizens of San José and the public workforce. Everyone knows that the budget deficit was not caused by the public employee unions and/or their pensions but good bargaining with the employee unions is the solution. Not proceeding with the illegal ballot measure, thank you.

>> Mayor Reed: Paul Prange followed by LaVerne Washington and Pat Saucedo.

>> Just some numbers real quick but first I'm a resident of San José have been for many, many years, live in district 3, I vote. Using 2011's San José employee salaries off the city Website and the housing department's 2011 numbers for what constitutes low income for family of four, currently 75% of employees working for the City of San José that are nonsworn are considered low income or lower. 40% of those are considered very low income or extremely low income. If this ballot measure were to pass as proposed by the City Manager's office those numbers would jump to 90% of nonsworn employees working for the city would be considered low income or lower. Just thought somebody should actually hear those numbers. You have my phone number you have my e-mail. If you have questions of how I got those numbers please contact me and I will go over it with you in detail. Thank you.

>> Mayor Reed: LaVerne Washington. [applause]

>> Good afternoon, city council and mayor. Imagine a situation in which a worker bargains with an employer for fair compensation for a hard day's work but at the end of that day the employer paid a fraction of that amount saying too bad I need to pay for other things so that's all you get and oh by the way great job see you again tomorrow. That's what's happened when indentured servitude was legal in this cub. That's what happened to farm workers in this country. That's what happened to corporate labor in the nation today and that's what's happening to the City of San José employees today. It was wrong then, it is wrong now, it is wrong for your city. It is wrong for my city it is just plain wrong. Mayor and city council you need to do the right thing and live up to your promises and obligations by negotiating retirement and wages at the bargaining table with the real numbers and real solutions and not attempt to unilaterally impose this heinous action which will only result in an expensive court battle this city can ill afford. [cheering and applause]

>> Mayor and council, Pat Saucedo, San José Silicon Valley chamber of commerce. I'm here today with a number of other business leaders in the chamber that will not be speaking due to time constraints and to save you time. We support the mayor's proposal to go to the ballot in June and urge your positive vote this afternoon. There are a number of things that have changed with the proposed ballot measure from when we began talking about a year ago. Not everything that's changed is what the business community wanted to see. But we feel that what's

before you today is a major step forward in creating long term sustainable pension and benefit reform for the City of San José. And it's time to take it to the voters. It's time to let the business men and women of your city and the resident taxpayers have a say on the mayor's proposal. Please vote yes, this afternoon. Thank you.

>> Mayor Reed: Bob Leninger followed by Joe bass, Rosalinda Navarro and Brian wheatley. Go ahead Rosie, you're closest, might as well get to it.

>> Mayor and city council members, my name is Rosa Navarro and I worked for you for 26 years. I was loyal to you and I was loyal to my union. I come here as a friend. And as a friend I ask you: I beg you: Please take the time to view all the documents and weigh all of the information. Every day, the numbers change. Please do not let the forces that be rush you to judgment. Please delay this very important decision until all the critical and accurate information has been provided to you by the staff. Thank you. [applause]

>> Mayor Reed: Bob Leninger followed by Joe Bass, and Bob Wheatley.

>> Bob Leninger, president of the Federated Retirees Association. Mr. Mayor, I have a few people who will pass up their time and their yellow cards. I've got -- don't get much time to talk to you here, I'd like to have a couple three more minutes raise their hands.

>> Mayor Reed: You have one minute bob.

>> Okay so let's just summarize it now, maybe I can do it in two minutes. This is just the wrong action to take. You have everybody in the room including the retiree associations that say, we need reform, have even the retiree associations have put substantial concessions on the table. Not acknowledged by the city but we did it. You have discussion and dialogue. When you take this vote today, that stops. It goes to the black hole of the legal work, costly, time consuming with risks unknown. It stops today. In a few minutes you take that vote, the discussion's over with and you know it. That's no way to run a city. It's no way to create political risk for projects, and we know

which ones I'm talking about. I could talk about the details as this affects current retirees. There's changes have been made but it still does in a substantial way and the medical plan is everything else.

>> Mayor Reed: Stip sorry, your time is up.

>> Don't think about the city --

>> Mayor Reed: Bob Leninger is done, Joe Bass is next. Brian Wheatley.

>> Mr. Mayor, members of council, my name is Joe Bass, and I first want to change my comments and say that one minute is ridiculous. This issue that you're dealing with is important to the lives of thousands of people that work for this city, would seem that you could at least give them the appropriate time if not the decision, positive decision, to have them have their say. Now I'll just read the closing comments I had planned. Mayor Reed is quoted in today's Mercury News as saying that the voters will approve his proposed pension reform. And in today's atmosphere and with the help of his friends who will buy their ink by the ton he's probably right. In fact, if there was a proposal in the ballot to cut the city council salary in half it would probably pass, too [applause]

>> That would be -- that would be just as irrational as what you are proposing to do today. [applause]

>> Mayor Reed: Brian Wheatley followed by Paul Mulholland and Jeff Christina.

>> Good afternoon. My name is Brian wheatley, I'm president of the Evergreen teachers association. I live in District 9 and work in District 8, so I've had the opportunity to meet many of you, vote for some, and even actively campaign for one. The headline in today's Mercury News states Reed says call for the audit of San José pension costs is politically motivated. Mr. Mayor, I couldn't agree with you more. I'm here because I'm motivated by the belief that collective bargaining is the best way to solve today's political and economic issues, not on an illegal ballot measure based on inflated projections instead of facts. But for me it's also personal. My wife's father, Mervin Wheatley, spent 30 years on the San José police department, he ended his career as a lieutenant. When

he was forced to take a disability retirement. After a heart attack. Her brother Tom wheatley who was the acting achieves before he retired. My concern is for the next generation of police officers, and other public servants and what must be done to ensure the best and brightest can afford to take the job of protecting our fair city.

>> Mayor Reed: Sorry, your time is up. Paul Mulholland is our next speaker. [applause]

>> My name is Paul Mulholland I'm a retired San José firefighter. Good afternoon council and mayor. Mayor Reed, I'd like to remind you that truth and honesty are values to be used in every situation. Not just when it serves your purpose at the time. City of San José councilmembers, citizens, San José city workers and now, California state legislators want you to tell the truth. Mayor Reed, it's time to man-up. [applause]

>> Mayor Reed: Jeff Christina will be folded by Carol Lazaterra.

>> I'm representing green waste recovery and Zanker road landfill. I'm here today to support this measure. I see all these stickers on everybody around saying facts matter. There's one thing that can't be disputed and that's the fact of what's happened in the last ten years. The costs have gone up 400%. There's no arguing that. That right there means that something needs to be done. So everybody who is going to support this, I support you, and I thank you very much for taking the time.

>> Mayor Reed: Carol Lazaterra followed by Robert Sagalla and Yolanda Cruz.

>> Mayor, city council, some of you know me when I worked with Dave Hennessey to get some of you elected. I drove in from Manteca. I've been retired for nine years. I dedicated 20 years to the City of San José. I worked for a volunteer for the police and fire departments and I was a community leader. What you guys have done to me is thrown me under a bus. Not only have you taken away part of my medical, but that medical will no longer pay for my prosthetic leg that I need because I'm an amputee or the special shoes that I need because the bones are crushed in my other foot. As far as the retirement goes, I'm already living at a low income. I mean \$40,000 is not a lot of money. And maybe you think it is. But now you want to take more away from us? Please have a little heart

for those of us who have dedicated ourselves to this city, have worked with just asking for a retirement, and a medical plan, as was promised to us.

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

>> Okay.

>> Mayor Reed: Robert sagala. [applause]

>> My name is Robert sagala, I represent working families. I'm co-chair for 521. I was part of the committee when 2.5 was negotiated. The reason it was negotiated and approved by the government was because the cities and counties could not get workers. They were going to the valley to buy houses. And that's the reason why that percentage being used. They should be bargaining at the bargaining table not behind closed doors. We are -- you don't have all the facts. And whenever you negotiate contracts, you look at all the facts, and you make a decision. The average voter does not know the history of the contract. By you putting on this thing on the ballot you're slapping all your workers in the face. And you're developing not only the working poor, but the working retirees. Also, by what the city has done, the workers have to give back all the raises that they received in the last ten years because of their medical insurance. So it's total compensation and it needs to be done at the negotiating table, not with the voters to have -- that don't have all the information.

>> Mayor Reed: Sorry, your time is up. Yolanda Cruz. Followed by Gloria Lazansky and Claudia Shoupe.

>> My name is Yolanda Cruz, I'm the president of AFSCME local 101. I am here today to urge the council to not push forward and support the mayor's illegal ballot measure. We need real solutions with real outcomes that will protect all residents of San José. In the past year, my union and I personally have been scapegoated as unwilling participants in addressing pension issues. This has been completely unfair, and unwarranted, characterization of rank and file and in the community. We are some of the lowest paid workers, will never receive six figure pensions in our lifetime and will not receive sick leave payouts city in hopes of coming to a fair and equitable pension

alternative. Over a year ago I challenged the numbers being used. I never said the pensions challenges we are facing are imaginary. We could not get confirmation on how the numbers were achieved, what data was used, how it was calculated and why it was using numbers that were overstated at best. Imagine how this past year would have been if the the solutions.

>> Mayor Reed: Sorry, your time is up. . Gloria Lezansky and Claudia Shope followed by Jeff baroni.

>> Mayor Reed and city council, work for the city and in turn I was eligible to receive medical and retirement benefits. Although it would be some cost to me that was fine. Over the years this city had many hard times. My co-workers and I were willing to forgo raises to help. That's what families do. We still provide an excellent service, after all, we were the face of this city. I retired seven years ago, after 27 years of service in the library department. I immediately found out that I was not eligible for Social Security, I was hoping to pay part B of my Medicare, I've seen SRBR disappear, I've seen monthly betterment classes disappear. I've seen an increase of my medical prescriptions increase by 100% and now the city wants to take my cola. I did my part for the city. Now it's time for the city to do theirs. I wish you good healthy now and in your old years I do not support the ballot measure. Thank you.

>> Mayor Reed: Claudia shown. [applause]

>> Mayor Reed: Claudia will be followed by Jeff baroni, Johnny shame on you Mayor Reed for making up numbers taking them out of made-up numbers. It doesn't make any sense. You should be bargaining with the workers, they provide good service, I enjoy the services that the city workers provide us with. Now compensate them fairly. And don't try to drive a wedge between them and the people, the citizens of this town. I just really urge you to go back to the bargaining table, scrap this ballot measure, and treat the workers fairly. Otherwise, you're inviting horrible lawsuits that are going to cost way more than you would, if you bargained fairly.

>> Mayor Reed: Jeff baroni. [applause]

>> Hello, my name is Jeff baroni. And for 23 years I've been a proud member of the San José fire department. As of a year and a half ago I was also proud to be a city employee. Recently my firefighter who was an excellent employee left our department after six years. He could not face a potential of what you're proposing today. To make matters worse, I have two other members of my crew who are seeking employment in other cities. Combined they have over 32 years of service. This proposed ballot measure supported by the City Manager, the mayor, and certain councilmembers, contains a lot of baggage resulting in the legal battles that will last for years. A decision of this magnitude must be based on the most accurate and reliable information possible. Which all members of the city council have not been privileged to see. If passed today, this proposed ballot measure will definitely decrease the level of police and fire service that our citizens deserve. As a resident of District six and a San José firefighter I strongly urge you not to support this ballot measure.

>> Mayor Reed: Johnny camas followed by Robin Zamora and Los Rodriguez.

>> Mayor and council, I'm truly saddened that the negotiations did not work in this respect but I don't think that the current plans are sustainable. I applaud your efforts to try to solve our budget and not kick the down down the street. I don't want us to end up looking lie Stockton or Vallejo. I think that would be a bigger problem than the ones we are facing today. I think as a financial advisor we need to get our fiscal house in order and I support your effort to put the measure on the ballot. Thank you for your tomb.

>> Mayor Reed: Carlos Rodriguez, John Max Reger, Steve Kline.

>> Hello Council, mayor, I'm here to vote against the -- urge you to vote against the reform. Everybody here knows that these numbers you know, we're not sure what the number are really. I want to thank Jenna Souska channel 11 she did an airing that the numbers were not right. I have a memo here that saying that the story was very misleading from our City Manager right here but just last Friday I got another letter from the City Manager saying they found the 400 million plus we have a splufs 10 more million and they're right here. So I think it's a little too soon to move forward. Little too soon to move forward and I think we need to do a little more investigation to

check, we affected a lot of people's lives with these numbers so just do what's right for the citizens and the kids of this community. Thank you. [applause]

>> Hi, my name is Robin Zamora and I was born and raised in San José. I'm also a proud city employee with 21 years of service. My prior job had better benefits but I came here for the security. As a single mother I was able to provide my children with a decent life. Life has never been easy but we managed. Now at the end of my career closer I see that security being stripped away by this pension ballot. People like my hello would not opt in are being penalized for not doing what this council is dictating. I'm also taking a 12% pay cut. I'm paying more for my health care and paying more unfunded employee health care. By the time approximately 48% less in take home pay. How is a person supposed to live on that? I guess this is my thank you for 21 years of service. [applause]

>> Mayor Reed: Steve will be followed by John Max Reger and Victoria Borden.

>> legal opinion about the manager's version. The opinion clearly states that the city has a argument to raise if and when this measure goes to court. as a lawyer I can tell you that's not a winning argument. The critical question that needs to be answered is, how much will it cost San José to make that argument when this goes to court and what are the costs and expenditures for our city when it loses the argument? In law we call that risk. Before we ask the public to make a decision, they must know the cost of that risk. The taxpayers in neighborhoods want the mayor and each member of the council supporting this measure, to state that cost in real dollars. And no fudging this time. This is a crucial, given that Mr. Doyle last year said that the average cost of outside legal counsel was about \$450 per hour. And that tax -- that San José taxpayers will have to pay dearly for your folly when this goes to court and you lose your argument. Pensions need to be reformed.

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

>> But are you willing to let San José pay the rest without --

>> Mayor Reed: Is our next speaker . [applause]

>> Honorable mayor honorable councilmembers, madam City Manager, 2007 city stated that we're not subject to public employee relations board point two you were sued point three you lost in California superior court, pound four you lost in the California appellate court oop point five milk employee relations board point seven you I subject to the California constitution point 8 you are subject to the U.S. constitution article one section 10 point 9 you have even bothered calculating how much why aren't you spending resources on cooperation collaboration instead of mutual nuclear knowledge is fleeing the city point 12 just how much are you willing to lose? Thank you for your time. [applause]

>> Mayor Reed: Just wait -- I'm sorry, just wait a second.

>> Yeah.

>> Mayor Reed: Sorry, after Victoria will be Peter Finn Ann, Mike mendezabal.

>> My name is Victoria bardone I'm speaking to you today as a ridiculous. So I just want to say that I'm angry that this attack on working people is still going on. San José city workers along with their families have sacrificed again and again, and are still willing to negotiate. Mayor Reed and city council, implore you all to work with the hardworking people on whose backs the city is carried on. Thank you.

>> Mayor Reed: Peter Finneran.

>> Council. Peter Fenlan, president ABMEI. We feel we are on the jaws of a closing vice between inflation and your proposals. I look forward, we look forward to five years from now a potential reduction of 40 to 50% in our purchasing power. We calculate this from the time of the recession, from our first concessions with wages, and the completion of this 4% in four years over five years. It is too severe a measure to retain us. It's too severe a measure to retain any quality of life and to raise a family. Please consider this. Thank you. [applause]

>> My name is Mike mendazable, former city employee for 30 years, now a retiree also a school board member in Milpitas. It is obviously that the mayor Mr. Mayor and some of the councilmembers have really lost trust from their employees here. You can see it in the audience. I saw it in my last five years here at work. And let me tell you as a manager, and as a school board member, the one thing I knew I needed to have was the trust of the employees. It didn't -- I didn't have to be -- didn't have to tell them what they wanted to hear, I had to tell them the truth and what has happened here is the truth hasn't been coming out. In the last five years of my employment I heard over and over and over again from union negotiators my fellow employees that we weren't getting the truth. I sat with MEF the first time we voted, because we trusted the city, we trusted the numbers we voted to start paying for our medical benefits. I sat on that. I enjoyed -- I didn't enjoy doing that but we did it because we knew the facts. You don't know the facts here. Please go back, and win some of the trust back from your employees.

>> Mayor Reed: Sorry, your time is up. Nancy mendizabal. [applause]

>> Mayor Reed: After Nancy we'll have John freesman Steve owe Stein and Joseph.

>> I'm a retiree I worked in recreation and also in design and construction. The upcoming budget is almost balanced. Rushing to put this on the ballot now would be opening the door for errors. This should be settled through negotiations, not at the ballot box. Remember these pensions are not about numbers. They are about people, their homes, their families. The city made promises to support their employees, and we as employees promised to devote our lives to our community. We've kept our promise, it's time for you keep yours. Please vote no. [applause]

>> Mayor Reed: John freesman Steveo Stein, Joseph mendota.

>> My name is John freesman:00 pastor of holy redeemer church, San José. I don't want to futility. I don't want to talk to all of you today because I'm told that there are six votes that have already decided yes and it doesn't matter what the public testimony is. So I want to talk to those six people actually I don't even want to talk to six people I want to talk to one of those people. I don't know which one. I want to talk to one person who is willing to

exchange their hard heart for a heart of compages a bad idea. I want to talk to the one who will have the moral fortitude to say this is wrong. I want to talk to the one who understands that a change of mind is not always a flip-flop. Sometimes it's a change because you've gotten new information. I want to talk to the one who could acknowledge that you don't know the bottom line, and when you don't know the bottom line you shouldn't ask the people to vote on it. I want to say to that one, when the pension numbers don't fit, it's sometime to split.

>> Mayor Reed: Sorry, your time is up. [applause] Steve Ostein followed by Joseph rendona and Tahoe Shito.

>> City Manager, mayor, city council, I want to talk to you all. Share something over 30 years ago I wrote this down never imagined that I would ever share it with the city council of City of San José. But seems appropriate. I called it reflections. Some folks go through people like water through a sieve. Seems they only look to take and never thrown give. It is true that they will compromise to meet some pressing need and speak of things like righteousness and pure equality. But be aware, if you should care for those who claim this breed, for they are meek, and very week weak against this monster greed. Look at them with heart and mind, and see what you will see. Then ask yourself, and no one else, is what I see in me? Thank you. [applause]

>> Mayor Reed: Joseph rendona, Tahoe Shito, Ken da and Joseph.

>> My name is Joseph rendoni wealth wealthy politicians hammering down the middle class. Make no mistake about it. \$100,000 in this area is middle class and 50,000 is nearly poverty. To quote Barack Obama, you have us in a race for the bottom. You're going to turn this city into a revolving door car. No one is suffer are your workers, and your citizens. And it will be like that forever. This ballot measure is too severe. It will set people back into the 1970s and no one can work for that. And if you do vote for this, I want to you have a little bit of a spine, and look the cameras in the eye and tell them, that you don't care, about your citizens, and you have a spiteful hatred for your workforce. Because that's what your actions say. [applause]

>> Mayor Reed: Tahoe, [applause]

>> Good afternoon, council and mayor. Thanks for allowing me to speak today. Here we are at another council meeting. Where we're speaking about another ballot measure, where you guys are not considering those that are affected. Not only are you not considering those being affected, but this major decision is not even being based on facts. I'm a San José resident. I'm a student. And as a student, I do my homework. And in my homework I include only the facts. And you Mayor Reed have dropped the ball on this one. And you need to do your homework and consider the facts. And not made-up money numbers. Thank you.

>> Mayor Reed: Kendra noons. Followed by Bill Mitchler, Aurelia Sanchez and.

>> My name is Kendra i'm now a police officer. I came to this city because of the competitive benefits and was lucky enough to work for this city when it was the safest city in the nation. I've seen it decline, and unfortunately, I've seen many, many of my peers who are highly educated and well trained leaving as fast as they can for other cities. My concern is that you're going to rush into this ballot measure, while we are still willing to negotiate, while there are still viable options, and you're going to force the rest of us to leave. My husband's been here 13 yearsing also. So I have a lot to lose. But I'm willing to do that but how are you going to recruit people to work for a city that has now lied about the figures, and has breached its own contracts, and has not acted in good faith. We are still willing to negotiate in good faith. I implore you to have good faith and not rush into this vote. Because I am fearful --

>> Mayor Reed: Sorry, your time is up. Bill Mitchler --

>> :00 is everything. You're not kicking the can down the road if you don't do this today. If you wait until the general election there are a number of advantages. You're going to have a bigger turnout, you're going to have a more meaningful verdict from the voters. You're going to have a lot better discussion and you're going to have a lot better grasp of the facts by then. Ary Aurelia Sanchez, Joe chestler, and.

>> I'm Jill chestler, Mr. Mayor, councilmembers, growing up my parents taught me never to lie. The truth always comes out and that's what's happening in city council now. And today in the Mercury News, even though they said

the measure will probably pass for the mayor, the editorial board also called Jim Bell a clown for what he posted for all of you and I implore what you have and grandchildren who are growing up in the city, I have friends here I have employees of the city here, think of them and could not vote today, thank you.

>> Mayor Reed: Aurelia Sanchez, Clark Williams, and then Mark waxman and Wilma hashi.

>> Hello, mayor, this pension reform is a distraction from the fact that you have no business sense, and a lot of the people that support you in the council do not have business sense. And I'll tell you why: We spend millions of dollars as taxpayers on an airport that doesn't work. You're responsible. We still do not have the medical center downtown that we need. Not only that, you and Madison Nguyen caused a lot of division with Vietnam town, it's a ghost town. You have chamber backing you up but look at downtown. Half the businesses are subsidized by taxpayer money. Again mayor, you have no business sense. Another thing is, you are leaving the -- you have been in the council for, what, 14 years? And you're leaving a mess for the future people that are taking your place. And you don't care. And by the way, I'm not voting for the tax increase.

>> Mayor Reed: Sorry, sorry, your time is up. Clark Williams .

>> All right, thank you, Mayor Reed. My name's Clark Williams. I'm a resident of North Willow Glen. I'm here to oppose the ballot measure, opposed to putting it on the ballot. Again what we're seeing today is more acrimony in the city we've got councilmembers against each other, we've got the NBC 11 versus the Mercury News. We hear so much tremendous acrimony, in fact, there's a whole lot of crazy going on in San José. I'm going to propose a different way. I'm going to propose a different way. But that way out requires leadership. It really requires those of you on the city council to stand down, take a step back, allow the bargaining process to continue so that we can go to the voters with a ballot measure that amends our charter that serves the interests of everyone in the city. Please vote no.

>> Mayor Reed: Wilma hashi. , [applause]

>> Mayor Reed: Followed by mark waxman and Debra basher.

>> We like the city council to take care of the business of running the city. That includes negotiating with the city and the unions that represent them. The proposed measure for pension reform is responsibility of the City Council. If every time there's a contract negotiation with the unions we need to have a special election to vote on the contract what will be the expense of the special election? Do we need a city council if the voters are going to be in the position of deciding these negotiations? We need pension reform but this ballot measure is not the answer. The measure will put the city in debt for special elections as well as the measure lawsuits that will follow because of the measure. I support pension reform but I see this measure as a way for city council to make the voters responsible for doing their job. I agree that pension reform is necessary. But the city council needs accept the responsibility and take the necessary steps to correct it without the voters. I do not support this measure and I am disappointed in the council and mayor for putting forth this measure. I support pension reform as do many city employees but this measure is not the answer. [applause]

>> Mayor Reed: Mark waxman. [applause]

>> Mayor Reed: Mark will be followed by Debra basher and Tim peculiar.

>> My name is MacWaxman and I'm 30 years. It seems to me clear that the calls in the debate for exactly how many hundreds of millions of dollars and the discussions when the request for more studies are simply and obviously smoke screens for a cause of more delay. As much as they are nice, we don't need more debate and discussions, what we need now is action. Because the people here are calling for facts. It is a fact that what we have is fiscally unsustainable structure. That is a fact. It's going to be painful to solve. That too unfortunately is a fact. But I will tell that you the private sector figured out a long time ago that these kinds of defined benefit plans that are -- our company my company is one of the largest employee benefits companies in the country and I'm going to tell you that the private sector figured out a long time ago they simply cannot work financially. And unfortunately now the public sector is having to find that same thing. So I urge you to move this to the ballot now.

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

>> Please do that on behalf of the voters.

>> Mayor Reed: Debra basher, is the next speaker, (saying names).

>> Good afternoon, mayor and city council members. My name is Debbie basher and I'm a city employee. I respectfully request in the light of the most negotiations with employee representatives and place of voting for the ballot measure. Thank you.

>> Mayor Reed: Tim Miller, Susan de Vincenzi, David Gatfield.

>> Firearm, you had a responsibility to the assets of this city the employees of this city, to conduct business in a fair manner. There are elements here that have not done their job properly. And clearly, we're real unhappy about it and we don't understand why you don't want to deal with with us fairly. We did our job properly, we expect you to do yours. [applause]

>> Mayor Reed: Susan Dee Vin Chencenzi, (saying names).

>> Good afternoon. I'm a retired city employee I'm a resident of District 6 and have been for quite a while. I'm urging you to vote no today on this ballot measure. It's not only partially illegal but it is extremely poorly written and it's bad public policy. Let me give you an example of how poorly written it is. In one section it provides that tier 2 may consist of a combination of Social Security, defined-c and defined benefit plans but in another section it requires that any plan that's adopted must be actuarially sound and there must be an actuarial analysis. Well that makes no sense for a defined contribution plan. Absolutely none. And if you are going to try to include Social Security, who's going to do that actuarial analysis? It's also bad public policy. There's a section that provides that the voters have to approve any pension and retiree health care increases. That --

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

>> Vote no.

>> Mayor Reed: Emil Gatfield, Joe Kenny.

>> I would like to thank you all for addressing this issue. I would like to say it's a very important issue and I'm glad you're working towards finding a solution. However June ballot which is primarily a Republican primary. While the issue does need to be resolved it will not finish so we have a full financial picture of the problem. And when the results of the audit are here I hope you can work with the city unions who have already made generous concessions to solve this problem. San José does not need the expense, the antagonism and the legal battles of another city ballot measure. Thank you. [applause]

>> Mayor Reed: Emily Gatfield followed by Joe Kenny and Leo Prescott.

>> My name is Emily combatfield I'm a resident of district 3 I'm a homeowner and a taxpayer of that residence but I'm not an employee nor am I member of the union. I'm here because when I hear the city say we're broke and I hear the union say if this passes they will sue us and I hear the state attorney general's office say this is illegal and they will also engage in litigation, I have to ask myself how is this fiscal responsibility? This is not a picture of fiscal responsibility. What's more, when I hear the council -- the chamber of commerce show up here and say oh well we need this let's do this, I ask, if we can't keep our promises to our employees, of the city, if we can't get decent employees, how are we going to attract businesses to this city? I would very much like to trust my council. Please, prove to me that I can trust you, thank you very much for the opportunity to speak. [applause]

>> Mayor Reed: Joe will be followed by Leo Prescott, Bob Brownstein and Carey Garvey.

>> Justice, justice is the word that was in my heart during the invocation, that's what came up for me. Justice for the workers. Who have the right to legally, real negotiations. On their pensions. Not meeting for 20 times to talk

about the language in a ballot measure. That is not negotiations. Justice for the people of San José, who have the cost of their -- this illegal action by the council. They'll have to bear that cost. Justice for the residents who will not have access to needed services, as a result of the funds you won't have after you have to pay the legal costs. And justice for the voters who are being coned into believing that the ballot measure is legal. To take collective bargaining away from working people. Give us justice, please don't pass this. Thank you.

>> Mayor Reed: Leo Prescott. [applause]

>> Mayor Reed: Bob Brownstein, followed by Carol Garvey. Carol Garvey and Leo Prescott.

>> Mayor and members of the council. This proposed ballot measure was spawned in deception. If adopted it will do staggering damage to the City of San José. And yet today I see a glimmer of hope. Why? Because the truth is beginning to be told. Jen Asesco a reporter from ABC has begun to demand the truth. She's had the guts to challenge the conspiracy of dishonor between the mayor's office and the [-|| music and singing-||] And her courage is inspiring others. And that number will grow. Of course, those who fear the truth will react wildly. Witness the secondly Cal of last week's rules committee meeting. It seems heaven has no fury like a politician whose duplicity been exposed but all your rage and insults will do you no good. 40 years after water gate some people have still learned nothing the truth arises slowly but the truth prevails. [applause]

>> Mayor Reed: Leo Prescott followed by Carol Garvey, Bryan O'Neil and Bill Leninger.

>> Leo Prescott been a police officer in this city for 13 years. I'm sure that you folks know this but a lot of people in the general public may not realize that San José police department's actually recruiting again. We're trying to hire and for the last two months we've been recruiting. And over that period, of two months, we've managed to recruit approximately, or get the same number of applicants as the city of Campbell has in one weekend. The city of Campbell is a much smaller city with much less open positions than we have. And yet, it takes them a weekend, what takes us two months. There's only one reason for that: And that's what's going on here, with the city council, and this mayor, today. Talked about the future people, the future employees of this city. No one's

going to come here. We're going to lose services. It's already happening. It's happening right now. Because of your actions today. Because of that, I implore you not to do this.

>> Mayor Reed: Sorry, your time is up. Brian O'Neil. [applause]

>> Mayor Reed: Followed by Tim, Bill Leninger and then Tom fink.

>> My name is Brian O'Neil I'm a resident of District 10. Everyone here is for smart pension reform. The only problem is this ballot is neither senator more legal. We need to do something to come together because you as elected officials represent us. The people of San José can build consensus on issues. That impact of the economic health of our City's future. It is important that we maintain the ability to recruit and retain qualified employees for the services of our community. And the safety of our neighborhoods. I know our city can do better. Do we really want an imperfect measure in June or a perfect one in November? We need to come together and prove that we all have the city's best interests at heart.

>> Mayor Reed: Bill Leninger, [applause]

>> Mayor Reed: He'll be followed by Tom fink and Al triplett.

>> Bill Leninger, member of the justice commission for the diocese. First of all I would commend all of you for the work you've done to put this thing in. But as I read and keep reading these things all the effects and figures are so confusing I'm thinking to myself if a blood measure goes out right now the people are going to be the same confusion and they vote on the basis of their emotions and not on the base of what's there. I would encourage you some way to continue negotiations so that sometime if we go to the ballot, it will be something that we can -- they can reasonably understand, and project, to -- on their vote. So I thank you.

>> Mayor Reed: Tom Fink. [applause]

>> Mayor Reed: Tom will be followed by Al triplett and Tommy lineberger.

>> San José has always been a progressive city where working and middle class people have been able to live the American dream. And I'm very disappointed that we've become part of a national 15 of attacks on collective bargaining. Collective bargaining is the foundation of the ethic of prosperity. The Len electoral assault on pensions is not being driven primarily by financial considerations but by the politics of class warfare. The game was given away by the carelessness with which the administrations pension numbers have thin air and subject to change, at a moment's notice. Collective bargaining works for the public, and it works for the public for the workers who serve it. Bargaining units here have made concession after concession, and yet their willingness to help solve the City's budget problems has been brushed aside in this egregious show of bad faith. I urge the council to reject this ill conceived measure and I look forward to the results of a legislatively mandated audit. Thank you.

>> Mayor Reed: Tom Fink. Al triplett, Tom linebarger,.

>> Good afternoon, my name is Al triplett been bargaining in good faith through the collective bargaining process. The success of collective bargaining demands honesty and transparency from the parties. The constantly changing figures regarding the City's pension liability surely make the union suspect of the transparency coming from the other side of the table. Our South Bay legislative delegation has called for an audit to help bring back transparency into this process. This is issue forward. I urge you to take no action concerning the ballot measure until the audit is published, thank you.

>> Mayor Reed: Tom linebarger, Rick palmer, Robert Sapien, Rocky Padd.

>> My name is Tom linebarger, I've worked for some of you in this council. I'm beginning to wonder, is this Wisconsin? Are we moving towards Calcutta? Is it true that 40% of city employees work at a poverty level is it really right that we move that to 90%? There are people to blame for the problems we're in and it's not the people

who are going to be taking it. So I do hope you reject this, and hold off at least one election, make sure we have the facts right, and have some time to negotiate. Thank you.

>> Mayor Reed: Rick palmer. Followed by Robert Sapien, Rocky pad and David icebach.

>> Mayor Reed, city council members. You're right, there's a lot of crazy going on here. I can see it in your eyes because a lot of times when we talk here, at least six of you aren't even listening to what we say. [applause]

>> There is a lot of crazy going on here. Last week Councilmember Rocha asked for information regarding \$650 million. Basically didn't get an answer. The one answer that I think would be good, Mayor Reed, is if you tell the citizens of San José how much their tab is going to be for all the lawsuits. Is it going to be 650? Don't use that, you already did.

>> Mayor Reed: Robert Sapien. [applause]

>> Mayor Reed: Followed by Rocky pad, David icebach and Ben Field.

>> Good afternoon, Robert Sapien, president San José firefighters, local 230. We've been on a journey, haven't we? Unfortunately we haven't really been on this journey together. Where you put your vote today matters. We all took an oath. We all said, we will uphold the constitution of this country, and of this state, and yet because you have the power of six, the constitution doesn't matter here. You will willfully violate the law, you will willfully force the residents of the City of San José to fund your mess. You will willfully force the employees of the City of San José to fight for their constitutional rights. Where you put your vote today matters. Matters tremendously. Matters to this country. Matters to the citizens of San José.

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

>> Matters to its employees.

>> Mayor Reed: Rocky pad, David icebach.

>> I'd like to remind every one of you that you represent not just a portion of the people, a district, or a location. You represent all of the people. And what you've heard today are the -- are the words of people with concerns, cries, and a lot more than that. You've heard numbers inflated. You've heard so much in this whole day, this afternoon, you need to consider and take this and put it off. You need time, so people that oppose this understand why. You have time to under why people are for this, and why. Because it doesn't end, this is going on and on. We've been going on this for how many years now? Stop, listen to the people, represent all the people. [applause]

>> Mayor Reed: David icebach, Ben Field and then James Rohan.

>> Mr. Mayor, councilmembers, it looks like the people of San José, that is, the people who are not employees, are in a vast minority here. Me and 12 other people. I am in support of this -- this ballot. Now, I've heard the testimony of those who stand and fear, getting left. Just like the rest of America. Just like the rest of the citizens of this town. I look around, and I see the diminishes city services, that is, all except parking violation issuers. I see over a decade, \$73 million being expanded to \$245 million. I'm assuming that those are accurate figures. I'm not really that much concerned about the -- beyond that, whether it's 650 or 300 million.

>> Mayor Reed: Sorry, your time is up. Ben Field, James Rohan, Jerry Gonzales and Tracy Ann Jacobs.

>> My name is Ben Field I work for the South Bay labor council. It is hard to overstate the negative consequences of the mayor's ballot measure. It is a product of false budget numbers that have eroded and will continue to erode trust in city government, it has poisoned the relations with city workers and will stand in the way to repairing that damages in the future leave for bet jobs in the better governed cities that surround us. It exposes the city to extreme legal risk from the attorney general to California legislative counsel legal experts agree that it is unconstitutional to coerce employees from one pension's plan into another. The unprecedented legal position you

are considering will cost the city dearly. As Silicon Valley rebounds from recession, some of you are choosing to make San José a city in decline.

>> Mayor Reed: James rowan.

>> My name is James rowan and I'm a former San José city employee. I see one of my distinguished former professors today, Terry Christenson, who is a brilliant analysis of irony. I think it's ironic that several years ago one mayor gets fast and loose in negotiation, named Ron Gonzales, he gets indictment. This mayor lies about \$650 million and he gets a ballot measure. The fact of the matter is that the McKeivitt versus the city of Sacramento in 1921, no measure can be put on the ballot that interferes with the business affairs of the city. This legal cost you are facing is afternoon injunction waiting to happen which may be over \$650 million. I just made that up but Mayor Reed it works for you so I'm going to use it myself. Thank you. [applause]

>> Mayor Reed: Javier wait just a minute. After Javier we'll have Tracy and (saying names).

>> Good afternoon, mayor, memos of the city council I'm here to express my concern and protest putting this issue of pension reform before the voters. The issue today here is not whether we should have pension reform, many here, and certainly many employees and bargaining units, recognize the need for pension reform. But we, as voters, expect our government leaders and its employees, and agents, to act in the highest ethical standards, including no lying, no cheating, no stealing. I urge you, the city council, not to rush on this matter, rather, to direct City Manager and their agents to work with the unions, to work on a pension reform that is honest, civil, respectful, and legal, in that manner, that ensures that the residents of San José will not be held responsible for all the legal fees and all the consequences that come after that. Do what's right. Don't follow --

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

>> -- what the press gives you.

>> Mayor Reed: Tracy Ann is the next speaker, Tracy will be followed by Cheyenne Mohammede and Reginald somewille.

>> My name is Tracy Ann Jacobs, I'm a retiree of the City of San José. I worked for the city for 24 years and 11 months before my doctor put me on retirement disability. I've been retired for three months. The city doctor's so busy he has not had his chance yet to see me so it's not official. I'm here for personal reasons. My pension, I received a 10% disability pay cut. So where I live now, in retirement disability home, my pension does not cover my full -- it would have covered but does not now cover my full rent so I'm using my savings to augment my rent where I live. My savings also covers my medicine that covers my epilepsy, my savings covers my co-pay for my doctors. It also pays for paper goods, which I'm responsible for having in my apartment. That comes from my savings. If my disability retirement is never approved, that will be a vacation I will really look forward to having. I don't think I have a disgustingly opulent lifestyle.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Chew Ann Mohammedi, followed by Reginald swilly, are (saying names).

>> My name is Cheyenne Mohammedi I'm a member of Silicon Valley young Democrats. What we are facing in our city is an unprecedented crisis, a crisis that the safety net is falling apart all while Mayor Reed exaggerates numbers and the media sits there to protect him. There should be no ballot measure without the facts published and be available to all San José residents. The proposed state audit will provide independent information to make the best information available for all of San José and not just the select few. Mayor I urge you please do not turn our city into Wisconsin. These overwhelmingly exaggerated and semi ill legal numbers recall elections and not with high praise city workers that acknowledge -- city workers have acknowledged the need for Tao the real pension reform now tried to work with this council but were met only with back room deals. Let's not forget history and the reason why collective bargaining even exists. National labor relations act during the great depression.

>> Mayor Reed: Sorry, your time is up. Time is up. Time is up. [applause]

>> Mayor Reed: Reginald swilly, Pancho Guivar am and (saying names).

>> I see you guys as ministers in this community. This community asked them to trust you. We are not looking out under these covers we know these tactics, the red line says the union membership rate has been dropping. Our man in the middle income of these American people have been dropping. There's more money being made in this area now, than ever before. Our citizens are more productive than ever before. They are making less money than ever before. And that tactic, that's not started here in San José, there is money coming in to San José from people in Arkansas, and Texas, to pay the chamber, to push these type issues, so that that blue line could show up. So the middle-income, the money that's been extracted from this city going into pockets of people across the country. You have more integrity than this. There is people that believe in you that pray with some of you.

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

>> You should be ashamed. [applause]

>> Good afternoon, Mr. Mayor, members of the city council. My name is Pancho Guevara, I'm a resident of district 6. I'm really concerned about the course of action under considering today. When I go to work every day at sacred heart I see the devastation that's been wrought in our community by this economic crises that's still really taking a big toll on one family at a time. I'm reminded every day of two critical facts. One is that we're not out of the woods yet. A lot of families are still suffering. Public revenues are still depressed and public services are still desperately needed perhaps now more than ever. The second fact that I'm reminded of is that we can't effectively address these issues without a unified approach and I just feel so much division and so much anger and amary money. People are trying to make do this when we're in a situation like this when we need to really have the real debate about you know how we deal with this through collective bargaining and importantly engaging in a real

dialogue for what type of government we want and how do we pay for it so I hope you're able to make the right kind of decision that brings us together and instead of makes us fall apart. We can do better.

>> Mayor Reed: Gary Jansen, Cruz tapia followed by Sean Cartwright and Laura happened to talk to a 93-year-old retiree gentleman, 93 years old, he was in good shape and all. But I don't think he's going to go back to work to try to get the money to make up for the increase in gas prices which you're supposedly going to hit 6 bucks a gallon the end of the summer, even, the end of summer, he still has to get groceries. Please don't cut the COA, cost of living increase. Secondly, there seems to be some doubt on these numbers. If there is any doubt whatsoever, the voters shouldn't be voting on such an important item when there's a doubt in the numbers. Please get them correct. Please define the word emergency. Emergency, I think we can agree a 9.0 earthquake, the bridges are down, the city's in rubble, that's an emergency, okay, we can clearly agree on that. But building a baseball park for multimillionaire ball players is not an emergency. I don't care if you -- I don't care if you call the dollars redevelopment dollars, General Fund dollars, parcel tax dollars whatever, they are all taxpayer dollars and money can be shifted from one place to another.

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

>> Thank you very much.

>> Mayor Reed: Cruise tapia.

>> For the councilpeople, A, this measure is illegal, immoral and unethical and you know it and for you to put it on the ballot is inviting our citizens, myself and everybody else to spend money that you claim we don't have. Number 1, you ask for and you got concessions from every city worker in the last three or four years to the tune of about 13 or 14% of their total income packages and you told us when we did that, that would be enough. Now it ain't, okay? In addition to that, the citizens need to be aware that certainly for me and every police officer and firefighter and everybody working here we have been putting in 13% of our wages every single paycheck. We didn't get that money from you guys. Number 4, Mr. Mayor, you said, in the paper, that the figure of

\$650 million you were not told, I know you didn't tell the citizens that the projected deficit was going to be \$30 million and you didn't do that because that would not be true, and you would be lying to the people.

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

>> Right?

>> Mayor Reed: Sean Cartwright, Laura Wada, Tony Alexander. [applause]

>> Hello, I'm with occupy San José and I wanted to say this audience is full of people, that have lost their houses are in danger of losing their houses people that are leaving so that they can maintain those houses. People that are afraid that they're going to lose their jobs, people that have lost their jobs and their pensions and you are just going to further that and I can't imagine what the meeting's going to be like a year from now six months from now with more people like that. And not only now should this matter passes and deb Figone you need to be fired but that we should occupy your houses each and every day until every one of you are fired. [applause]

>> And the police will not take us away from your house because there is no curfew on free speech as you know Deb we've been there twice.

>> Mayor Reed: Sorry, your time is up. Laura Wada, Laura is followed by Tony Alexander, Bob Nelson and Ellen Rollins.

>> I'm Laura Wada I'm an architect here, I work for you. I spend my days solving difficult problems, getting creative solutions and trying to save the city money. I'm asking you -- I would like to say I would like to add to some of the other comments, I don't think we're Wisconsin, or Calcutta, this is Silicon Valley and we're the capital of Silicon Valley, and I'd like to see some innovation right here, right now. Innovate and negotiate. Thank you.

>> Mayor Reed: Tony Alexander, Bob Nelson, Ellen Rollins.

>> Mayor, councilmembers, my name is Tony Alexander. City workers have a knowledge that the need for pension reform and participating safe and legal way for collective bargaining is needed. Wait a minute. Let me just go ahead and just throw this away. Let me talk to the six of you that I know that want to go out there and support this measure. Okay? It is bad for San José. I've lived here all my life. I'm normally proud to say that I'm from San José and I want to go out there and do the right thing because the politicians that we elect do the right thing. But I have a real big problem because that's not happening now. It's not happening now. The employees that you have here are great employees. The ones that work in your offices, they're great. They've sacrificed. You continue to ask them to sacrifice. And they continue to give back. But one of the things that happens is, is that we come up with measures that are insane. And what happens is, we sit here and we dance around and we go oh, it's okay, something is going to pass it'sing to go ahead and make it. But it's not you must realize you're talking about us.

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

>> Thank you very much.

>> Mayor Reed: Bob Nelson Ellen Rollins and.

>> Polling for my appearance I had no intention of speaking today. My name is Bob Nelson I'm a 32 year member of the international brother hood of electrical workers electrician, I've been with the city almost 14 years. I'll be leaving on July 21st of 2013 unless I get repercussions for about what I want to say. middle class, you know who you are, you are helping to stick a knife in mayor back. I'm proud of our union, we voted unanimously not to accept the last best and final offer. You may cut my throat but I will not give you the knife to do it. [applause]

>> Mayor Reed: Ellen Rollins, Joshua Boroz, Sergio Jimenez.

>> Public servants, I'm Ellen Rollins. I'm a resident of San José. I'm vice president of home care. I'm not a city employee, I'm a county employee, a state employee, and I have not heard anyone say that reform wasn't

needed. But what I have heard over and over and over in the papers, in the public, local, larger, that the facts are not real. There's no real reason for you not to make sure your facts are real. And it's unethical for you to do that. And we do vote. I represent 17,000 San José residents. They vote. Don't lie to them. Be fair. And be at the bargaining table.

>> Mayor Reed: Joshua Boros. Sergio Jimenez. Sherry Main Thompson, Patricia Ramos Robinson.

>> Mayor and city council, my name is Joshua Boros I urge the council to please consider moving forward clearly violates the city charter and will cause an even greater economic setback to the city budget to a long series of legal battles which will only lead to more employee layoffs and the elimination of city services. Numerous reports feel that the mayor overwhelmingly overstated the pension deficit by a quarter of a billion dollars and city bargaining units to save the city over \$240 million over the next four years and have offered a retirement solution that will save an additional half a billion dollars. You may be aware that the South Bay state legislative delegation has called for a state audit of the city's retirement system to provide the facts everyone needs to be informed. I urge you to refrain from moving forward this initiative until these actuaries are release projection really is and bargain in good faith to keep our city employees and services over the long term future. Thank you.

>> Mayor Reed: Joshua Boros, Sergio Jimenez Sherry Main Thomson, Patricia Ramos Anderson.

>> Good afternoon, mayor and city council members. Please learn your lessons from the City's history, when problem 13, the budget cut was bad, when we -- the '80s recession, the 1995 bond issue that we lost \$60 million and now we're in the 2000, the city leaders at that time and organized labor came together and came up with some win-win solutions maybe we weren't happy on both sides but we came with a he wip-win. This initiative is only going to create a lose, lose, not only inflicted by any kind of cost remember that. We helped you become public servants and representatives of our communities but you have chosen to be a disservice instead of a public service for us. And we will not forget you. We live in your districts we supported you and most important of all we have good hardworking experienced people that live and work in San José and vote and we will not forget

that. We are here to work with you and our communities that are disfranchised, our Poko ways our Sants our Meadowfair communities are going to be impacted most.

>> Mayor Reed: Sorry, your time is up. Sherry Main Thompson followed by C.J. Wilson Gary McDowell and Jim unland.

>> My name is char Slane thon beings because I support San José workers and I believe in collective bargaining. I urge you to vote against this illegal ballot measure because it endangers our public safety and other city services. Puts hundreds of millions of taxpayer dollars at risk. city services for years to come. I urge you to deal with this problem the right way through collective bargaining. Thank you.

>> Mayor Reed: C.J. Wilson, Gary McDowell, Jim unland and Jeff Welch.

>> Good afternoon, my name is C.J. Wilson I'm a resident of District 6. I'm here today because I care deeply about the future of our city. I want to raise a family hear and I want this to be a safest big city in the country again. potentially illegal ballot measure. In my household we don't make big purchases without getting accurate information and my husband and I certainly don't enter into the potentially costly court battle without all the right information. So I'm urging you not to put this ballot measure ton ballot. Do not can the voters to make a decision without good information. Thank you. [applause]

>> Mayor Reed: Jerry McDowell, Gary McDowell and then Jim unland and Jeff Welch.

>> Ladies and gentlemen, I urge you not to put this on the ballot, A because this is a primary for Republicans basically, so that's not going to be all the voters. And I did, once, hear the statement that the fewer voters you have on a measure, the better the chances are the measure's going to get passed. So I urge you not to do this. Because you're not going to have all the voters.

>> Mayor Reed: Jim unland and Jeff Welch.

>> Good afternoon, Jim unland, president, San José POA. I came here with some prepared remarks about the IRS approval you don't have. About the pension plan we're going to be forced to stay in that we won't be able to afford. But I'm struck by the audience behind me. They're your employees. They're your workers. They give so much of their lives to you. And I can't help but watch and see that they despise you sir. That's your legacy. Why we growth got here and why people continue to support him and support what he's doing is beyond me. Your vote does matter and we are watching.

>> Mayor Reed: Jeff Welch. [applause]

>> Jeff Welch, San José firefighters local 230 vice president. Good afternoon mayor and council. I come up here to say that this ballot measure in front of you, the mayor's ballot measure and the one supported by the City Manager is not the only option for you. We put forth valid legal, legal pension reform that addresses every issue that you've been asking for and looking for to address real concerns that saves money tomorrow, as soon as it's enacted lawfully. It is not fraught with the issues that your pension reform will assuredly bring as far as litigation and just the turmoil that will be -- and the leftovers and ramifications that will be left over for years to come. And I hope you guys at least consider the choices in front of you. There's no rush to go to the ballot with this illegal one. We can go to the ballot with one that works, works for our employees, works for the city and will save money. Please consider it. [applause]

>> Mayor Reed: That concludes the public testimony on this item. Now we need to bring it back for council discussion and action. We've been at this many months. This is not the first time we've had this hearing. And so the issues are pretty well-known throughout our city, because we've had a lot of debate. But today is the time we need to take action, so that we can get this on the ballot in June. San José has become a leader in dealing with skyrocketing retirement costs. That threat.local governments all over the state. we've been a leader because we've been forced to due to the impact on our city of skyrocketing cost. We have to bring down the cost of the retirement benefit so we can afford to provide services to our taxpayers and residents and so we can afford to pay people what they earned and accrued. state of California's little Hoover commission, the grown's pension reform

proposal, the pecks audit by our City Auditor which is posted on our Website. The city's pension costs are not actuaries, they make their own actuarial assumptions they determine our required contributions. Which we pay. On an annual basis. This year we paid \$245 million. That amount has tripled in the last decade. Those are not projections. Those are just the numbers. These skyrocketing costs for pension obligations and retiree medical benefits have had a dramatic impact on the people of San José. To pay these increased costs, we've been forced to eliminate jobs, close libraries and community centers, are lay off police officers and fifters, and we've watched our streets and infrastructure deteriorate. As pension and health care costs escalate we were forced to and we still have more than \$3 billion in unfunded liabilities. Ten years ago, \$73 million is what we spent on retirement cost. This year, we spent \$245 million. Those are actual dollars spent. Retirement benefits spent now cost the city more than 50% of base payroll, 50% of base payroll just for retirement cost and consume more than 20% of our General Fund budgets. As we write these ever larger checks for retirement benefits, we've we have a dramatic shift ten years in order to balance our budgets. For example in the police department alone, despite increasing the budget by nearly \$100 million over the past ten years, we now have fewer officers working for City of San José than we had a decade ago. And retirement cost increases were the largest single factor in these cuts. These numbers are staggering. But we have a fiscal reform plan that was approved by the council almost a year ago. That's provided a road map for reversing these devastating trends and it's working. All city employees including those sitting up here at the dais and our senior management have taken at least a 10% cut in total compensation this year. While painful, those reductions were crucial. Saving jobs and services. And helped slow the rate of growth in our retirement costs by reducing our payroll by 24%. That's something we do not want to repeat. But it happened. So our fiscal reform plan is working. It's saving us money but this ballot measure is necessary to deal with the rising pension costs. The ballot measure the city council is considering today, with the changes recommended by the manager, will reduce city costs and allow us to restore services by requiring our current employees to pay a larger share of the cost of their retirement benefits. Which is an element of the governor brown's pension reform proposal and a step that's already been taken by over 200 California cities. You can see the league of California cities survey information that's post he on their Website our new employees would pay half of the cost of their retirement benefits in a new lower-cost plan. Over 100 cities have railroad and the governor's proposing a similar approach. Current employees would also have the option to choose a lower-cost plan and avoid paying higher cost. The ballot measure would also reform disability retirement rules to prevent

abuses eliminate bonus payments to retirees, require voter approval for any future retirement benefit increases. Altogether the over the next ten years and much more aft that, as the percentage of employees in the new plan grows . What we're proposing, what's in front of us today, will protect the retirement benefits that are already earned and accrued by current employees. It would not cut current payments to retirees. We're trying to do two things. We're trying to make sure people get paid what they've earned and provide services to our community. And that's the way this ballot measure is structured. A lot was said today about the legal issues. So let me just speak to that. There's a memorandum that was published by our outside counsel, Meyers and Nave, it's a public memorandum that gives great detail to the legal issues. What we're doing is legal. Under the California constitution the city that is a charter city can compensation of employees. The San José city charter reserves the right to amend or otherwise change any retirement plan or plans or establish new or different plans for any and all officers and employees. That's in the charter. In addition, we have a municipal code, you can read the municipal code, that allows the city to require employees to pay more towards the pension system's up funded liability. The city has the authority to require employees to make additional retirement contributions as may be required by agreement or by resolution of the council. You can read the municipal code. Of course we could have just cut everybody's pay again and laid more people off. Or, make them pay more. We've done all that in the last ten years. Those are things we could have done again. But we're trying to reduce the costs of retirement benefits. And do it in a way that makes sense for the people of San José that we represent. We're doing it in accordance with the California constitution, our charter, our municipal code and past practices in this city where we have done everything we're doing in the past. I know that some people disagree with that. That is their right. But that's the reality, is that we're trying to solve two problems, make sure everybody gets paid what they've earned and accrued and we provide services to our people. So we're all affected by this. This is a very difficult thing to do. We've had a very difficult time for a decade of cutting services. We need to get control over the rising costs of pension benefits and this ballot measure will allow us to do that and that's why I'm going to be supporting the representations from the City Manager. And let me just tell you if you can't keep your mouth shut when people are talking I'm going to have to ask you to leave the room. You got to speak everybody got to speak, now it's our turn. I know it's not something you want to hear. [(inaudible)

>> Mayor Reed: That's the way our system works here folks so if you can't keep quiet we're going to have to ask you to leave. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. We have been at this many times already, so I'll keep my comments very short. But I just wanted to thank everyone who came to speak today. Obviously your testimonies are very compelling, very moving in many different ways. And it's not a simple decision for any of us on this dais today. But the fact of the matter is, we have a pension system that is broken. One that is sustainable. And to me if we continue the path that we're going we may end up like Stockton or Vallejo. And I don't think our residents of almost a million people in this city deserve that. And I don't think that I want to be one of the 11 people who contributed to that problem. So the mayor cited some problems that actually exist today in our city, and I just wanted to point out a few more. But currently, our police department no longer responds to nonemergency calls. They put these calls as low priority calls. And this is some of the services that our residents definitely need. Especially people in my council district, and Councilmember Campos district or people who live in the downtown area. Our fire department continues to struggle to lessen the number of people, staff members on the fire trucks. And that's a reality. We have less than 5500 people to service a city of almost 1 million people. If you ask me if that's not a problem, I don't know what is, what is the problem? And so this is something that will continue to decrease the number of employees, continues to decrease in the future years if we don't do something to fix the current pension system if we continue to contribute to a pension system that is unsustainable. So finally I just wanted to say that no one on this dais deny that there is a fiscal problem. We have different ways of solving this and trying to find a solution to it. You might not agree with every one of us on here but I hope you give us the respect for us to articulate our viewpoints and why we think this is the right thing to do. So again, this is a very complex problem. But my -- my decision to support pension reform is very simple: I do not want to look back ten or 20 years from now and realize that I am a member of the San José city council and I did not do anything to help this city to bring back to a sustainable level and do I not want that to fall on my back when residents complain that they do not have essential services living in the City of San José. So I wanted to thank our City Manager for her revised ballot language. I think its manageable, I think it's doable and more importantly I think it's doable. For that fact I want to put a motion on the floor to support the memorandum dated March 2nd, 2012, co-signed by mayor Chuck Reed myself Councilmember Herrera and Liccardo.

>> Second.

>> Mayor Reed: We have a motion to support the revised ballot proposed. Councilmember Constant.

>> Councilmember Constant: Thank you mayor. I don't want to rehash what's been said but I want to hit some high points. That is, there's no doubt the rising costs have had a severe impact on the services we deliver or quite frankly don't deliver now to our residents. We quite frankly haven't kept our promises to our residents at all. We have residents that pay for service, don't get the service and they deserve the service. They're demanding the service. We have continued to slash services across our city. Lay off employees and been unable to meet our essential needs. We've continued to defer infrastructure maintenance. And that bill has continued to grow, and it's the next big hurdle that we have to address. I agree with the Vice Mayor, we have to do something about this. We can't sit here, and not take action. We can -- if we do nothing, we know what will happen. We will continue, and increase, the intergenerational transfers of debt from our generation to the next generation and the next generation after that. We know that that's not something that we can, nor should, do. There's been a lot of discussion about what the unknown risks are. But I think what we need to focus on are what are the known risks? And the known risks are very clear. The known risks are a city that goes into insolvency because we can no longer provide services to our residents, so those residents move. The businesses close. And our tax revenues continue to erode. We know that if we continue to provide services, and don't make the pension system payments that we will have a pension system that implodes, collapses and no one will receive a pension. We cannot afford to do that either. We have to take action. I believe the action that we're taking today in this motion is the right action, in changing this ballot measure and moving it forward to the voters. We've had some discussion about, we could fix this by just going to Cal PERS. That's one of the biggest fallacies I've heard. Cal PERS has one of the biggest unfunded liabilities of any pension plan. They are a disaster just waiting to happen. And while I appreciate the motion that the Vice Mayor made I'd like to make a substitute motion. And Sam, I'm sorry if I'm going to steal your thunder here but you put out a memorandum dated the 6th and I think it's very important that we include that section of your memo in the motion, but as well, I provided the City Clerk something that I'd like you to put up on the screen. For everyone to see. I would like to also not change anything to the actual ballot

measure itself but to make some changes to the short wording description that will be put in front of the voters to clarify it and to refine the intent to make it easier to understand. You'll see, on the screen, the language that was approved in December 6th at the bottom. And the revisions above, which changes underlined. So my motion would be, a substitute motion to move the memorandum that I signed along with the mayor, Vice Mayor, and other councilmembers, Sam Liccardo's memorandum, on top of that, and these changes to the wording that will be on the ballot, but no other changes to the actual lengthy ballot measure.

>> Mayor Reed: Okay, we have a substitute motion. Councilmember Constant. Are you done?

>> Councilmember Constant: Yes.

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

>> Councilmember Oliverio: Thank you, mayor. The process is, it's been painful since negotiations are private, closed door meetings. I believe that we could get to yes, much faster and leave all the hurt feelings behind, if union negotiations were simply public. Public negotiations would allow all of us to be on the same page. Think about instead of the ill will and misinformation, we would have employees, retirees and residents to be able to view the process, and truly understand all the details. I hope in the future we can move forward with this because otherwise we're going to have a lot of pain and unnecessary frustration with the current process and I really do believe public meetings would serve us all well and would, frankly, be better PR for the current condition that unions are facing these days. When it comes to a second tier I was optimistic that we would actually have a 4: for new employees that we would have a new emphasis on salary, I understand there's not not the votes for that today but I really do believe that that's what we could do with measure W that passes 74% of the vote. We do need to move on though and allow dress to vote and restore services to themselves. Residents need to decide simply whether or not pensions should continue to assume every weigh in on that. There is no other pension plan in the state of California that has a more generous cola. As you know public sector retirees their cola is 1%. The only thing we could do that would not require to go to the ballot today is to eliminate the cola. The cola's actually

in the municipal code and could be changed at any time with a council vote. The ballot measure however actually restricts changes to the cola going forward by requiring a fiscal emergency. And only then, the cola could only be suspended or reduced at the length of that fiscal emergency. I believe some people are in a vacuum when it comes to the reality of other retirees in the private sector. I appreciate the members of the clergy who spoke today and only ask do you offer the same generous pension benefit for your church employees? Finally I took notes on all the speakers on the comments and their affiliations and this room does not reflect the city as a whole. I also know this room does not reflect the city as a whole since I do not think the residents of San José would have booed and hissed a well respected 90-year-old gentleman known as Bob Kieve during his time he spoke to the city council as member of the public, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. This is an extremely difficult decision. On many fronts. All across America retirement is changing. The 401(k) as has been mentioned was the norm with businesses and the retirement system is broken and we need to fix it, unfortunately the lion's share of that fix rests however with our employees. Is that fair? It isn't. To that end, negotiations have gone on for eight months. And seven changes have been made to the ballot proposal. My first obligation so to my constituents. They have spoken and they have spoken very long and hard. They're worried, afraid of crime increases as our police force shrinks. They have indicated that a sales tax increase is necessary, they understand that. If you make sacrifices they're willing to, as well. They get it and they get the income from that. And frankly, I don't know how else we can get that income. We're not going to get it by stalling. That's not going to happen. In November, there will be a half cent sales tax proposed by Sacramento. All the money would go to Sacramento if that wins. If we do a sales tax increase, all the money would come here to San José. I don't know any other way that we could bring in approximately \$70 million if it's half-cent, 35 if it's a quarter, to this city, that would be more meaningful in helping to bring about a well regulated, fair system for our employees. I treasure every same one of you. You've done a fine job. Many of you are doing two and three jobs as other people leave. You're not recognized for that and for that, I feel very sad. But I have to tell you, my constituents have to come first. When I was sworn in, that's what I swore to do. And I must. I completely understand your positions. And it isn't fair. It's a rotten thing that's happened

to all of us. Compounded with what we've experienced in the way of a recession. And compared to where we were. Let me give you a for instance. You, as employees, have been vilified in so many ways. That is simply not fair. I'll give you one example of what happened that really gets me upset. I hear people say about the police force, how do they ever get to 90% pensions? Why did this happen? This suspect right. I don't have a 90% pension. After I say well maybe you should have become a cop, that conversation ends. But here's what actually happened: It got to 90% because the police went to arbitration, and they won in arbitration, because neighboring cities also had 90%. What I'm upset about is the fact that we don't -- we do not have the right to vilify anyone. And I apologize to you for any -- any unfair actions that have been taken against you. I'm sorry I can't be with you, but I appreciate so much what you do every day. Thank you.

>> Mayor Reed: Councilmember Herrera. [applause]

>> Councilmember Herrera: I appreciate my colleagues' comments, Councilmember Pyle and I think that when we look at our fiscal plan, that the City Manager put forward, it had many parts to it and including the idea of revenue. And so I think that the voters are going to be a lot more supportive of the revenue that my colleague talked about when they see that we have followed through on everything we've said and that includes pension reform. Today's a really -- it's a tough decision. We've made a lot of tough ones up here and this is certainly among the toughest that we have made today. And as I sit here thinking about this decision I think about what is best, what is best every time I make a decision, what is best for our city. For our residents, for employees, for our city, for everyone. The best decision we can make. Not the perfect decision but the best decision. Knowing that not everybody's going to be happy but we try to make things move forward in the best way we can. So I think about what's best for my residents. And I receive lots of e-mail and mail lying my colleague alluded to from her district and overwhelmingly the e-mail I'm getting is, we need pension reform. That is critical. He's one. Pension reform is critical if the city is to begin to restore services to our residents. Open newly built libraries. And the police substation. And begin to tackle the millions of dollars in critical infrastructure maintenance that was deferred while the city dealt with a decade of budget deficits. I'm tired of the service cuts and I want the chance to vote on pension reform. They go on and on and on. This is a group of people that are not sitting up here today but they want to be heard. And we have to listen to everybody. We have to listen to all the voices. And they're coming

through loud and clear. This is also right for employees. This is also a good thing for employees. And I listen to you, so I'd appreciate being able to speak myself, thank you. I don't think the system is sustainable the way it's going now. It's simply not sustainable. And most of the folks that I've talked to in the bargaining units agree with that. And I want to see this system become sustainable. So that we can move forward, and maybe be able to actually raise people's wages. Be able to attract new people, be able to do things that we can't do now in this restricted system, having this retirement benefits escalating to the point they have, consuming way too much of our budget. I also am concerned about the people that are receiving pensions right now. I don't want people that are on pensions, having to worry when they're 80 years old that the check's not going to come. That our pension system's going to run out of money. So I take that very seriously too that we have to make sure that our pension is going to be there for those people in retirement. So for all of those reasons I'm going to support, I'm going to vote yes and support pension reform going on the ballot and let our voters then take a look at this and make that decision.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I first of all I just wanted to state that I realized that the pension system is broken and we need to fix it. The question for me is how far should the pendulum swing to one side? And do I agree with many of my colleagues on the dais here, that we realize that it is a very, very complicated problem. This council, the mayor, and jointly we probably spent thousands and thousands of hours working on it. And thousands and thousands of dollars invested to revise the wording and so on, and so forth. That use shows you how complicated this issue is. so my question is, is it fair to just pretty much pass this very difficult, very complicated issue, to the voter, knowing that the voter, average voter might not spend thousands and thousands of hours, and might not hire an attorney to look into this 17 pages of ballot measure. So I don't think that it is really fair to pass that to the voter. I think this is some of the decisions at a we should make here, right here in this council chamber. If you look at the seventh revision, from the start, there's a lot of changes. There's a lot of changes. Now, this edition is very close to one of our colleagues, Councilmember Rocha's put out last year. But when Councilmember Rocha put out that memo, the staff was saying that's not enough saving. That's not enough saving. Now, we're saying it is close to enough. So I brought it up to just to

make a point, that I stated it before, that actuaries are those people that we pay them to almost be around all the time or most of the time. So I brought it up to say that we really, really don't know the extent of the problem that we're facing. However, one thing we know for sure. That the city will be hiring people. We know, we are already scheduled an academy for the new police, and I know that we have approved new position for the sewer plant. And I know that a lot of very experienced employees are leaving the city. So one thing for sure, is that we definitely in the hiring mode. So what is most urgent to me, agree with all that has been said on the dais, is that in fixing the pension, having pension reform is to get a second tier started. You know, I don't want to you know, put off the second tier until a later date, and in the meantime we're hiring people, and then, when one thing for sure, that we all know that there will be some lawsuit filed against us. So we hire those people, you know, put them through the training, in the midst of a lawsuit, and then later on, you know got knows what is going to happen to them. -- God knows what is going to happen to them so the urgent need is to get the second tier going and I don't think we need a ballot measurement, like the mayor just stated that most of the items on the ballot, you know, we can -- doesn't require a charter change. Actually, the only thing that require a charter change is the retirement age. So we should just simplify our ballot, not saying I'm against any pension reform, but simplify it just to addressing the retirement age issue. And work with the employee to come up with a reasonable solution. So I'm supporting a reasonable, lawful ballot reform, simple, actually simple so people, the average voter can understand and doesn't need to hire attorney to look at it. A much simpler version of the reform. So I will not be supporting the substitute motion or the main motion on the floor. [applause]

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I just want to start off by thanking the employees that came out and spoke today, and those that are doing what they do every day, and that is to serve our community. You have been villainized for longer than this past year but I've witnessed here, where you have been villainized as being the problem. Not just part of the problem but the problem. One, that's not fair. That's not fair to you and that's not fair to your families. That's not fair to the folks that you're serving when you're out there in our neighborhoods. You know, the -- you should all be looked at as -- well, first of all, many of you live here in San José. And for you to be treated and being -- you know being categorized as being I want to recognize that the library worker that is

helping the fifth grader with their homework, the maintenance worker on a stormy night that's clearing out a storm drain that's clogged, you're just as vital to the firefighters at station 2 that save the life of 17-year-old Omar a track star at James lick that wouldn't be with us today if he wasn't saved by, you know, our firefighters at station 2. So my point is, is that we need to stop -- we need to stop treating you like you don't matter, because you do. And so one, I disagree with the ballot measure, will not be supporting the motion for one simple reason, is because it will endanger the health, safety and well-being of the residents of San José. And this is how it will -- this is how it will do that. One, we will get sued. We're going to get sued and when we have to put resources to defending the city, that are going to be in the tens if not hundreds of millions of dollars, to defending ourselves for a ballot measure that we did not have to put on this June, then that's taking resources away from providing services to our citizens. What I've heard today is that there is not one of you in your comments that have said there isn't a problem. You all have seen it and you've stepped up to the plate. The problem is, is that you know, one, we're not taking -- we're not taking a step back and looking at the long term. You know, I've heard from several leaders out there that have said, you know, we can do this together. Fanned we need to go to a ballot measure, we can do it in November. And we could all do this together. And not risk the potential litigation. You know there have been a number of attorneys that have looked at this. And that, you know, and one, you know, the mayor mentioned that we do -- that the Meyer Nave opinion is on line. But we also just got another opinion from another attorney, it was a four-page opinion happens to be sitting at the end of this dais that has also said you know what yes, but a lot of this stuff hasn't about been vetted in the courts. There is no -- there is not a lot of case law on this and so we are taking a risk. So why take risk? We should continue -- we should continue the path of trying to do this together, do it lawfully and you know move forward with the business of this city. I will not be supporting the motion. [applause]

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. And just a point of order Rick I guess now there's a substitute motion so the substitute has to be voted on before any other action can be taken?

>> City Attorney Doyle: That's correct.

>> Councilmember Kalra: So there's no motion before it or anything?

>> City Attorney Doyle: Not until you take action on the substitute.

>> Councilmember Kalra: In regards to the memo I put forward, yesterday, it's predicated upon a ballot measure getting approval, basically if one does, is that something that can be taken up after a vote on the substitute motion? With the assumption that substitute passes given some of the comments it seems like it very well might.

>> City Attorney Doyle: I'm sorry can you restate that councilmember?

>> Councilmember Kalra: The memo from yesterday, asking for consideration of additional proposals and I'm curious if it can be discussed at all or if it cannot be discussed at this meeting if there's a vote on the substitute motion.

>> City Attorney Doyle: The question is, your memo that addresses a possible second ballot measure?

>> Councilmember Kalra: It's just, does that memo become moot understand what substitute motion is voted open or is --

>> City Attorney Doyle: There is two issues, we don't have a second ballot measure before us nor does the public.

>> Councilmember Kalra: I understand.

>> City Attorney Doyle: So yes it does. I don't think there's another measure before us.

>> Councilmember Kalra: So soogees the substitute is --

>> City Attorney Doyle: Voted upon, if it's approved then it does forward. .

>> Councilmember Kalra: So the discussion of on this item would be over then?

>> City Attorney Doyle: That's correct.

>> Councilmember Kalra: I just wanted to make that clear so also Councilmember Chu already spoke and we had a motion we both signed on to that, cannot be discussed on the table, the substitute motion, therefore any points raised on that need to be raised on substitute is going to pass?

>> City Attorney Doyle: That's correct, it should be discussed now.

>> Councilmember Kalra: Thank you, I just wanted to make that clear. And I appreciate that. You know, the -- this has been obviously for I think everybody up here a very challenging times and very challenging issues to deal with. And as I've said before, I'll say it again now, I think that a while ago we lost sight of what our role is as a council. The role of us as a council is not simply to be so my optic in looking at one issue apted put that 100% of our busy on that one issue and lose sight of the fact that we're here to serve. We're here to make sure our residents have quality services and that should be our paramount responsibility and then work from there to find out how we can get that done as opposed to choosing an arbitrary number that pushes us into a corner and then following that number and not recognizing what's happening in our neighborhoods. And so it's been very difficult to go through this process. Knowing that I guess my perspective is just different as to what our role is as elected officials in representing our constituencies. I do have a question, a couple of questions, one is in regard -- because I just want to make this clear that everyone understands what some of the language is, what we're voting for. One has to do with disability retirement. And Alex on page 13, indicates that I understand that you want to get rid of fraud. Everyone wants to get rid of fraud but this goes a little bit further than getting rid of fraud in our system. It limits a severe manner the way that our public employees can be eligible for disability . In section 2 number 1 and 2 it indicates that both in the Federated as well as in the Police and Fire is systems, that someone

will be able to be eligible for a disability retirement only if they cannot perform any other job described in the City's classification plan in the employee's department because of his or her medical condition. And it doesn't speak at all as to the availability of a job. Just simply if they can do any job in that department then they're not eligible for disability. I just want to make clear because that's how I'm reading it and I just want to make clear that's how it is defined.

>> Alex Gurza: That's correct, Councilmember Kalra.

>> Councilmember Kalra: Thank you Alex. That's a major problem. We have people going out there, putting their lives on the line, we have people that are out there working in many different capacities for our city and then we're going to tell them well, there's another job you can do in your department, it is not the job that you went into the career for, it's not a police officer job but it's in that same department, you can do that job, on top of that there's no availability there, we don't have a job for you so you're not eligible for disability. That's not a way to get rid of fraud in the disability system. It's a way to completely dismantle our disability system. [applause]

>> Councilmember Kalra: And I think it's unconscionable that we're actually doing that to our employees. There are many ways to get rid of fraud that I completely agree with. That goes beyond getting rid of fraud. In terms of the quality of our workforce something that I have great concerns about, but already losing people left and right. Anyone that has an opportunity to talk to department heads as well as you know kind of line employees, knows how many qualified people that we're losing. And that has to factor into our decision making and it doesn't seem to be something that factors in at all. There seems to be a sentiment that no matter what we offer people will do the work. You know what? That might be true but I think we need to be concerned about who's doing the work on behalf of our residents. You know when we have a system now that come July 1st, our police officers that are going to be giving 20% of their pay into their own pension retirement, other departments don't do that, they are going to be giving more. We are going to be put IRS approval is going to be done in a year and in fact there is no precedent to indicate that it will. We are going to then require up to 16% as that get ramped up of the employees. You throw in all the other automatic payments taken out of their paycheck you're going to have officers that have been here after two years gaining their training, are making less than the \$30,000 to take home

kidding yourself and what's going to happen is two things. We're going to have officers who are going to come here simply for training, taking a couple hundred thousand dollars of training and we've been the beneficiary of that, we've gotten people in all departments that work for librarians, attorneys office who used to know before in the city attorney's office that were looking forward eagerly to work for the City of San José and they came here. We're going to become the opposite. We're going to be the training ground where people get experience they take advantage of our training raised or seem to be a concern of others. And I think that we have to be realistic when we talk to the taxpayers. They don't know, the residents don't understand this because it is a complex issue and it's unfair to ask the residents to speak to such a complicated issue when we're not putting all the sides out there every aspect good and bad and then let them decide. The problem is they're not hearing all that. They're just hearing one side of the argument and when we talk about all the e-mails, yes 95% of them are because of the e-mails sent out by the mayor or Pete Constant telling them to contact your councilmember. [applause]

>> Councilmember Kalra: And let me make this perfectly clear, I'm in the process of responding to every single one of them because they have the right to tell me how they feel. Some may say this is not a clear cross section of the community. It's hard to see that in the e-mails as well. When I go to the groups and talk to the people face to face and explain to them what's happening, some have a clearer understanding, information and that is the key is to make sure they have all of the information so they can make a really informed decision. And there's been -- [applause]

>> Councilmember Kalra: This is a very complex problem. And complex issue. And I think it's irresponsible for anyone to talk about Vallejo and Stockton and bankruptcy. We're not insolvent. We're not on the verge of bankruptcy and to use that as another way to fear people into passing pension reform. [applause]

>> Councilmember Kalra: We have not just a duty to the residents and taxpayers, we have a fiduciary duty and putting those statements out there is very dangerous. Talk about the legal risk, being a lawyer I know Sam, and the mayor are lawyers, you get ten lawyers and you have ten different opinions. I think we all -- that's just the nature of the business. And then we all disagree with Pete. And then -- (laughing) -- in all case with all due

respect, mayor, when you indicate what we're doing is legal is an opinion. It is not necessarily an opinion that's grounded in case law, it's an opinion grounded in a variety of factors that we believe we can put forth to a court that we believe will be upheld. That is again an opinion that even in the Meyers nave opinion released recent, they indicate aspects of the arguments are untested. Not one of their arguments have any case law backing them up. The only case law that they can refer to are judicial employee rates on issue cases that are cited are vested rights. So the only case law that exists goes against us. And keep in mind, clearly, what's being put before us today, is legally safer than what was put forth a year ago. But that does not make it legally safe. For us to simply say we'll let the taxpayer decide doesn't get the whole picture. Because then they're going to have a expectation that they decided this and now it's going to go to the courts and be held up there for who knows how long, it could be years, we know that many of these vested rights there are issues that have to be decided by the California Supreme Court, take three to five years, millions of dollars, we know that studies and counties that have lost these cases have to be pension reform that we also desperately want and so it doesn't even get us anywhere. So that's where the legal risk is real. I think that yes, I mean, with the -- Sam's memo saying as soon as this measure passes get it to the courts, yes, of course whether we do that or not that's going to happen. But you know, yes I would love to have it resolved, I would love to have a court resolve it tomorrow so we would know these things. They don't work that way and it's going to take many years to get a resolution and in the meantime we're not accomplishing anything, we're going to have to lay off more people and we're not going to have cooperation with our bargaining units that we could get if we work cooperatively. The legal risks are very real and I you know I don't think they should be down played and to simply say if we read the memo, from Meyers nave, to say there are arguments here there are arguments there there's nothing backing those arguments up. And I respect Sam's opinion that he feels it's very good reason to believe that they'll survive a legal can challenge argument but there isn't any local, there isn't any legal basis to strongly believe that, there's a opinion. And the case law points a different direction. That's what my legal concern is and continues to be. And it's not resolved by us going to the voters. Look, the easiest thing for me to do is vote for in and let the voters decide. We know because of the national debate and a lot of political machinery that pension reform against political unions has become a national witch behind in some cases of course you want pension reform. That is not the question. The question is then what, no one can answer the then what. What do we do then if there is an injunction, what go we do when we are stuck in court for two, three, four, five years, then what will we do how are we hold accountable then? So those

are just some -- I put other legal issues in the memo that I published and you know in terms of tenor of the negotiations look, negotiation can be very difficult but I think that the sense that the hostility that's created not next in the bargaining room, outside City Hall in the media in the rhetoric, this is a very difficult time. And during these difficult times we've gone to companies that do business with us, we've helped them with bridge loans, we've forgiven loans, I agree with almost all those steps, I know how important it is during these difficult times to understand these employees. We don't give that same level of cooperation to our own employees. [applause]

>> Councilmember Kalra: And the last couple of thing, one issue is the fact that these are public policy decisions. We ask -- there may be sentiment we've become a leader on these issues. It's not because we've been forced to but because it's been a choice. We choose, some things that we know are going to happen yes. We know there's long term pension liability, we know we have to work on those issues and to say that we've -- it's either that or do nothing, the reality is we haven't done nothing. We've done a lot. And we've already reduced the outlook in four five years have been reduced by over \$130 million because of what these employees have done. So we have accomplished and to say that we're kicking the can down the road is just not accurate. We've been facing this issue and we've been facing it from a different position possibly in materials of how we approach it. But we've been dealing with it. Now, you know, when you started the meeting, when Sam was introducing the invocator, he said the mantra is make love visible in word and deed. And I do not feel that we certainly have done that as a council, it hasn't been our mantra. I think it's been a very destructive process. I think we've had a lot of victims. And I don't think any of us are them even though sometimes we pretend that we are. The reality is that the residents are victims. They've gone through many service cuts. They don't get the same services that they deserve. And you know, they're going to suffer through a lower quality of workforce as people continue to leave our city. The employees are victims. You know, they have suffered through layoffs. And through give-backs unprecedented give backs. And yet they still continue to be demonized. When we instigate and encourage anger and hostility we damage the fabric of our community. government can't do things right when we know on a very -- on a thin staff our government our staff our employees do things very right and very well. And yet we continue to put them in a position where they have to defend themselves for doing public service and that's wrong. So you know, I'm not going to support this motion. It's not because pension reform is not needed. In fact pension reform has already started in this city and we've seen the fruits of that. But I think that we need to hold ourselves to a

higher standard and find ways where we can bring the community together and be honest with all of our residents about what this ballot measure will mean for our city and about -- and about how much suffering we may have to endure further, even with this ballot measure.

>> Mayor Reed: Councilmember -- [applause]

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I want to also thank all the employees for coming out. I agree with Councilmember Campos, by the way. I agree that you're not the problem. And the problem is a system that's not sustainable. And you didn't create it. And it's not your fault. Several speakers have come to the microphone I think respectfully, saying that employees work for the city council. And I don't agree. I don't think employees work for us. I think we all work for the same boss. We work for the residents of the City of San José. And we've all, I think, suffered quite a bit in the last few years. Our residents included. And those residents have suffered through considerable scarcity, in services, as a result of significant severe cuts we've made in everything from police to closed libraries to inadequate street paving, we see it in the streetscape of our own city. Our residents are on the hook for the unfunded liabilities that are created by this unsustainable system. 100% of the unfunded liabilities of this pension system. What I'd like to move beyond is the straw man argument, that people who somehow advocate for pension reform people who actually push for pension reform are somehow or another demonizing our employees. Because I think it's really important that we all respect each other's intelligence enough to recognize that the folks up here, and I think I could speak for everyone who are supporting pension reform, are not doing so because they don't believe employees don't deserve the pensions or compensation they're getting, it's because we cannot afford the pensions and retirement benefits that are being delivered. Because we can't even afford basic street paving and to provide enough officers respond to very serious crime problem we have in our city. So I'd like to move beyond some of those simple straw man arguments. Some issues have been raised and I'd just like to see if we can explore a little further. One was about disability and the definition that's provided in section 9 of the proposed ballot measure. And Alex I'm hoping you can tell -- that definition, is that lifted from another source? I understand we've been looking to Cal PERS for some guidance, is that right?

>> Alex Gurza: The actual genesis of the disability reform separate audit that our City Auditor conducted on disability retirements. This has been modified from her initial recommendation. She did look at PERS language, in addition she looked at Social Security language, the definition of what it means to be disabled under the Social Security system which again I'm paraphrase being, I don't have it in front of me, which is you can no longer engage in gainful employment. We have moved off of those recommendations and put some pram terse around it that are broader than that Social Security definition but I think it's also looked at the Cal PERS definition but I don't have that in front of me right now.

>> Councilmember Liccardo: Okay, rather than gainful we used jobs described in the city's classification plan, is that what you're referring to?

>> Alex Gurza: That's correct. In other words rather than saying you couldn't anywhere it's been limited for example for an employee in the Federated system is they cannot perform any other jobs within the Federated sort of jobs or civilian jobs and Police and Fire it's limited not to a job for example if a police officer or firefighter could not do police officer work but could work in a library, that's no longer the definition. It's contained within the police department or fire department itself. Other jobs, would be civilian jobs within those departments.

>> Councilmember Liccardo: So let's be clear then. The definitions we use are more favorable to disabled employees than the definition being used in Cal PERS?

>> Alex Gurza: Councilmember Liccardo I can't really say that for certain without having that in front of me. It's certainly more favorable than it is for the Social Security definition of disability.

>> Councilmember Liccardo: Okay, so we're using a definition that is more favorable to disabled employees than that is used in Social Security?

>> Alex Gurza: Yes, absolutely. And the other thing, the important thing is that disability retirement is by no means the only type of compensation that an employee who is injured at work. Employees are under covered under our state workers compensation system so a work related injury they're entitled to all of those and sometimes in those cases there are lifetime medical coverage and all of the things that come with a work related injury. This is specifically to a lifetime disability pension only and doesn't affect any of the other rights or benefits that an injured employee may receive.

>> Councilmember Liccardo: Okay, in addition to workers comp and potentially lifetime medical assuming all those apply, this lifetime disability pension may also apply under a definition that's been largely extracted from the standards used throughout the state of California?

>> Yes, in the Social Security definition again would be any gainful employment and this is more favorable than that.

>> Councilmember Liccardo: Okay. And as you understand the disability definitions are used in other cities how does this -- is this typical for what we're considering?

>> Alex Gurza: Again, Councilmember Liccardo, I don't know if the City Auditor would have more information about that issue, I don't have that before me the definition.

>> Councilmember Liccardo: This was recommended through the audit?

>> Alex Gurza: Exactly. With modification this came out of recommendation from the City Auditor.

>> Councilmember Liccardo: Okay. When we look at what might happen if IRS doesn't approve this D.E.P. certainly there are concerns about what drastic potentially as high as 16%. It is still the case isn't it that the council assuming we have money in the budget could still increase pay?

>> Alex Gurza: Yes, absolutely, could increase pay. Obviously subject to the negotiations with our bargaining units absolutely the council could grant pay increases.

>> Councilmember Liccardo: Okay. I think what's important to recognize is that you know the parade of horrors, you know this was called unconscionable, the disability definition which we derived from other governmental sources and I think you can look at the auditor's report and see that this is very close to language utilized in Cal PERS and which hundreds of cities rely on with the case of the pay cuts, you know, the solution is not to somehow or another continue a system in which we bury long term cost in a way that's visible to nobody, until those costs suddenly arise and we're all forced to slash our workforce in order to pay this pension monster. What if the sensible alternative is to move to a transparent system in which people actually know what they're receiving in salary, and the taxpayers know what they're paying in salary. And one which, I would submit, especially looking at our experience in the private sector is more likely to motivate workers to work here and to perform through a salary-based compensation system rather than a system that is so unbelievably complex in compensating people through benefits, that I would submit most people who work here have no idea how the benefit system works in all cases until we are facing a vote like this. This is a proposal where every retiree would keep 100% of the benefits they accrued the question is how do we go forward? Now, is this legally safe? I'd submit there's no such thing anywhere in the universe as legally safe. You know, that's one reason obviously why we expect to go to court to seek declaratory judgment in this Kay. I'm very confident that what we've got is a proposal which has been heavily scrutinized by many sides on this issue, by many lawyers and we've got the best, safest legal proposal that can actually save the money, significant amounts of money for the city and for the taxpayers. And ultimately for the plan. You know, I know that questions have been raised about the lawfulness of mandating additional contributions. And certainly, I think most folks would admit that the voluntary election plan is lawful, there's a case Pasadena police officers that says so. But the question about the lawfulness of mandating additional contributions is something that I understand is undoubtedly going to be challenged. And I think it's important for all of us to be clear about the fact that in 2010, our bargaining units agreed to mandate additional contributions. And I've had conversations certainly with union's attorneys about their views on this issue and I am confident after talking to them and talking to our counsel that we're doing essentially the same thing in paragraph 60 of this proposal as was done in 2010. Individual contributions from every employee will be treated in the same

manner as other employee contributions, and that will be every bit as legal, as what happened in 2010. And over 200 cities in the state of California are requiring employees to pay more for their unfunded liabilities. It seems to me the unfunded liabilities are at the heart of all of this. And I recognize that as a D.A. when you're really sure of your position and you're absolutely certain that's really the time when you need to stop and take careful look at the evidence, take careful look at the facts and be absolutely sure and I did that in this case because I was concerned about being too sure. And I've carefully considered the proposals that have been submitted I'd say not at the 11th hour but really the 13th hour by several bargaining units. I'm grateful for the fact that they're willing to submit something. We always want someone to come forward with proposals. But I'm not clear how these are actually proposals that represent any progress in bargaining positions that have been taken in the past. We have been at this now for well over eight months. And while we should always take seriously any union's proposals is a simple one which is a core principle or negotiations has been that both sides have to take responsibility for any unfunded liabilities that get created in the future. That's the only way to create an incentive structure that ensures both employees and the city will have a desire to avoid unfunded liabilities in pushing this burden on future generations. And my primary concern with this proposal is that there is no employee responsibility for that unfunded liability and when the next downturn comes, let's face it as one speaker said, we're going to have these pension plans in good times and in bad and we can expect both in the very near future. The question is are we going to have an incentive to be able to contain the extent of those unfunded liabilities on both sides of the bargaining table when we craft this how we move forward. That is also my concern by the way president Police and Fire plan. I've been trying to figure out exactly how the estimated \$30 million in savings can emerge from a plan that still has people receiving the 90% pension, when they retire. Particularly when it's accrued at 3% a year at 55 for current employees, even the third tier for the new hires employees under this Police and Fire plan would earn 2.7% a year if they retired at 55. 2.5% a year. It's hard to find an enormous amount of savings in a proposal where people are able to retire with that kind of accrual rate. And so I certainly recognize there are savings, genuinely submitted in the proposal for instance eliminating SRBR, and adjusting for colas and other things but the same fundamental issue arises which is this is a new plan people are going to be jumping into and when those unfunded liabilities are created in the new plan and I'm fairly certain they will be created because you've got a 3% accrual rate, which means you're going to have unfunded liabilities, who is going to be on the hook? And once again, residents would be on the hook. So I really think you know we have been pretty clear in

our principles in the negotiations. That is, everyone's got to have a share of the risk in creating defined benefit plans if we are going to have a defined benefit plan. And unless we can get there then we don't have anything that's fiscally viable. So what we have before us I believe does that and that's why I'm going to support the current proposal.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'm going to go back and mirror some of the Councilmember Pyle's comments and say that some of those were exactly how I was feeling and I appreciate what you set. Also like to thank Councilmember Campos and Kalra as well for speaking out on behalf of the employees. I too share some of the frustration and disappointment, and how we have treated our workforce. And when we have had meetings on pension reform and fiscal reform and compensation cuts, you know, I recognize, having done this before, at the school board, that no one wants their salaries taken or pensions reduced. But in my opinion the way we've gone about it and the rations that we've gotten from -- reaction that we've gotten from our workforce majority in the future because this is not going to the last time that we're going to be taking up another item for fiscal reform or whatever it may be and I sure hope after one year of this just for myself that we learn from some of these lessons. I am not getting a sense that we have. I don't hear any acknowledgment. What I hear oftentimes from the public and the press is discrediting any other opinion that's not the opinion of this council majority or the city administration. That's troubling to me. [applause]

>> Councilmember Rocha: I appreciate Councilmember Oliverio and also Councilmember Chu bringing up the issue about the necessity for a ballot measure. Maybe not the necessity but pointing out that a number of these items could possibly be handled outside of a ballot measure and that would have been an interest of mine sometime ago and I started that discussion but again there wasn't support for that from the city administration or the council majority. So for me I submit a memo and I guess I'll go back to maybe Vice Mayor Nguyen's initial recommendation, and I'm curious if Vice Mayor Nguyen is comfortable with the amendments just out of curiosity.

>> Councilmember Nguyen: I think we're voting on the substitute motion at the time right?

>> Councilmember Rocha: Are you comfortable with the substitute motion?

>> Councilmember Nguyen: Absolutely.

>> Councilmember Rocha: If there is a substitute motion I'd be looking at Councilmember Constant. Once there's a substitute motion there's no substitute motion version two version three version four?

>> City Attorney Doyle: No amendments nonfriendly amendments.

>> Councilmember Rocha: Okay so strategically that's pretty smart, doesn't allow for any new substitute motion, I'm sure that wasn't intentional. [cheering and applause]

>> Councilmember Rocha: Which goes back to my earlier point of how this issue has been handled by the council majority. So I'll look to Councilmember Constant for my friendly amendments. I had submitted a memo dated March sec asking for two changes to the ballot measure. And it was section 6 (c), starting date for employee compensation adjustment shall be at the residential of the city council but no earlier than June 23rd. This goes back to my concern for our implementing additional pay cuts, until we actually have a program for the employees to voluntarily leave. In my opinion it's not voluntary if either the IRS doesn't approve this or there are legal challenges that are found valid. Would you be willing to take that friendly amendment?

>> Councilmember Constant: No.

>> Councilmember Rocha: My next one is reservation of voter authority, section 4, eliminate the section in order to do away with the requirement that increases to pension benefits be approved by the voters. On this one, I don't feel this is prudent. We are tying the hands of future councils and I have grave concerns that this is theoretically a permanent act we are taking and if it is then in my opinion it is pretty rare that it is a wise unprudent choice in the future but again as I've witnessed from this council majority this council and the administration feel no future

council has the prudent council that walked the earth so I'm assuming that friendly amendment would be denied. [applause]

>> Councilmember Constant: So I'm not sure if I'm allowed to say this but hell no.

>> Councilmember Rocha: Okay. My third one is, I'm also concerned that the accrual rate for Police and Fire, that the levels that they're at are not higher than the Federated and that's no disrespect to our Federated employees, it's just that a job that when we ask people to potentially risk their lives each and every day I feel a small difference in terms of the accrual rate might be warranted. Would be willing to consider that?

>> Councilmember Constant: I'm not entertaining any friendly amendments.

>> Councilmember Rocha: Thank you. I'm not surprised.

>> Councilmember Rocha: The ballot measure, as I agree with the number of my councilmembers, the ballot measure to me is not perfect. And it has come -- it is an improvement since May. But as I mentioned, I am concerned about the process. And my support on this has been teetering on a null of issues. And I've debated with myself until this very day. and I struggle with this decision. This is the most difficult decision I've made in my short time as a councilmember. We started off with this extreme and unworkable reform proposal. When anyone criticized that they were either dismissed as a union lackey or not getting it. We took a this issue really needed a healthy public debate and it turned into a political shouting match. Of course the council never truly acknowledged that its original strategies was unworkable and we wasted months of negotiating time. This is not the last labor relations that we will face and I'm struggling that I think we're going to get any validity to any future ones with our employees because I don't blame them for having a lack of credibility with this council. The notion that six people up here don't understand the issue and five people -- I'm sorry the notion that six people up here understand the issue and that five don't is inaccurate. That is political rhetoric meant to divide the council and serve a political purpose. We should judge ourselves not by labels but the quarter quality of the work we produce and the quality of our ideas. On this issue San José deserves a high quality policy debate and I hope next time we will have

that. I unfortunately am going to be supporting this, and this is not condoning the process nor the final product. The reason I'm condoning this for two very simple reasons and Councilmember Pyle spoke to one of them. A year of campaign and year in office and I've heard from the residents loud and clear that they want pension reform. On top of that our employee class have clearly risen to a level that is not sustainable or at least compromising our ability to provide Services and we need to do something and given that I have no other alternative I'm left with only this option before me today. I want to thank the employees in the bargaining units who tirelessly worked with our initial proposals that were unworkable and also for continuing to come to the table when the impression that there was no room to bargain, you are to be commended and I apologize on behalf of this council for the way you have been treated this past year. You have made proposals for pension reform labor groups have even considered so again I thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Allow me to speak again. I just wanted to bring out the issue that when we're dealing with this pension reform reform, we're dealing with human beings and their lives and not just on numbers. So we all want better services but just to put more bodies on the street and the office not necessarily equal to better services to our constituents, if we turn San José into a training ground for many other neighboring cities, so against, I encourage my colleagues to vote, what's really needed for this city, and not what we wanted. Thank you.

>> Mayor Reed: Thank you, that concludes our council discussion, debate. We have a substitute motion on the floor. Councilmember Constant outlined some time ago. On that substitute motion, all in favor? Opposed? I count one two three opposed, Kalra, Chu and Campos opposed, so it passes on everybody's here, 8-3 vote. That concludes our work on that item. We have a few more things to do. We'll take those up. Oh we're finally time to get to the consent calendar.

>> Motion to approve.

>> Mayor Reed: Motion, was there a second? Okay we have a second, motion and second on the consent calendar. Are there any requests from the public to speak on the consent calendar? None. All right, on the consent calendar, all in favor? Opposed, none opposed, consent calendar is approved. Item 3.one, report of the City Manager.

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

>> Mayor Reed: Item 3.3, an ordinance creating additional remedy for compliance orders we have a motion to approve, Councilmember Chu had the second. No requests to speak. On that motion, all in favor, opposed, none opposed, that's approved. Item 3.4, writeoff of uncollectible debts. We have a motion to approve staff's recommendation. On the motion, all in favor, opposed, none opposed, that's approved. Item 4.1, amendment to the citizen participation plan.

>> Motion to approve.

>> Mayor Reed: We have a motion to approve. On of on the motion, all in favor, opposed, none opposed, that's approved. 4.2 is rezoning property at the East side of south 10th street. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd like to move the recommendation of the Planning Commission.

>> Mayor Reed: Motion is to approve the recommendation from the Planning Commission. On the motion, all in favor? I'm sorry -- I've got cards here. Eric Schoennauer wants to speak before we take the vote.

>> 8:schoennauer, I represent the Sigma Kai house on this application. Implementing its new general plan. We're only before you with a PD zoning because a fraternity is a conditional use across the street from the university. If we want to build an urban environment around the university that allows student life to thrive, we should change our zoning code so that things like fraternities can happen across the street from the campus. The other reason

we're here is, parking. In older urban neighborhoods like this, you can't meet the City's zoning code which is a suburban standard so if we're serious about implementing the general plan we've got to update our implementation documents that promote walking biking and not require an abundance of free parking in every project so thank you.

>> Mayor Reed: All right, we have a motion to approve, or the recommendation from the Planning Commission. On the motion, all in favor, opposed, none opposed, that's approved. Item 4.3 is an administrative hearing in consideration of appeal of the Planning Commission's decision to deny a planned development permit and determination of public convenience or necessity. Are there any requests to speak on item 4.3?

>> Councilmember Oliverio: I make a motion to approve planning staff recommendation.

>> Mayor Reed: We have a motion to approve planning staff recommendation. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. The question to staff, is this the last one that we're pretty much expecting to go through this with the new -- with the new ordinance or --

>> Joe Horwedel: Councilmember Campos, I will talk to the ordinance and not the project because I have a conflict on the project. We do have an ordinance that's coming to the Planning Commission tomorrow night for this change so I think this is going to be one of the last where there's a mandatory.

>> Councilmember Campos: Okay, we could certainly lose and get people to go about their business quicker, thank you.

>> Mayor Reed: No requests to speak on the motion, Councilmember Liccardo. I'm sorry. I thought that was left over from the previous one.

>> Councilmember Liccardo: Thank you, mayor. Joe I know you may be conflicted, maybe if there's no one else to speak to it, I could ask a very generic question.

>> Joe Horwedel: Jump really quick.

>> Mayor Reed: We have another item we could take up.

>> City Attorney Doyle: Probably better not to put him in that situation.

>> Councilmember Liccardo: Understood.

>> Mayor Reed: Okay, let us just table that one, we'll come back to item 4.3 in a minute. After we have some staff shift and we'll go to item 4.4 which is a rezoning of property southwest corner of Monterey road and Stauffer boulevard.

>> Motion to approve.

>> Mayor Reed: We have a motion to approve, second, okay second on that motion. Any requests, no requests to speak. And Laurel Prevetti is here. Okay, she can come on down. On item 4.4, the motion is on the floor on that motion all in favor, opposed, none opposed, that's approved. We'll go back to item 4.3. We had a question for our staff that need to have Laurel Prevetti answer. She's here. So Councilmember Liccardo, you want to -- I don't think you ever got the question out so whatever your question was now's the time.

>> Councilmember Liccardo: Here is your question. Laurel thank you for coming down in the Nick of time.

>> Mayor Reed: We'd rather have you come down in the Nick of time than sitting here all the time.

>> Councilmember Liccardo: Thank you, a 3400 square foot store, wonderful store that's great. The exception we are using is this is a full service grocery store. It would strike me as not being the sort of full service grocery store since we typically think of a Safeway that is 25,000 to 40,000 square feet. What makes it full service if it's this small? Is it what they serve, what exactly is full service?

>> Laurel Prevetti: The full service is really more in terms of the goods and products that they provide for sale, as opposed to the square footage. Council may recall some of our other smaller stores that went through a similar process, some of our ethnic markets for example, where it is a small square footage but they're able to provide dry goods, fresh meat, produce, cheeses dairy et cetera. So it's really the mix of products that we consider to be more relevant than the actual size of the store.

>> Councilmember Liccardo: Okay, thanks.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor, I also join Councilmember Campos in eagerly awaiting the ordinance change so we don't have to go through this process and let the Planning Commission do their work appropriately. And you know, I just wanted to follow up on your comments right now, I agree that some of the issues of what a full service store does have to be taken on a case-by-case basis. I've also had the pleasure of being able to visit this store and I think it's easy to recognize, Santana Row, square footage you don't necessarily want it to be that large. You want it to fit into the environment and the makeup of the community. And so I think that you have to look at the overall product and can you distinguish this from a stand alone liquor store that happens to sell a few bananas. My point, they try to come off we sell everything but really the purpose is to kind of like sell alcohol. But here given the environment that the store is in this is full service for that you know just like you know, a different example the Safeway downtown, is not the Safeway that is downtown at Branham and Snell but you wouldn't expect it to be. 18 more so for Santana Row you would expect for a different type of market to emerge so I'll support the motion.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Yeah, also on the square footage size the rent at Santana Row is pretty sizable to have a major player but this one fits the niche of servicing hundreds of residents at Santana Row and we are adding 18 more with construction for all the housing and the other item unique to the circumstances that federal realty has a pretty strict lease clauses that actually really control down to the product level what can be sold. So I don't think we're going to see anything that would be put with anything with a traditional liquor store like 45 ouncers or anything of that stuff. I think this will be a niche that will serve the grossers and I'll be clear that high end market to service the Santana Row residents and I know federal realty expects that so thank you.

>> Mayor Reed: Okay, no more questions. I can't remember if we had a motion or not because we tabled the action. We have a motion to approve the staff recommendation. Correct?

>> Dennis Hawkins: Councilmember Campos made that motion on 4.3.

>> Mayor Reed: Okay, wanted to make sure I didn't mix it up. All in favor, opposed, none opposed, that's approved. Our last item is open forum. Charles Johnson, Charles still here? Calling Charles. Going once, twice, no Charles Johnson. That's the only request for open forum. So we concluded our meeting, we're adjourned.