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City of San José city council meeting.

>> Mayor Reed: Good afternoon, I would like to call the San José city council meeting to order for June 9, 2009. I'll start with our invocation. Councilmember Oliverio has the invocator to introduce.

>> Councilmember Oliverio: Thank you, Mayor Reed. Today we are joined by Temple Emanu-El and their choir. They will be performing an acoustic performance of "Lu Ye'hi, May It come To Be." Temple Emanu-El was originally established in 1861 and has been in its current home on University Avenue since 1948. Temple Emanu-El is the oldest reform Jewish congregation in the South Bay. The choir thrives under the loving leadership of Cantor Mikah Zimmerly, and its joyful sound can be heard a few times a year on holidays and Friday night Shabbat services. 30 or so choir members enjoy warm kesher, or connection, that comes from creating and sharing music together.

>> Shalom. I am Cantor Mikah Zimmerly. I would like to thank you on behalf of Temple Emanu-El for inviting members of our choir to sing today. We all feel very honored to be here. A few words about the song and the poet who wrote it. Lu Ye hi speaks of our people's deepest yearning for peace, expressing our hope for better days to come. The composer Nomi Shamel, one of Israel's most important and prolific songwriters, during her lifetime, she was hailed as the first lady of Israeli song. Lu Ye Hi. [ Singing ] ׀׀ ׀׀ ׀׀ [applause]

>> Mayor Reed: Thank you. Before we stand for the pledge of allegiance, I want to acknowledge that we have students from Easterbrook Discovery School here with us today, welcome. And you're going to help us with the pledge of allegiance. So I'd like for all the Easterbrook students to stand up. Okay, they're going to help us with the pledge of allegiance. So everybody else please stand for the pledge now. [ pledge of allegiance ]

>> Mayor Reed: Thank you, Easterbrook Discovery School in District 1, Councilmember Constant's district. First item is orders of the day. Do we have any changes under orders of the day? We have a motion to approve the orders of the day. All in favor, opposed, none opposed, those are approved. Closed session report.

>> City Attorney Doyle: Mr. Mayor, the council met in closed session this morning pursuant to notice. There is no report.

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to call up Councilmember Constant, Kim Walesh and San José state university provost Carmen Sigler to join me at the podium. We're also joined by president John Whitmore. As I said this before, and I stole this from Robert Koret, former president of San Jose State University, great cities have great universities, and San Jose State is our great university. Today we are recognizing someone who has been instrumental in helping make San Jose State in San Jose into a thriving, successful institution, and that is Dr. Carmen Sigler, who has worked tirelessly for two decades of leadership at San Jose State University. She has championed this university-city collaboration that we're so proud of, through a variety of programs and initiatives, including the public sector career initiative and the Communiversity service learning collaborative. And I know that there are many people who want to congratulate Carmen Sigler. We are sorry to see her leaving service of San Jose State University, but she's done a great job, and we really appreciate that. Carmen, thank you. [applause]

>> Well, thank you very much. I'm extremely honored by this recognition and I accept it with gratitude and humility. I have been extraordinarily fortunate to work at San Jose State University, a great university in the heart of a great city and to watch its impact on the lives of our students but also on the well-being of our community. I've also been very fortunate to be able to work with extraordinarily dedicated public servants such as all of you and together, to engage in a collaboration that has been significant and a model of town and gown relationships. A collaboration that has attracted the interest of higher education leaders at an international level, at the same time it has made a significant impact on the lives of local residents. It's been an honor for me, so thank you for honoring me, and thank you for being San Jose State University's best friend! Thank you! [applause]

>> Mayor Reed: Now I'd like to invite Kimberly Shunk and Bill Moffitt to join me at the podium. The Radio Amateur Civil Emergency Services, or R.A.C.E.S., is a public service provided by volunteer communications group in times of extraordinary need. When they get activated, we have certified unpaid - - did I say they are volunteers? -- unpaid personnel who are called upon to perform many tasks for the government agencies they work with. And although the exact nature of each activation is different, the community thread is communication. Now, R.A.C.E.S. is sponsored by the City of San José's Office of Emergency Services, and they provide additional communications channels to city organizations in the time of emergency. And we really appreciate the support that are provided by our amateur radio

operators even in times of nonemergency that they help us. And Kim Shunk will explain a little bit more about what R.A.C.E.S. does.

>> San José's Office of Emergency Services is extremely proud to be the sponsor for our local R.A.C.E.S. organization. They not only help us during emergencies, as on the April 9th phone outage when they went out into the field to become a communications system for South County, but also on nonemergency events like the annual holiday parade. They're one of the few groups I know that can set up a live streaming television picture in the field ten minutes or less. So it is with great pleasure that we commemorate this year's annual field day, and I'm fortunate to be joined by Bill Moffitt and Larry Douthard from our local R.A.C.E.S. organization. Thank you. [applause]

>> Mayor, Ms. Shunk, thank you very much. We, the members of the San José R.A.C.E.S. organization, consider it a great privilege to be able to serve the great City of San José and enjoy the support of the city council in doing so. We pledge that we will continue to maintain our preparedness and serve the city in the future. For anyone who is interested, we will be celebrating our annual field day this June 27th and 28th, Saturday and Sunday, in Noble Park in Eastern San José. We invite all members of the public to come and join us. Thank you very much. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Chu, Councilmember Liccardo, and representatives of our Filipino American city employees to join us at the podium. That organization is more commonly known as FACES, and today we're issuing a proclamation in recognition of June 12th as Filipino independence day. Councilmember Chu has more information about that.

>> Councilmember Chu: Thank you, mayor. I'd like to thank my colleagues and the mayor in joining me to proclaim that June 12th, 2009 as a Filipino Independence Day. The City of San José greatest strength is its diversity of residents like myself who came from other parts of the country, other parts of the world, and bring with us a celebration of traditions and festivities that further promote appreciation and the understanding of various cultures. This year marks the 111th anniversary of Filipinos' first declaration of independence from Spain. The Filipino independent day, the proclamation honors the more than half a million members of the Filipino community in the United States and their countless accomplishments. In our City Hall we have the Filipino American city employees of San José, FACES, with members from all departments who have provided excellent services to San José residents on a daily basis. Originated in 1990, FACES has over 80 active members and meet every fourth Tuesday of the month at noon. I'm honored to sponsor the upcoming flag raising ceremony and would like to take this opportunity to invite all of you to join us on the June 12th, Friday June 12th, at the City Hall plaza. Here today, to accept this on behalf of all the FACES of San José is Michelle Amaris -- Amoris, from the Filipino American city employees of San José. Michelle. [applause]

>> Mabuhai, greetings from the Philippines. Hi, my name is Michelle Amaris, Senior librarian at the Tully Community Branch Library, and vice president of FACES. Thank you, honorable Mayor Reed, city councilmembers, and especially Kansan Chu, for recognizing and allowing us to celebrate one of the most memorable events in Philippine history. The Philippines was declared independent on June 12th, 1898. And on behalf of FACES members, we accept this proclamation with great pride and joy for the Filipino community. Again, we invite you this Friday, June 12th, at 12:00 noon in front of this city hall for flag raising ceremony. Thank you. [applause]

>> Mayor Reed: I'd like to invite Councilmember Campos and recipients of the REACH scholarships to join us as the podium. The REACH youth scholarship recognizes those who have used sports to help them overcome adversity in their own lives, and Councilmember Campos has some more information about that, and our award winners are coming down.

>> Councilmember Campos: Thank you. We also have the Sports Authority that will be joining us. First of all, I'd like to recognize these young students and athletes for their tremendous efforts in achievement as well as education. We're here today to recognize Brianna Mercado -- and if you can, raise your hand so people know who we're talking about -- from Silver Creek High School, Mary Luna of Live Oak High School, Nicky Cruz of Overfelt High School, Joshua Alvino and Maricel Gonzales of Santa Teresa High School, and Noe Lema of Willow Glen High School for being selected as 2009 REACH scholarship recipients. The REACH youth scholarship is a local program created and funded by the San José Sports Authority that provides educational scholarships to high school seniors who have overcome significant diversity in their lives to excel both in the classroom and on the playing field. These recipients -- and this is what is so amazing about these young people -- these recipients have encountered things that I don't think a lot of us may even imagine that we have to go through in our lives. From battling cancer, coping with family members' terminal illness, the loss of parents in two separate tragedies, being diagnosed with

partial blindness, recovering from a rare disease, and overcoming cultural and language barriers. I think that is something to be admired in these young people, and I would have hoped to have let the young people see that as you grow up with education, and you have trying times, that if your dreams are high, and your determination is -- unwillingness to let anything keep you from achieving your goals, these are exceptional, exceptional students, to be commended for their courage. And with that I'll ask Mayor Reed to present the commendation on behalf of our young people. [applause]

>> Councilmember Campos: At this time I'll ask Patricia from the Sports Authority to say a few words about the program.

>> Thank you, Councilmember Campos. On behalf of our board of directors and Ronnie Lott, our chairman for the REACH youth scholarship program, and Cisco Systems, I want to thank you very much for recognizing these outstanding young people today. Again, REACH stands for recognizing excellence, adversity, courage and hard work. And the Sports Authority started this program in 1996 to recognize the role that sports play in helping youth develop self confidence and the strength to persevere in the face of adversity. Over the past 13 years, REACH recipients have gone on to attend San Jose State University, U.C. Berkeley, Cal Poly, UCLA, Villa Nova, Stanford, and M.I.T. to name just a few. I would also like to thank a few of the REACH scholarship selection committee members that are with us today. Randy Knox from Adobe Systems, Jennifer Pittson with National Tennis Championships, Brian Fitzpatrick with Comerica Bank, and Robert Bronstein, who is here with Cal High Sports Bay Area, who also produced the videos on each student that we provided to the mayor and each councilmember. Thank you very, very much for recognizing these students today. They are a tremendous inspiration, each and every year that we have done this program, and we wish all of the students that you see here today, and all of those who participated, nothing but the best in their future endeavors. Thank you very much. [applause]

>> Mayor Reed: I'd like to invite Councilmember Liccardo and representatives of the San José Women's Club to join us at the podium. Today we're commending the San José Women's Club for over 100 years of leadership Councilmember Liccardo has some more information about this club.

>> Councilmember Liccardo: I'm joined by several members of the San José Women's Club. April Hubberstodt, the current president, past president Sally Besse, Janice Owens, Alma Taylor and board members Pat Curia, Wendy Duelle, Edie Peculo, and Betty Barnacle. We are here to celebrate the now 100th year of incorporation as a nonprofit of the San Jose Women's Club, an organization which is actually just a little bit older. It's about 115 years old, but who's counting? They've been engaging all these years, according to their charter, in cultural, educational, community and charitable pursuits. Let me give you a few examples. Early club members in their history provided strong support for the beginnings of our state park system, they helped create kindergarten here in San José, promoted the first public library here, established a daycare for working mothers and made sure that female prisoners at the local jail were kept in separate facilities. The organization known as Hope Rehabilitation Services actually owes its origin to several San Jose Women's Club members. That's a great organization that helps community members find employment to overcome developmental disabilities. Members of the club continue to be strong supporters of local education. They provided recently three scholarships to San Jose State students. They have always been a strong supporter of the arts here in our downtown. They're a venue which I encourage you all to check out. They've spent some money, and we've spent a little money helping them renovate that great facility. It's had a great history of performance.

An early production of Alice in Wonderland featured two-time Academy Award winner Olivia de Havilland. Since that time it had grown into some disuse, and it's been renovated and revitalized in the last couple of years with the help of Chris Esparza and Giant Creative, and now they're filling the venue virtually every weekend with wonderful performances of music and theater. And so to commemorate their great service to our community for these past 100 years, I'll ask the mayor to present a commendation to April Hubberstodt. [applause]

>> Thank you so much. It is such a pleasure to be here on behalf of literally hundreds of women over more than 100 years who are having their hard work recognized by this commendation. I have to say that as we sit here this afternoon, there is a young piano player who is in town competing with the Russian music competition this week. The women's club has made their performance space available for rehearsals for these young people. And all this week we will have young people practicing for their semi finals and finals. This is very typical of the kinds of cultural and musical support that the club likes to give to the members of the community. Again, I really appreciate this award and it will go up on the wall this afternoon. Thank you so much. [applause]

>> Mayor Reed: We'll now take up the consent calendar. I'd like to pull off item 2.6 for discussion. Is there any other items councilmembers would like to pull?

>> Councilmember Chu: 2.11, mayor, if I may.

>> Mayor Reed: 2.11. Any others? Okay, there's a motion to approve the balance of the consent calendar. All in favor? [ ayes ]

>> Mayor Reed: Opposed, none opposed, that's approved. Let me just check and see if these cards from the public had to do with the consent calendar. No, okay. Item 2.6. Annual review and update of the City's investment policy. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I wanted to make a motion to approve the staff recommendation, as well as the recommendation set forth in the memorandum signed by Councilmembers Madison Nguyen, Mayor Reed and myself dated June 5th.

>> Second.

>> Mayor Reed: We have a motion and a second with the additional items set forth in the memo. Councilmember Liccardo. Do you want to speak to that?

>> Councilmember Liccardo: Thank you, Mayor. This is I know something of a unique approach to -- trying to deal with our foreclosure crisis. But in times of scarcity, certainly innovation is in great need. I'm appreciative to members of the finance department and housing department who are willing to take some time to look into this as an option for us as another tool in our tool box to try to reduce the extraordinary pain felt by many of our families and members of our community as a result of the foreclosure crisis.

>> Mayor Reed: Councilmember Chu, I'm sorry, that was on the consent calendar -- that's the other item. I'm sorry. Let me just speak to this one. We know that we have had great success in dealing with some of the foreclosure problems facing our neighborhoods. But there are many people that we haven't been able to help. And a lot of times the trouble is the people who are trying to work things out, cannot get their lender to talk to them. That -- and if you can't talk to the lender then you can't take advantage of state and federal programs and everything else. And if we're doing business with people, all things being equal, if they won't talk to us, we might want to use another bank or another lender where we put our money. Of course we still have to remember safety, liquidity and yield are our guiding principles. But if we're dealing with multiple lenders and we have a choice, our choice should be people who are doing business with us in a responsible way. So I think this is an opportunity to take a look at that and one other tool with us in dealing with the crisis of foreclosure in our neighborhoods so I'm going to support the motion. Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. I want to say I also support the motion and I think it's good for us to be able to have a tool to support financial institutions. Everything else of course taken into account, as far as the investment being a good investment opportunity to influence and be able to support some our policies by choosing those lending institutions that do want to reach out and help with this crisis. So I'll be supporting the motion.

>> Mayor Reed: Thank you, we have a motion to approve the staff representation with the additional items. All in favor? [ ayes ]

>> Mayor Reed: Opposed, none opposed, that's approved. Item 2.11, residential street surface sealing 2009. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Just first off, I want to commend the D.O.T. for your effort in ensuring that the streets are well maintained for our residents. There is a couple -- I received quite a few complaints in my office regarding the quality of the street resurfacing in the district. So Jim, you can elaborate on what kind of or is there a program of quality control measures in that area, and besides the regular chip seal, slurry seal, is there any other ways that -- for us to repair the street?

>> Jim Helmer: Councilmember Chu, Jim Helmer, director of transportation. Thank you for that question. I think it's true that last year, we did have a fairly high number of complaints on -- in some particular neighborhoods in your district. And those complaints came to our office. I know I personally have gone out and looked at several of those streets as have my staff. And we do understand the concern of this particular community. I would say the quality control is something we can always work on. These were contractual jobs, we do our best to provide inspection throughout the range of a lengthy summer-long project. The streets were on the border line between the sealing process and then additional type of, more expensive maintenance. I believe that because there continued to be the appearance of cracks or small weeds growing along the gutter lines, that it sometimes resulted in the community returning calls to our office to deal with those. So on the whole, we focus on quality control in

a particular neighborhood. We did see some problems. We've addressed them and we promise to go back and monitor those this summer for any future problems.

>> Councilmember Chu: Are we using the same contractor?

>> Jim Helmer: That I would have to check. I don't recall the contractor. Once again, I really think the -- it's the condition of the streets, and a judgment call that we have to make in terms of what is the best application.

>> Councilmember Chu: Is there any consideration of addressing the crowning problem of our street when we're doing this maintenance?

>> Jim Helmer: Yes. For those that want to know what the crowning problem is, that is the center line of the roadway that crowns up fairly high after a number of resurfacing applications. Those conditions generally exist on our heavier arterial roads where we are actually doing more surfacing, one inch and two inch lifts. Our surface streets don't normally have that problem since we're put on a thin film of sealer. We have been doing a lot of what we call grinding and digouts on high crowns particularly in those areas where we have a lot of wheelchair users. But it is more -- so that it's more adequate really for them to get across the street in a safe manner. It's very expensive, and for that, again, we have to weigh the number of streets that we can get in, and the types of applications that we must apply to each street. But we are very focused on the crowns and the gutter lips in terms of safety.

>> Councilmember Chu: Any ARRA money available for this purpose?

>> Jim Helmer: The federal money that will be coming to award later this month will be used all on about 13 miles or 16 miles of arterial streets in the city, and that will address crown problems.

>> Councilmember Chu: Thank you very much. With that I move to approve.

>> Mayor Reed: Motion to approve. Seconded by Councilmember Oliverio. All in favor, opposed, none opposed, that's approved. That concludes the consent calendar. 3.1, report of the City Manager.

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

>> Mayor Reed: Next item then is 3.5, agreement for reduced work week with the Association of Building, Mechanical and Electrical Inspectors.

>> City Manager Figone: Mayor, I will kick this off. Actually, I will have opening comments on both 3.5 and 3.6. The item before you is to approve an agreement with ABMEI and the City. And let me say that this is a bargaining unit that has truly stepped up to the plate because they care about the people that they work with. ABMEI, I think, among all the city's bargaining units, have experienced firsthand and probably sooner than others the effects of this downturn on their bargaining unit, and because of the mid year reductions we've had to take resulting from how the economy has hit the development community, ABMEI has gone from 84 employees to 57. So bargaining in this environment is difficult. And this unit brought forward proposals to the city for us to entertain and to reach agreement on which we have which would save jobs in their unit. Just to give you a sense for what we've agreed on, in essence and most significant is a reduced work week for fiscal year 2009-10. And ABMEI approached the city with the following offer. It results in working 10% less hours which results in a 10% pay cut. The savings will go to avoid position eliminations of employees represented by ABMEI. Additionally they agreed, they completely understood the need to continue to pay retirement contributions on the hours that they won't be working, in response to concerns over creating an unfunded liability in the retirement system. Let me say, in closing, I'm very, very proud of this group, and I truly appreciate their initiative in approaching the City with this offer, and in particular I'd like to thank Tom Brimm and Patrick Skillsky from ABMEI and Gina Donnelly with the Office of Employee Relations for their work in achieving this agreement. And Gina and Alex are both here to answer any questions that you may have.

>> Mayor Reed: I had one question regarding a note that I got that we need to take a couple of steps in enacting this. We need to have staff bring an ordinance through the next Rules Committee meeting so it can get back to the council on the 23rd in order to deal with the retirement contributions part of this. Is there anything else specifically that we need to do?

>> City Attorney Doyle: We -- depending on what the Rules Committee does tomorrow with the meeting on the 30th, we want this in place by August 1st. So if the council deletes the June 30th meeting, then we will ask for the -- to bring that back next week for a first reading, so we can have a second reading on June 23rd. We can get it done so that it's in place by August 1st.

>> Alex Gurza: Mayor Reed, if I can add -- Alex Gurza with Employee Relations -- as the City Attorney indicated, there is an ordinance change that's required in order for the retirement system to accept these retirement contributions. However, our agreement with the building inspectors is that would not delay the

reduced work week. So the reduced hours will start July, even though there may be a little bit of lag time in terms of the ordinance on the retirement contribution issue.

>> Mayor Reed: Thank you. I want to thank ABMEI, their leadership, and all the members of ABMEI for stepping up to protect the jobs, and these are tough times. And we've already lost a lot of ABMEI members, and I hate to lose any more. And this effort will make sure that for a while, anyway, until, you know, the neck wave of bad news comes last year, we'll have to deal with that then. But for this year, it's a very important step. And I know it's a difficult step for everybody to give up something like that. 10% is a pretty big cut but I do appreciate their willingness to help us work through this. Councilmember Constant.

>> Councilmember Constant: Thank you. If it's appropriate, I'll make a motion to adopt the resolution approving the terms of the agreement for the reduced work week for ABMEI. And to also have the City Attorney return with the ordinance, thank you, Sam, at whichever date works, whether it be the 26th or the 30th. And since I have a second, I'll make a comment if I can then.

>> Mayor Reed: We do have a second.

>> Councilmember Constant: I just wanted to thank ABMEI especially Patrick and Tom for their work. It took a lot of courage for them to not only do this, but to actually bring it to us before we brought it to them. They really led the way. I really -- being a trustee on one of the pension funds, I really appreciate the sensitivity to the unfunded liability that could be created if we did a furlough without addressing it. And again, that's something that they brought to us. We didn't even have to tell them. That's something we needed to negotiate. They really led the way. It's noticed, it's appreciated, and we thank you very much for that. And hopefully, sometime soon, the development world will get cranked up, and they'll be very easily able to come right back to work 40 hours a week. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I wanted to echo the thanks to Tom Brimm and Patrick Skillsky and the members of ABMEI. I know these are incredibly difficult times financially for an awful lot of families, and taking a 10% cut is certainly a very substantial hit for a lot of folks when they're trying to pay the mortgage. This is really an example of the city's employees demonstrating leadership for the entire community, about how we can get through this if we tighten our belts. So thank you to them and all their members.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. I just wanted to echo the mayor's comments as well as my colleagues' comments in thanking members of the ABMEI for your personal sacrifice and really taking the opportunity to step up to the plate, be the first to do so. Your willingness to make the present sacrifice is really -- didn't go unnoticed and I think that I speak for all my colleagues when I say that we notice what you did, and we really commend your valuable sacrifices and commitment to saving the jobs, of not just your fellow employees but also to share the person sacrifices with the rest of the workforce. So thank you very much.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, Mayor. Tom and Pat, you really exemplified leadership on an A-plus category. I think the fact that you not only saw what needed to be done, and you stepped up to the plate and did it, but you obviously carried a good message to your fellow members and did a great job. I am just joining in with everybody else in letting you know how very, very appreciative I am. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, ABMEI, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Yeah, I just want to add my thanks along with everybody else's. I just think this demonstrates what great employees we have, what great partners we have and I want to thank you very much for taking a leadership role.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I want to congratulate our city staff as well as the leadership of ABMEI for coming together in this difficult time. It's been a challenging time for all of us, and I know that there still are discussions and important ones to be had. And there's certainly no doubt that ABMEI and the leadership as well as the employees of ABMEI have shown that they certainly care about the people they work with and about the city. I don't necessarily think that in negotiations that don't necessarily work out the way that we may all like, that doesn't necessarily mean that others don't. I just think that this is a great sign for ABMEI and it's a great sign for the city to see the kind of leadership that

ABMI has taken and am hopeful that we'll have continued productive dialogue with ABMEI into the future as well as other bargaining units. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Mostly everything has been said, but I want to say my thank yous to the union group and your willingness to take leadership on this. Thank you.

>> Mayor Reed: I don't think it has been mentioned, but I also want to thank ABMEI for their willingness to engage in the coalition bargaining with six other unions and to come up with a plan with the city to step up to full funding of the retiree health care beginning this year, and I appreciate their efforts in that area, as well. Any other comments on this? Are there any cards from the public to speak to this item? None, okay, we have a motion and we'll probably have it back here on the 16th so we can have the second reading on the 23rd. Anything else, Councilmember Pyle? Nothing. Okay, we have a motion on the floor. All in favor? Opposed? None opposed, that's approved. Item 3.6. Regarding the City's offer to operating engineers local number 3.

>> City Manager Figone: Mayor, again, if I could make some opening comments before turning it over to Alex for the presentation. What is before you is approval of the terms of the last, best, final offer from the City of San Jose to OE 3. Your memo is set up to act on one of two alternatives, one which is item A is to adopt a resolution approving an agreement about these terms. And in the alternative, in the event that agreement wasn't reached, it would be to recommend that council impose the terms. We were informed this morning that by OE 3 that the members did not ratify our last best final offer. As you know, our goal in meeting and conferring is to reach agreement. Your last item is an example of such an agreement. And recommendation to implement terms is not something that the staff takes lightly. There are four items remaining that are very important to the city. And these are items that have been agreed to by other bargaining units. They include at least in great measure by other bargaining units. They include retiree health care, health care co-pays, cost sharing, we've asked OE 3 for a true wage freeze, as we are asking of all of our bargaining units. And then the fourth item is clarifying that the civil service commission is the appeal body in discipline hearings. So those are the four items, and Alex will now go through these items on a little bit more detail and then we'll take council direction.

>> Alex Gurza: Good afternoon, mayor, members of the city council, Alex Gurza, Director of Employee Relations. Before going through in a little bit more detail of the four items regarding our last best offer that the City Manager mentioned, I'd like to briefly give the council a background on OE negotiations. The term of the last contract with operating engineers number 3 began on November 9th of 2006 and expired on April 17th of 2009. Because the city knew that there were going to be significant issues to discuss with OE 3, including the very important topic of retiree health care, the city initially contacted OE 3 in December of 2008 which is earlier than usual to begin negotiations. We suggested to OE 3 that we start as early as in early January of 2009. The slide here shows the various meetings that we had with operating engineers. The first meeting that they were available to start negotiation was on January 28th, so at the end of January. We continued meeting again for a total of 17 times. Unfortunately, not able to reach an agreement. In fact by the end of the term of the contract, we had not reached a tentative agreement on any one single issue. We did engage in coalition bargaining -- I'm sorry, in mediation with OE 3 and unfortunately were unsuccessful in reaching an agreement. I think it's important also to point out, before talking about the items that were left in our last best and final offer is the city actually had quite a few proposals as did OE 3 at the outset of negotiations. You might recall that in January we came to open session to talk about our labor negotiations schedule that we had upcoming. And also, mentioned various items of a cost-saving nature that we would be bringing forth in the subsequent negotiations with our bargaining units. The city actually had a total of 35 proposals in the various areas of cost savings. We did appreciate that in the -- somewhere in the middle of the negotiations, OE 3 did come forward and agree to not take a pay raise for the subsequent year. Unfortunately, however, we were not able to reach agreement on some of the key items. This next slide shows you that we came down to only four, what are ultimately four items in a one-year contract offer that we made. The first one is wages, and that essentially is our proposal to have a true wage freeze in 2009 and 2010. A true wage freeze for OE 3 would save approximately \$1 million in all funds, and of that, 400,000 in the General Fund which could be used by the city council in order to avoid some of the service eliminations and position eliminations represented by OE 3. The second area is in the area of medical benefits. The 90-10 cost sharing formula is something we have been achieving with almost all of our bargaining units. And in the issue of co-pays, operating engineers is the last bargaining unit in the city that for HMOs such as Kaiser has a zero co-pay for office visits. And the \$10 office visit co-pay is again what every other employee in the city already has

agreed to previously. The other item is in the area of appeals for disciplinary actions. The civil service commission is the one that historically has heard discipline appeals for appeals represented by OE 3. We don't consider this a change but a clarification to make sure that it's clear that it is the civil service commission who hears the appeals for discipline rather than an outside arbitrator. And lastly, and probably most importantly in the sense of the scope of the issue, which is retiree health care. The proposal to OE 3 was to start ramping up to start prefunding our retiree health care. And clearly the first year, which is only the year of offer that we made, that would only be the first year of starting to incrementally increase the contributions that both the city and employees would be making for retiree health care. This slide here again shows the major issues that we have in our last, best, final offer. And what you can see is by employee unit starting with unit 99, which is our unrepresented managers going down the list, and showing that by and large for all of the items like retiree health care, or the discipline appeal clarification, or health insurance, or the co-pays, we are not asking OE 3 to agree to anything that we haven't already achieved with the vast majority of our bargaining units. You see at the bottom those are the areas that say no because we don't have those items yet. So in the case of retiree health care funding effective June 28th of 2009, coming up here in a couple of weeks, all employees again shown here with the exception of OE 3 yet and local 230 have agreed to start prefunding retiree health care. And you can see the other items as well that we have achieved that agreement. On the issue of retiree health care, I think Mayor Reed on the last item referred to the coalition bargaining. For employees in our federated city employees retirement system, we engaged in coalition bargaining with all those bargaining units that are represented there. It was the first time we tried something like this, and we are very pleased to say we have achieved success. We reached an agreement with all of those bargaining units that were ratified by each of their memberships to start prefunding retiree health care. OE 3 declined to participate in the coalition bargaining which is their right to do. And what that meant is that then we had to negotiate the retiree health care with OE 3 during their regular contract negotiations. And so that is why we attempted to start early with them, because it is a complicated issue to go through. But once an important part to point out about the retiree health care funding is that for this coming year not only the employee's contribution goes up but for the city it goes up too, because for the medical health care, it is a 50-50 split. And the amount has already been determined for this coming fiscal year, and the increase is a 0.42% increase for employees on the retiree health care issue. To give you an idea how much that is, if you have an employee who makes \$60,000 a year, it is approximately \$4.85 a week, but that is pretax. So in a sense, net it's less than that. So that gives you some sense of the amount of that item. As the City Manager mentioned, we received notification this morning that the membership of OE 3 did not ratify the -- our last, best, and final offer. However, yesterday, they received a letter actually that went from operating engineers to the mayor, urging the city not to implement the terms of the last, best and final offer. It asks that we engage again in mediation to try to come to an agreement. We absolutely agreed that being able to reach an agreement is our goal, and would be preferable. However, we do have a time issue in trying to reach an agreement that can be implemented in order to have the true wage freeze beginning this fiscal year for the council to be able to consider those savings in making the very difficult budget-balancing decisions that are before you next Tuesday. In addition, we need to be able to reach an agreement, or implement the terms, in time to implement the retiree health care contributions. So that the money goes -- starts going into the trust fund along with every other member of the federated city employees retirement system. So there isn't a lot of time. But one option that's before the council today, because of their indication from this letter that they may be willing to come back to the table, is rather than take action today, it's to defer this item until next Tuesday, the 16th. However, as the council considers this this afternoon, we want to mention that we do not recommend reengaging in mediation. It's not because we don't think mediation can be helpful, but because of the time involved. If OE 3 is willing to come back to the table, to negotiate with the City's negotiating team led by Gina Donnelly from my office, we are available to do so immediately and work diligently with OE 3 between now and next week to see if we can reach an agreement so that the council next week may be in a position to approve an agreement as an alternative to implementation. However, one important part, by next Tuesday, is a lot of work would have to be done because the by next Tuesday's council meeting there would not only have to be an agreement but a ratification by operating engineers to know whether or not they approved that agreement. So that when we're here next Tuesday at 1:30, you know whether that has been possible. So that is an option for the council to consider. And with that, I'd leave it to you to answer any -- we're here to answer any questions that you may have.

>> Mayor Reed: Thank you. I do have some cards from the public who want to speak on this item. I think we'll take those at this time. Bill Pope. Cliff Hubbard, Larry Adams, please come down to the front when I call your names. There are plenty of seats in the front row.

>> Good afternoon, mayor and councilmembers. I'm -- my name is Bill Pope. I'm the business representative for the members represented by operating engineers local 3. I want to first thank the labor groups that have been collaborating with us and their support on this issue. The city has not been willing to tailor an agreement with OE 3 that would meet our members' needs the way it has with some other unions as the agenda idea before. That's the hangup. It's not the reluctance of OE 3 to help the city. The city needs to be more flexible in the kinds of concessions that it will accept from OE 3 members so that their concerns about protecting services and jobs are addressed. OE 3 has a democratic process through which its members consider any agreement. Therefore, when the city insists on budget solutions for OE 3 that don't meet the OE 3 members' needs, it makes matters worse and delays budget solutions that we all want. Thank you.

>> Mayor Reed: Cliff Hubbard, Harry Adams, and then Linda Didis.

>> Honorable mayor, members of council, I'm Cliff Hubbard. I'm on the executive board of Local 230. San Jose firefighters urge the city council to not impose a contract on OE 3. Doing so will have chilling and long-term effect on labor relations citywide. Both the city and the union have to be creative and flexible to come up with solutions. With the economic challenges that confront us all now, is not the time to destroy relationships. Again, local 230 strongly urges the council to send the parties back to bargaining. Thank you.

>> Mayor Reed: Harry Adams, Linda Didis Chris Glessey.

>> Good afternoon, mayor and councilmembers. I'm Harry Adams. Today I'm representing the South Bay Labor Council and just wanted to express our extreme concern about the possibility of the council voting to impose the last, best, and final offer. It really is time for a reality check. We can't simultaneously talk about, or achieve, cooperation, collaboration about the many difficult issues that this city faces over the next few years, if at the same time, short-term demands are driving our relationship. And of course, we know you want to achieve full-year savings. But if it damages our ability over the long term to answer all the needs, to deal with the deficit of the coming years, then it's simply not worth it. And rigid positions, whether it's on the union's part, or on city staff or the council are not what's needed now. We know both parties can inflict damage on each other and on the city and themselves if the City's terms are imposed. We know this year's deficit is real and that there's more to come. All the unions recognize that. The labor council certainly does. And that's why we have worked with the city labor alliance for countless hours to try and craft positive solutions for protecting services. Now is not the time to back each other into the corner. We need cooperation, flexibility and creativity on everyone's part in an unprecedented degree. So we urge you to not to impose the last, best and final offer. We urge the city and OE 3 to go back to the bargaining table to continue to work for reasonable solutions for today's crises and today's situation and finally this process needs time. Unions have to work through this process with their members. It's democratic, it's difficult sometimes, and we ask the city council and the city staff to respect this and to give it the space it needs in order to make it happen. So the council can choose conflict or cooperation today, conflict is easy to start, but it's harder to resolve, and we ask you to take the road of mutual respect and cooperation. Thank you.

>> Mayor Reed: Linda didis, Trish glassy, Yolanda Cruz.

>> Hi, my name is Linda didis and I'm the business agent for AFSCME which represents MEF and CEO in the city. We're asking that the city instruct the City Manager to go back to the bargaining table with OE 3 and not impose this last best and final. The failure of both parties to come to agreement in collective bargaining negotiation will not just affect the members of OE 3. It will affect the members of all of the unions. It sends a message to the other unions in the city that collaborative efforts don't work, and that the process doesn't work. The reason that there are so many unions in this city is because of the varying needs from group to group, and they're not necessarily shared by all of the unions. Each bargaining unit has a need, and is not -- there's not one cookie cutter approach that works for all bargaining units. Four quarters actually do equal a dollar. I think that one of the other -- that Bill brought up for instance that the city is actually crafted a solution with one of the unions which is ABMEI, that has not been offered to MEF and CEO. The city has told us that furloughs will not work for our bargaining units for instance but it worked for ABMEI. These are extraordinary times. This is something that none of us have ever gone through before and we ask the city to make a decision and the council and the mayor to make a decision today that would be a decision that might be extraordinary, might be actually -- I don't even know if there's

been any last, best and final imposed in the history of the city. So we're asking that you don't impose this last, best and final. Thank you.

>> Mayor Reed: Trish Glassy, Yolanda Cruz, Ross Signorino.

>> Hi, I'm Trish Glassy, president of Confidential Employees Organization. I'm here to request that the city and OE 3 return to the table and resume negotiations. These issues should be resolved at the table, and we will all be better for doing so. Thank you.

>> Mayor Reed: Yolanda Cruz, Ross Signorino.

>> Hello, my name is Yolanda Cruz. I'm the president of AFSCME Municipal Employees Federation. I am here today to ask that the council not impose the terms and condition on Operating Engineers Local 3 for several reasons. Number 1, the impositions of terms and conditions is an extreme action that should only be considered under the most extraordinary of circumstances. Number 2, the issues that divide the city and OE 3 should be resolved at the bargaining table through negotiations, especially when OE 3 has already agreed to no raises for the upcoming fiscal year. Number 3, both sides have to show some flexibility and movement, and the city and the union have to be creative to come up with solution. If the city does not -- does impose their last, best and final offer on OE 3 it will make collaborative labor negotiations in San José very difficult. Such an action will destroy the trust needed for my bargaining unit to move forward towards contract adjustments mentioned in the CLA letter of May 29th. In fact, it may damage us from working towards a constructive partnership with the city for an indefinite future. I urge the mayor and the council to direct the city to return to the table with OE 3 and to continue negotiations to find more equitable terms for both parties. Thank you.

>> Mayor Reed: Ross Signorino is our last speaker.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. Regarding the co-payment for medical office visits, this is not unusual that people who are on retirement, fixed income and so on, do pay a co-payment when they go to a doctor's office visit. So I think it's kind of unreasonable that this big negotiation is going on, that the unions here for some reason or another, feel that they shouldn't pay that. It's not a big amount. \$10 for office visit. Like I said, people that are on pension, fixed income, elderly people, whatever, they pay this. And they know they have to pay it in order to go see a doctor. And thank God that you have a doctor to go see. I think that's a big thing to be considered. Because there's people without any kind of medical benefits. So I don't think \$10 for an office visit co-payment is that much of a sacrifice. And I think they should be -- I think it should be made. If we're talking about difficult economic times, all nice to read about it, all nice to say it, it sounds like you know what you're saying, compassion and all that. But then when it comes to going in our pocket for something then we're not willing to do it. I think that you, the city council and the mayor, should insist that this co-payment should be paid, whoever makes an office visit to a doctor. Thank you.

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

>> Councilmember Liccardo: Thank you, mayor. I suspect, there will be some interest in continuing this for a week. I will certainly support that. I also wanted -- I say that because any opportunity we have to continue negotiations, to be able to engage in dialogue, we should always take that opportunity before we take this step of implementation. I think we all appreciate the seriousness of that move. But I also want to say, when this comes back in a week, and there has been no agreement, I feel very strongly that we are compelled to implement. And we are compelled out of fairness to all the leaders of the other bargaining units who took the extraordinary risk and courage to come forward on retiree health care and agree that they were going to be fully responsible for creating sustainable model for taking care of our retirees and their health needs. And I think we're also compelled out of fairness to future generations, because we simply can't saddle our children with billions of dollars of obligations for retirees because we're unwilling to take the sacrifice now. So I expect we're going to continue to negotiate and do so in good faith. But I want to be very clear that I also expect if we can't work this out that we simply must implement.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. First of all, I want to thank Deb and her team and I want to thank Bill Pope and the leadership and the members of OE 3. As everyone said, we're in a tough budget situation with an \$84 million deficit and everyone up here and everyone out there is doing the best to preserve services to our residents and at the same time preserve jobs for our employees. And I'm hopeful that with a few more days, if we allow the extra time for OE 3 and the city to come together, that we can make it happen. I think everyone has to realize how short the time frame is. But I think that if we can give both sides a little more time to negotiate, to truly get the last good out of this, I think that I feel confident that something good can come of this. So I want to recommend a one-week continuance, in

order to give -- and I want to make this a motion -- to give both OE 3 and city negotiators one more week to come to agreement at the bargaining table. And I'm not suggesting mediation. I'm suggesting get together today, tomorrow, immediately, as it were, as soon as we're out of here, to come together and hopefully that it can be a negotiation, with whatever flexibility can be had there to come together in agreement so that we can put this to rest in a positive way and move forward.

>> Second --

>> Mayor Reed: Okay, we have a motion, with a second. I think Councilmember Campos got the second just because she's closer to my ear than Councilmember Constant I believe. Anything else on that Councilmember Herrera on the motion? Okay. Councilmember Constant.

>> Councilmember Constant: Thank you. I just wanted to echo some of the comments we've already heard by my colleagues up here. We really need to get this taken care of. We have a very short window of opportunity if we're going to fund the retiree health care across the board for all the federated members. If we're going to find solutions for our budget that we're going to start voting on next week with the Mayor's Budget Message. There is a lot riding on this. One of the speakers, I think it was Yolanda, mentioned that the imposition of an agreement is an extreme act and should be for extraordinary times. I think we are in extraordinary times. We have had an extremely difficult budget year that followed too many years of budget deficits where we all know we've cut in the hundreds of millions of dollars over the last, I believe it's seven years, \$340 million, plus this year's deficit and we know that just at the horizon we have a deficit next year that's likely going to exceed what we're dealing with right now. I think that the -- that we hopefully are very close on this, that the four items of contention, I think, are all reasonable, and I think that we can move forward. I just urge the leadership of the union and the members to really diligently so next week we can come to resolution, thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Thank you, Alex for presentation. You know, as we move forward and allow the city and OE 3 to come back to the negotiating table, I hope that we take all the necessary action to promote a more productive dialogue and prevent any type of imposition. I think that -- I know that we're in critical times and the economy is not showing us any, you know, positive outcomes in the future. But at the same time I don't want us to minimize the tremendous contribution and the invaluable work that OE 3 has provided for the city nor shall we minimize OE 3's concerns regarding the cuts or what's been imposed before us today in the past several months. I know that there are -- I know that, you know, we engage in really difficult time. But our goal is really not to provide any kind of negative impact, as much as we can to the workers, jobs and livelihoods and that's my personal belief and that's the belief of a lot of people on this council. And you know, I think it's really important to make cuts that would also have really less negative impacts to people's jobs and their livelihoods. It is really difficult, and I'm glad that OE 3 is willing to come back and negotiate again. And I hope that as we move forward, that we can come up with negotiable terms that are agreeable from both parties. So you know, I'm hoping for a good outcome next week so that we don't have to keep on pushing this further and further along the pipeline because really that's not going to help anyone in this particular situation. Thank you.

>> Alex Gurza: Councilmember Nguyen, we absolutely agree. And Gina and her team will be available to negotiate with OE 3 between now and when it will have to be ratified by next Monday. I do want to point out, though, that there are certain challenges in the retiree health care. We've heard a lot about four quarters equal a dollar. That's true. In terms of dealing with the massive retiree health care liability, the issue is needing to deposit dollars of some time whether they be quarters or dollars, into the trust fund. That is the challenge that some of that creativity we talk about it makes it difficult to deposit dollars. That's the issue of being able to find a way where you can deposit dollars in whatever denomination they may be. So that's what really has been a struggle. For example, the issue you may have heard of giving up a personal leave day which is a day off in trade for putting the money in the trust fund. That is a challenge, because that isn't money that the city can put into the trust fund. So that's the challenge we've been having, is needing to put 0.42% on the employee side and on the city side. So those are the issues we'll be willing to sit down and back and talk to them about that. But in the end, in order to start to address the employee health care liability, there has to be money put into the trust fund.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. First of all, I want to thank Councilmember Herrera for the motion. I think that giving the bargaining unit OE 3 the opportunity to come back to the bargaining table to -- with our bargaining unit staff, I think, is important. I also want to echo some of the comments that have already been said about the fact that we need to be open and be willing to make everything -- all the

efforts possible to come to an agreement. Because I really do not want to have to be back here Tuesday, having to support something that is imposed on a bargaining unit. So I'm confident that our team and OE 3 will make every effort between today and next Tuesday to come to an agreement so that we can create an environment where it is collaborative, and continue to keep the spirits up high in these difficult times. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Excuse me. I agree with many of the comments that have been made. And one of the speakers discuss that the seriousness of this kind of step. And I think we can't -- that should certainly be highlighted as well. It's a very serious step as we all know to impose. To go forward with imposition. And it's certainly something as others mentioned including Councilmember Liccardo, started off saying any opportunity we have to allow for further discussion we should certainly take every opportunity to avoid that step. I certainly don't want to take that step. I think most of us would agree that we would rather avoid it rather than be put in that position. We also have to all realize that we're going to have to be dealing with some serious issues next year, as well. And as we go forward, as Ms. Cruz indicated, right now there's discussions with other unions going on. And it does matter that the tenor we take, it does matter the flexibility that we show. It does matter, that we give every opportunity possible to get sides to agree. That does matter, not just in regards to our relation with OE 3 but in our relationship with all the bargaining units with our city. They are employees, as has been mentioned. We value the work of our employees and we also have to value the relationship that we have both, you know, the management of our city with the leadership of the bargaining units as well as the membership of the bargaining units. We are in tough times. But I think in tough times we should always show as much opportunity to allow the agreement, even if there's been ten shots at it and we're 0 for 10, if we have an opportunity for 11 shot, let's take that opportunity, and so on until it is absolutely, positively necessary. And so I hope that the city management and OE 3 leadership will take the combination of all of our comments up here into account, to recognize that we really don't want to be put in that position. And we would really like to see as much opportunity for being at the table and discussing as possible. I know that there had been many readings previously, and there have been some that didn't occur that maybe could have. So I think now is the time where really it's just -- it's really the 11th hour and we need to -- we need to get this resolved and so I really hope that everyone works towards that goal.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I have a question for Bill Pope if he could come on down. Thank you, Bill.

>> Our welcome.

>> With council making a motion to push this out one week, how soon will OE 3 be able to meet at the table?

>> We can meet tomorrow.

>> Councilmember Oliverio: You can meet tomorrow?

>> Yes.

>> Councilmember Oliverio: Okay. And then being we have six days left until next Tuesday and you would have to get this ratified by your employees, if you bargain for, how will you go about making a process where you can ratify that quickly?

>> It took me six days to get the no vote on the last, best and final. It's going to be a challenge. And I haven't really given much thought to how I'm going to do that in one fell swoop. It's going to take flexibility.

>> Councilmember Oliverio: I mean it would seem problematic if you can't get away to make sure -- because you're going to need time to meet and bargain at the table and then get it ratified. I would certainly hope that immediately you'd be able to trying to figure out a way if successful negotiation to get it to your membership to ratify it in less than six days. Otherwise we're going to be back here at the same situation. So I just wanted to understand that.

>> Like I said, it's going to be a challenge and it's going to be difficult to do, 800 members in six days. Even if I had something to give them today it would be difficult. It's a challenge and we'll have to look at it and work through it.

>> Councilmember Oliverio: Well I think this is a challenge we'll have to go for. Thank you, Bill.

>> Right.

>> Councilmember Oliverio: Alex, can you assist them in any way in managing ratification? Because if it's already admitting that it's going to be a challenge, then I'm not sure why we would even vote if --

>> Alex Gurza: Yes, we can. At the request of any bargaining unit, we assist the bargaining unit in various ways. We assisted Mr. Pope at his request in this last ratification. The way we assist is in making meeting rooms available at different places. In addition, at their request, we send out an e-mail to all the bargaining unit represented employees so if they were able to identify a date soon, we could start to reserve rooms, locations, and also, help them get notification out. So the question really is, as to whether or not they are -- they have to do it over multiple days, or whether they can do it in one day, different bargaining units do it differently. And so if it can be done, in a one full day situation, that would probably be ideal, given the time crunch. To give you an example, when the different bargaining units ratified the retiree health care through the coalition, some of them did just in one meeting over one day although very significant issue. So we will help in any way we can and I think probably the first order of business would be to identify that ratification meeting, if our agreement were to be reached, rather than waiting until agreement is to be reached and then getting all the logistics done in advance.

>> Councilmember Oliverio: I think that makes a lot of sense and certainly like to see that. Because whatever we can help -- we can hopefully be optimistic but in the end if we don't have -- we lack hours in a day then we're going to be faced with the same situation next week. And I think there's a good merit of heart on the council to allow that to happen. But I'd like to have a chance to get that done. And then Alex, is it typical, is there a certain percentage of the membership that has to vote? If you have a thousand members, 51% of those members have to vote or just who shows up?

>> Alex Gurza: That really would be a question for Mr. Pope to answer. Because each bargaining unit has different bylaws or rules or anything of that nature. My understanding, though, and Mr. Pope can correct me if I'm wrong, only members can vote, first of all, and then and then they can get the majority of members who vote. So it's 51% would prevail for the members that actually vote, Bill, am I right about that?

>> Yes.

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. With when I made the motion I didn't think it was necessarily going to be easy but I think we need to give this process the opportunity. I appreciate Pierluigi's questions. I think Bill has said that it's challenging but he's willing to take up the challenge. And that's why we have leadership. And I think I have faith that when there's a will there's a way. And if we can come to some agreement I'm sure we can find a way to get this thing done.

>> Mayor Reed: I'm going to support the motion. I'm prepared to vote today if necessary. Looks like we can let this go one more week. And so I will support that motion. But we're going to be back here on Tuesday and hopefully, with an agreement. If not, then we're going to have to make this a very difficult choice and move ahead on the 16th. Because we've got a budget for next year that we have to get approved. And there's a lot of work to be done. So we are just out of time. It appears, practically. But we got one week. So I'm going to support the motion. Anything else on the motion for one week? All in favor? Opposed? None opposed, that's approved. See you in a week. Good luck. Item 3.7, is our next item, amendment to workers' compensation services agreement. We have a motion by Councilmember Pyle to approve. Councilmember Constant.

>> Councilmember Constant: I just wanted to editorialize a bit on the workmen's compensation utilization review process. I know this is no secret to anyone who has taken a movement to talk to me about it. I really have concerns about how our utilization review process works and the predicament that it puts our employees in as they try to recover from work incurred injuries. I think that while you can see the numbers in the report of what we save through billing review and utilization review, what you don't see is how much money it costs us in productivity when our employees are off for weeks waiting for approval on a medical procedure. What we don't see is the extent of injuries that become greater because they're not treated in a quick fashion. Many of you know I have a lot of experience with this, in the fact that I got injured as a city employee 12 years ago. And I still have medical procedures done and have to deal with workmen's compensation on almost a weekly basis. In fact while many of you are enjoying July off, I'll probably be having another spinal surgery that's related to this injury. And the process as it works I believe is prone. I think I've had extensive conversations with many of my treating physicians, across many different specialties, and other doctors that are involved with the process. And let me tell you, they are just as frustrated with the process as the employees are. I've had conversations with employees across our different bargaining units that are the line-level folks who work day-to-day and are exposed to these type of injuries. And they have the exact same frustrations that I do. I know we recently had a risk

management audit done by our City Auditor's office, but I just want it to remain in people's consciousness, that numbers don't tell the whole story when you're talking about people's health and when you are talking about complex treatments. We often in closed sessions see some of the very complicated medical cases that our employees face. And the gravity of their injuries and the bills that are incurred. And I just think we need to find a better way to do it. And I know you'll see stuff like in that workmen's comp audit, where a very few medical procedures are denied. And I can tell you, in my case, 75% of them are denied, and they're approved once they're reviewed. I don't want to belabor the point too much. I think we do need to take this action today but I hope we can look for a better alternative of how we handle our workmen's compensation in a better way to work with our injured employees and the medical professionals that are trying get them back to work.

>> Mayor Reed: We have a motion on the floor to approve. All in favor? Opposed? None opposed, that's approved. Item 3.8 is a report of Rules and Open Government Committee meeting for May 13th, 2009. A motion to approve. All in favor, opposed, none opposed, that's approved. Item 3.9, council salary-setting commission recommendations, this is a replay of last week, well, maybe not exactly a replay, it's a repeat from last week's discussion. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. After last week's discussion, Councilmember Liccardo and I put out a revised memorandum that we hoped kind of memorialized where the discussion was going on the council dais last week. I'd like to make a motion and then speak to it if I get a second. The motion would be to thank the salary setting commission for all their hard work and service, then to adopt items 1 through 4 on our memorandum which, in summary, say a 3.75 pay reduction, a reduction up to -- a reduction up to \$350 per month car allowance, continue to offer benefits as are offered to the unit 99 personnel, and continue to require councilmembers to pay \$250 for any excused absence pursuant to city charter section 407.

>> Mayor Reed: We have a second, that puts the discussion on the floor.

>> Councilmember Constant: Thank you. So last week we had quite a bit of discussion on this. I wanted to just make some very brief remarks, I don't think I need to repeat everything we did last week. But I think it's very important that we as a city council take this action. As we just heard in two items just previous to this, we have been negotiating with our unions and asking our employees, over -- almost 7,000 employees to make concessions, so that we can continue to do what is our number one goal and that is to provide services to the residents and businesses in the City of San José. I think that we owe a great deal of thanks to our council appointees who led the way by taking a roll-back to last year's pay salary which, in their case, was a 3.75% reduction. I think -- I'd like to remind my colleagues here that this is not a roll-back to last year, like the appointees did. The council, last year, got a 10% raise. So this is only rolling back a portion of that. The reduction in the vehicle allowance, I believe follows the spirit of AB 1234, as I discussed at length last week, which requires that reimbursement of expenses be reasonable. I think it's also fortunate note that that does align the car allowance to the car allowance that is provided to the executive management in the city, so it puts us on a level playing field with those who work below us. I know there has been a lot of discussion about outside income and people have questioned the fact that I have a secondary income. I just want to put everything out there so no one thinks I'm hiding everything. I receive a pension from the City of San José for \$38,000 a year. It's related to the injuries that I was discussing in the previous agenda item 3.7. It is something that I wish I did not have to receive. But I did get injured in the line of duty and that is something that I'm not ashamed of. I was out there doing my job. I received the salary, and it is one of those things by receiving that pension, it does allow me to serve on this city council. Because without that outside income I could not do that, and support my family, which happens to be large, and I know that is of my choosing. But I do have a family to support, seven people in my family with a wife who I cannot say doesn't work, because we all know she works hard with the children, she just doesn't happen to get a paycheck for doing it. I know that other people maybe think that's an unfair advantage and I'm sorry if people believe that. But I do know that several of my colleagues have outside income that they receive, and others have other family income. And I just wanted to put that out there because I know it's been a level of controversy. I've had many members of the press call me in the last week about it. So that is where I am on it. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just have some questions for staff. Is Dennis about -- there he is, hi Dennis. Dennis, prior to the increase in the vehicle allowance in 2007 to \$600, what was the vehicle allowance prior to that, and how long was the allowance at that level?

>> Thank you, Councilmember Pyle. The vehicle allowance was adjusted in 2007, and it went from \$350 a month to \$600 a month. Previous, the \$350 a month car allowance had been effect since July of 1986. There had been no increase for the car allowance since 1986 prior to 2007.

>> Councilmember Pyle: So it was over 20 some-odd years.

>> Correct.

>> Councilmember Pyle: And what criteria were used to set the allowance at \$600?

>> Going back to the commissions hearings in 2007, the commission did much as it did this year, and did a survey looking at what comparable elected officials received throughout the state. We looked at various cities, various counties, many of the county boards of supervisors, for example, are provided a county vehicle which, prior to 2007, councilmembers had that choice, of either a vehicle allowance or a city provided vehicle. 2007 we changed that to only allow the vehicle allowance. Other municipalities also provide councilmembers with a car allowance.

>> Councilmember Pyle: Thank you for that. So I'd like you to confirm that the council appointees receive a 3.7 -- it is rumored that we got a 3.7 cost of living increase last year.

>> Council, there were several bargaining units in 2008 that received a 3.75% increase, including those in unit 99, which would be unrepresent management which would include department directors, council appointees, council staff is also part of unit 99, received a 3.75% increase. Councilmembers did not receive a 3.75% increase. What was implemented in July 1, 2008 was the second part of the 2007 council salary setting recommendations which the council accepted in 2007. 2007, the salary increased from \$75,000 per 82 to 82.5. And then last year it went from 82,500 to \$90,000. But there was no general increase for councilmembers.

>> Councilmember Pyle: And councilmembers generally never get a cola. I just wanted to clarify that.

>> Correct.

>> Councilmember Pyle: So how many -- well, let me ask you this. We -- we are already at true zero, there's no question about that. I just like to confirm that, if we did the \$250 different in the car allowance coupled with the 3.75 that equals almost 7.5. I think that we all agreed about that last week. We certainly all want to do that for sure. I would like to do a substitute motion if I might, which goes something like that. Maybe just amending the motion would work but I would like to ask that the 3.7% go forward, but the vehicle allowance change, becomes a voluntary reduction. Not everybody is at the same status. Not everybody is able to make that 7% reduction. So with that, that's it. I'd basically like to just amend it so the vehicle allowance change to a voluntary reduction, keep the rest in place. I'll need a second.

>> Councilmember Herrera: Second.

>> Mayor Reed: That is an amendment, an unfriendly amendment but it does have a second. So then the motion would be, if I got it right, that the proposed reduction in salary, the 3.75% be enacted but the vehicle allowance not change.

>> Councilmember Pyle: But it can be a voluntary reduction.

>> Mayor Reed: Unless councilmembers elect to change it. City Attorney okay on the election part of that? I know that when I give up -- every year I file -- I renounce or something, there's a form I file saying I'm not taking the salary increase or the auto allowance.

>> City Attorney Doyle: It's okay as I mentioned last week the auto allowance is treated as taxable income and that's something you can arrange with the finance department.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: We are speakerring to the substitute motion, is that correct? Thank you. I wanted to thank Councilmember Constant and Councilmember Liccardo for their memo. I was one of those people who voted for the salary increase a few years ago, because unlike some of my colleagues, I have one income, and that's from this job. And my husband is actually a full time student, so both of us have one income. But in a situation that we're in right now, as elected officials we're asking our city employees to either take a pay cut or a wage freeze. And I think that it's imperative that we do the same, that we follow our requests of others and I'm really glad that Councilmember Pyle is being considerate enough to stick with the voluntary reduction, or voluntary taking of the auto allowance, because again, with 11 of us up here we all have different schedules and different offsite meetings and sometimes we do have meetings, more meetings offsite than we do in our office. And that is to really cater to the needs of our constituents, sometimes constituents can't meet with us in our office so we have to drive out and meet them at community centers, libraries or in their home to talk about issues that they care about. And so I think that the substitute motion is a good one. And I am happy to support that. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I also wanted to thank the salary setting commission and the staff for their hard work. I know that they are difficult times, and that we are asking everyone, including the mayor and the council, to make sacrifices for the good of the whole community. I really wish that we will have the more open dialogue without just having the two of my colleagues creating a benchmark of 3.75% cut, that number to me is very renne daunt and I would like to see that we make this cut mandatory -- voluntary instead of mandatory. For myself I'd be able -- I'd be willing to forgive 4% of my salary if we will make it mandatory. But I know that there is a substitute motion on the floor. So let's vote for the substitute motion, then I'll probably address the mandatory, versus the voluntary cut on the 3.5. I believe that the 3.75, we got it from our administrative leaders. But if we want to show our leadership, we can probably go beyond 3.75 and there are councilmembers who can afford more than 3.75 I think additional forgiving of the salary like the mayor did with his 20% cut, I think would benefit the city as a whole. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: First, I wanted to clarify, because we've talked about a substitute motion and amendment. Which of the two is it?

>> Mayor Reed: Actually we have an amendment. It is a motion to amend the motion.

>> Councilmember Constant: Okay.

>> Mayor Reed: So first we'd have to vote on the amendment.

>> Councilmember Constant: Okay, so I wanted to make comments on the amendment first. I think that what's important is, you know, whether you call it a reimbursement of expenses or whether you call it compensation is really semantics. I think what's really important is what the intent of AB 1234 and California government code 53232.3 AR, which require that reimbursements be made for only actual -- I'm sorry, actual and necessary expenses and that these reimbursements be reasonable. If you take the plain English definition of a vehicle allowance, it tells you that that allowance is reimbursing you for your expenses you have when using your vehicle. If you look at the IRS guidelines for vehicle reimbursement, it's about -- it varies year to year. But I think this year it's 50 cents per mile. And that provides for quite a bit of driving. And that 55 cents a mile or 50 cents a mile is much more than just the cost of gas or simple maintenance on your vehicle. It's actually designed to compensate you for wear and tear and things of that nature. And let me also point out that commuting to and from work is not something that's considered reimbursable expense under those conditions. Now, granted we do call it compensation. And you're taxed on it, versus a reimbursement for mileage which you're not taxed on. but we really have to think about the spirit of those two laws and whether we should be having, number one, the taxpayers reimburse us for more than what is reasonable, and if you do the math you'll say you have to drive a lot, a lot of miles for it to be \$600 a month. And I also think it's reasonable to say that we should, in these times, put ourselves on par with our executive management that has the \$350 reimbursement. And 3.75 is not arbitrary. It's tied to what was determined to be cost of living last year. Which is a cost of living adjustment. Last year I might remind you we received a 10% raise which is significantly more than 3.75. I repeat, 10%. There's a huge difference between the two. Nothing in either of these two admonitions larger as has been demonstrated by our mayor in the last two and a half years so I ask my colleagues as we vote on this amendment to consider the spirit and the intent of the two code sections that I have quoted for you, and the -- what our taxpayers, what our residents would feel would be reasonable for us to do in this situation. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. First I'm going to commend you mayor for the voluntary -- volunteering Eschewing some of the salary. I think that's led Councilmember Constant and others to go to a council wide proposal. I have a question, Dennis in regards to the vehicle allowance. You indicated that the allowance was raised in 2007, is that right?

>> That's correct, councilmember.

>> Councilmember Kalra: Prior to that councilmembers had the option of either getting a city car or taking -- or prior to that they had the option for a city council -- for a city car or \$350, is that right, allowance?

>> That's correct.

>> Councilmember Kalra: And so basically the option to get a city car was taken away and the option was raised to \$600.

>> Correct.

>> Councilmember Kalra: I wasn't there in 2007, but that reasoning to be increased to 600 to increase the cost of actual ownership of the car as well or was that part of the discussion?

>> I don't recall the council discussion at the time. But I believe that the commission took a look at comparable cities and what their automobile allowance or compensation was. I think that at that time, the cost of operations of a vehicle were considered by the salary setting commission in their recommendation to increase the allowance.

>> Councilmember Kalra: Okay. And in regards to the 3.75, that's referred to as a parallel percentage as to the council appointee reduction, are the council appointees taking a 3.75 reduction or just forgoing a cola increase?

>> It's a 3.75 reduction.

>> Councilmember Kalra: So it's a 3.75 reduction, it's a true freeze plus a 3.75 reduction?

>> Correct.

>> Councilmember Kalra: So the substitute amendment is at least 3.75 is consistent with what the council foyees are doing?

>> That's correct.

>> Councilmember Kalra: Well, you know, first of all I appreciate Councilmember Liccardo and constant's agreement last week of waiting to have Vice Mayor Chirco and Councilmember Nguyen here. It is an issue that is personal to us and has personal ramifications. Councilmember Constant, you said yourself without the \$35,000 in pension you don't believe you'd be able to serve on the council. There are great areas where some of us may be -- where it's difficult to -- it is a thousand, couple of thousand dollars this way here or there. That's the reason I appreciate having everybody here I do want to say also as you stotted in your first comments that you earned that fair and square. I mean you served our city and were injured and you got a pension. And so that's you know I don't think it should be looked down upon that you are getting compensation that you've earned through your service to the city. And although I'm not happy that that happened to you, I'm glad that that allowed us the opportunity to serve together on the city council. And so I'll support the substitute amendment, just to allow everyone the individual opportunity to decide if they can forgo that. I think that the better route to go is to just look at overall compensation and not dice it up into vehicle allowance and all that. The bottom line, including the vehicle allowance, and salary we get compensated X amount. Just cut the salary 3.75 and individuals can make a personal decision as to how much more they can give up. I think that's fair. I think it's a balanced perspective from where we were last week with the original memo and having all the councilmembers here to decide personally where it suits them. I think that in regards to the statutes you referred to, Councilmember Constant, given the fact that that change was made after the right for any of us to have our own city vehicles revoked, I think that's the explanation as to why the allowance is the number that it is and apparently the salary setting commission at that time looked at other cities to find a comparable number for councilmembers. And with the number being 3.75, it's completely to what the council appointees are doing and the least we can do to show the sacrifice all of us are willing to take and a message not only to the employees but to the community as well.

>> Mayor Reed: Before we go back through council again we'll take the public testimony. Ross Signorino. Anybody else wants to speak? I only have one card.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. I didn't come up here to make you squirm in your padded leather chairs. But let me say this to you. I don't bee grudge your salary. I think you work hard. I think you're dedicated servants in many nans. In all instances. I'll say in many instances, in all snanges we're fortunate to have you as public servants and taking the flak that you have to take in all instances, the type of work you do and how people sometimes pick on you and accuse of of many things. Just not too long ago, we had the recall of Madison Nguyen here and what she had to go through for her job, what she was trying to do for her constituents. And I think you all do that. And at the same time, I want to thank constant, Pete Constant, Councilmember Constant here for revealing what he is getting as his pension, as his disability thing. I think another councilperson has said, in the newspaper, that he was getting another pension, I think he just brought it out, and said it. And I think it was personal business but he did it anyway. And I think that's commendable. As regards to the allowance for car allowance, I think that's an awful lot. I think it's perceived an awful lot, \$600 a month. That's up to you to decide. I mentioned it the last day, that you might check with AAA what it cost to operate a car per mile. I don't know if you did, I think it would have been good. And then also, how many miles do you average all of new a month's time? I think that would have been useful information for the public to know. Thank you.

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

>> Councilmember Liccardo: Thank you, mayor. I said last week, I don't pretend to know what the proper number is. But it seems to me that whatever it is we agree to give up, it ought to be as least as much as we're asking our employees to give up. So it seems to me that Councilmember Pyle's motion is well taken. There's an effort here to try to find some middle ground. Obviously, folks are in different circumstances. And we need to be able to come through this whole. The important message we need to convey is we're all willing to tighten our belts in this very difficult situation. For that reason I'll support the motion.

>> Mayor Reed: Let me just say that Councilmember Constant's motion would be a reduction of 6.5%. If amended by Councilmember Pyle's motion, it would be a reduction of 3.75%. In either case the motion is on the floor for the council and the mayor to take a pay cut. We have not asked any of our bargaining units to take pay cuts. ABMEI voluntarily came forward because they wanted to avoid that was something they thought they should do. So I'm going to support this motion in whichever form it's in. I think it's appropriate for us to lead by example. And this doesn't affect me personally because I've already taken a 20% pay cut. But I think it's important for all of us to show the leadership on this, so I will be supporting the motion, whichever form it ends up in. Councilmember Constant.

>> Councilmember Constant: I just wanted to point out, you know, I did do a budget document on what this reduction could mean if we take this, my version which is the 6-whatever percent that the mayor calculated out. If we follow the memo that Sam and I put out, we will be able to reinstate one person at the office on aging and the Sr. help line, which are cuts that I believe we shouldn't have had to have made in our budget. It's -- when you're talking just percentages, sometimes it's hard to imagine what that dollar could buy. Now, that's just one example of many examples throughout the city that you can pick. It could reinstate the citizen CPR program and a van driver at Hank Lopez senior center. There are a lot of different things they could do for this money. So it is not just symbolic. And Ash, I'll have to talk to you sometime about electing the car. The reason we don't have that car selection anymore is because I tried to make it. And amongst all the city policies and regulations from finance, I basically wasn't able to drive the car. Because the policies conflicted with what the old municipal code had said we could take a car. So I had a car for 30 days that I drove about 55 miles. So that's kind of where that came, and I'll tell you all the gory details about it later. But I urge my colleagues to vote no on the amendment and vote yes on the original motion.

>> Mayor Reed: Let me just add this. The City Clerk and the City Auditor also took 3.75% pay cuts. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor and thank you very much for clarifying that the pay cut the City Clerk and the city council, City Manager took with a voluntary, mandatory, and we have not asked for any of our bargaining units for pay cut. We're just asking for true zero. So I want to thank mayor for clarifying that. And I'll be supporting the motion. However, in making the councilmembers' salary is a very political issue. And it's still a big problem that I believe need to be resolved. I believe that we should be brave enough, and to stand by the council's vote on 2007, to remove the mayor and the council from the council setting process, if not, this process will remain to be a very political process as it has been in the past. With that I'll support the motion.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I'll be supporting the substitute motion. I think it is very important that -- amendment. That we lead by example. I appreciate Councilmember Pyle attempting to make this a little bit fairer. I think in discusses this that we should not try to mislead when we're looking at these comparisons. And as has already been pointed out, we've not asking anyone to take a mandatory reduction in salary. And that is what we are doing today. And all councilmembers here have different situations, financially. My family is depending on one salary, mine. I don't have any extra money coming in from any other source. And although Councilmember Constant points out, it is an important consideration for him to be on the council having that extra money. The other thing I want to point out is that the salaries were being compared to in terms of the council appointees are incredibly in excess of what the salaries are here. And I just think it's unfair to be comparing those kind of reductions when you're looking at you know, salaries as high as \$259,000. So we need to compare apples and apples. I'm be supporting Councilmember Pyle's motion.

>> Mayor Reed: Councilmember Pyle's motion is the one we're going to vote on first, is to amend the underlying motion. If we pass or don't pass, we still have to vote on the underlying motion. The vote is to whether to amend it to change the vehicle allowance to leave it alone, at \$600. It is certainly voluntary but making no change on a mandatory basis. That's the amendment. On the amendment, all in

favor? Opposed? One opposed, Councilmember Constant. Okay. So the motion on the floor, then, is as put forward by Councilmember Constant, now has been amended, so that the vehicle allowance is \$600 and the other items on the motion are unchanged. You got that right, City Attorney? I think so, all right. Just want to make sure. Discussion on the motion and second. Further discussion on the motion. On that motion, all in favor, opposed? None opposed, that's approved. Oh, Councilmember Constant's motion as amended by Councilmember Pyle was approved. So that means a 3.75% pay reduction for councilmembers and mayor, and no change in the auto allowance, and no change in the insurance and other benefits as part of that motion. Oh, and we also -- part of the motion was to thank the salary setting commission for their work which we do appreciate. Okay. We're done with that item. That takes us to 4.1, it is a report from the Community and Economic Development committee of May 26th. Councilmember Pyle chairs that committee.

>> Councilmember Pyle: Mayor, the information is in the packet and I move for approval.

>> Second.

>> Mayor Reed: Motion to approve, all in favor, opposed, none opposed, that's approved. 5.2, Parks, Recreation, and Neighborhood Services volunteer policy modification. Albert Balagso. Blgd good afternoon, mayor and members of the council. Albert Balagso, director of Parks, Recreation, and Neighborhood Services. I'm here with just a few comments to set up this item on your agenda. About two years ago council directed administration to review different alternatives, to seek out public-private partnerships. One of the areas we sought out was volunteerism. The existing policy was set out in 1970 and this new revision that we're proposing adds more structure and for clarity and better definitions of how we will recruit manage and volunteerism in the future. base of our operational procedures as we move forward and in crafting the revision we did do research of different policies and best practices with other municipalities. And we met with different stakeholders include staff, vovnt groups, neighborhood representatives and our action committees and commissions within the PRNS, action commission and youth, and brought it through council through the neighborhood services and education committee. With that we're available for any questions that you may have.

>> Mayor Reed: I would like to comment that I was out at the rose garden a couple of weeks ago and it was really great to see how our PRNS and other city staff people, able to mobilize and work with hundreds of volunteers to make the rose garden a much, much better place. The PRNS staff are at the core of that. We can't do it without them and we also can't do it without the volunteers, a great coordination with the community to get these benefits up for the community. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed, thank you Albert and staff for the policy. It's taken some time but it's a good policy. Question for the City Attorney. Currently the policy allows for a community service day for a corporation, where they give the employees a day off with pay to go work in the community. It isn't specifically written but you as the attorney reading it and viewing future city councils, is that complift enough so that that will continue without question?

>> City Attorney Doyle: No. I think what I'd recommend is if you want to -- if the council wants the desire that that be included that you direct staff to work together to include that language specifically. And my reason is the definition of volunteer I think is -- essentially provides that you're there without compensation and one could always make the argument that while you're being paid to take the day and volunteer and that's compensation. So I would like to have it specifically addressed so that it's covered in the policy.

>> Councilmember Oliverio: Thank you, City Attorney, with that I'd like to make a motion to approve with the caveat that we at language that specifically says a corporation whether its be eBay, Altera Xylinks, whatever, even though they themselves are getting paid by a party, be it a contemplation, that's it. Of course that means that these people are here to augment, not to replace.

>> City Attorney Doyle: If I can make one more suggestion, that we not limit it to corporations. I mean it may be labor unions or others 98 want to -- there may be other business forms that may want to --

>> Councilmember Oliverio: Sure, corporations, comma, the intent is there.

>> Mayor Reed: Is there a second? There is a second to that. I was out, I forget which park it was, we had about 300 people, Councilmember Liccardo's district, 300 people from eBay on a community service day and they were swarming that park and did some great work all in the space of one day. And that was a great thing for the park and we certainly want to make sure that we encourage that kind of behavior. But it was a community service day. They didn't have to. Nobody was ordered to go out and work in the park. It was volunteer in that sense. And whether or not eBay paid them, I don't really know. I didn't really

care. I was happy to see 300 people pulling weeds and moving compost around, things like that. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I won't be tempted by any desire to make any jokes about politicians moving compost around. But I just wanted to thank Albert. I know you guys have worked well with a lot of snownlts my district, friends of Guadalupe park and gardens. And the friends of park and Mike wills has been wonderful world. We just had a community meeting last week in which you stayed until 9:30 talking to all these folks. My only suggestion is, can we come up with beret name than master volunteer? It doesn't seem like any name anyone would like to become. If we could come up with something spicier, I would be grateful.

>> Mayor Reed: We'll work on a contest.

>> Councilmember Liccardo: Maybe rock star or something like that.

>> Mayor Reed: Master of the realm. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I'm looking at the project, I imagine you will eventually have a database with all the skills and we can tap into it and is -- are you going to say recruit them to work on the, say, not just on the cleanup day, but actually a normal course of city operation, or how will you -- my next question is how do we reach out to more people to sign up for this voluntary training? Councilmember Chu, the first order of business that we have been doing is to look at the list that we do have. You see adopt a park, adopt a trail. And we wanted to make sure that those volunteers still exist. And where they don't exist, then we work with different neighborhood associations, or groups to find other potential volunteers to come back and take in that role. With respect to graffiti, that's an ongoing recruitment. Because there are a lot of people who would like to volunteer but just don't know how to. So we work through the different neighborhood associations, and different advertisements, such as the citywide activity guide and get more information out to them. And we would certainly work with the council offices to getting word through their newsletters as such as well.

>> Councilmember Chu: So if I wanted to volunteer to do the graffiti removal, I would be able to log onto your Website and find out when you will be organizing people to go out and do the graffiti removal?

>> Albert Balagso: Yes, our Website is under construction and we're putting all those pieces in place.

>> Councilmember Chu: Great, thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I have some questions. This policy is obviously just for PRNS. So how will we be handling volunteers in other areas of the organization, and is there a reason we're not making a blanket volunteer for our City of San José? I'm just looking for uniformity and where we are on that, I'm not sure if that's a question for the manager or Albert or anybody .

>> Albert Balagso: Councilmember Constant, there were some intricacies of the volunteerism within PRNS such as power tools and certain roles that we wanted to put in place. Each of the different volunteer groups had a lot of different needs in other departments and what we didn't want to do is to drag out the crafting of the policy over the course of a number of years, versus let's get the first one out. The library does have a good volunteer force already. In fact, we utilized some of the wording that they used in their policies and procedures. So we'll continue to work with other departments as we advance this program forward. A lot of the work in our parks was either happening or not and we wanted to frame it a little bit better.

>> Councilmember Constant: I don't havefully problem with that. I know there's a lot of work, it shouldn't have to be done tomorrow. A temporary place holder until we can come up with an overarching program, the department has its volt program other programs, we'd like to have a useful policy.

>> City Manager Figone: Yes, councilmember, you bring up a good point, the overarching formula, overarching programs in other departments.

>> Councilmember Constant: And for Rick, the workmen's compensation claim for reserve officers I believe is handled for the state volunteers workmen's exaings fund. And I'm wondering if we've looked at that. I wonder if it's changed since I was a reserve officer. I know that used to be the case. I want to know have we looked at that, should we be bearing the workmen's compensation risk if there's a state plan we should be going to ?

>> City Attorney Doyle: The reason we want workers comp to cover it is to avoid third party liability and being so we always encourage volunteers and they have to be part of our workers comp program. Whether it's our program, it may be unique to the police situation they have in the state program but let's look into it and we'll get back to you.

>> Councilmember Constant: I just think that's important if we're relying on volunteers more and more especially with power tools involved. As kids are being exposed younger and younger to community service how we came up with 13. And I'll give you two examples. We've tried in our district to have regular community service projects. When we had our illegal sign take down project with code enforcement we had an 11-year-old young lady who spent her birthday, that is what she wanted to do on her birthday is do community service and she came out and we gave her a job obviously that didn't involve tools or climbing but she took an active role in volunteering. And then when we had the great American litter cleanup we had another young kid, I think she was eight or nine years old that did the same thing on her birthday because she was inspired by the other person. So I'm wondering if that's there for a reason, and then, if it is, is there a way to craft something where we can still capture opportunities, obviously under direct supervision for those who want to do something when they're younger?

>> Neil Raffino, Parks, Recreation, and Neighborhood Services. Thank you for that comment. We actually did identify that in our presentation to the neighborhood services and education committee. And the volunteer qualification under age was changed and it's included in the resolution that the City Clerk on the web link, the section under the resolution where that section actually has been changed in the policy and it states that volunteers under the age of 15 must be accompanied by a parent or legal guardian during their service for the city. So we took out the 13 years. Anyone under 15 years old just has to have a parent or legal guardian.

>> Councilmember Constant: Good, I think that is a good positive change. I think those are all my comments. As long as we are looking into the workmen's compensation issue to shift risk and using this as a template for overarching policy I'd be very happy.

>> Mayor Reed: I have one comment about overarching policy. If these others aren't broken let's not fix them. If they need to be fixed this is a good template but we have interns up on the 18th floor, City Attorney has got interns, there are all kinds of volunteers, as well as those mentioned in the police department and they maybe working just fine. And what I'm trying to say can, let's not create another legislative assignment to fix something that really isn't necessary to take a look at it. And fix it if necessary. Anything else on this? Are there any cards to speak on this item? I don't think so. And then we have a motion to approve with the modification as cited by Councilmember Oliverio regarding community service days. All in favor. Opposed. None opposed, that's approved. Our next item is 6.2, grant for Julian Street St. James couplet conversion project. Councilmember Liccardo has a motion to approve. I'd just like to say, this is a great project that's been years in the making, and really pleased to have the L.A. transportation authority helping us out with the funding on this. I've seen the changes with the other couplet conversions that we've made. It makes a real difference in the neighborhoods. And this one will too, I'm sure. So I'm going to support this one. All in favor? [ ayes ]

>> Mayor Reed: Opposed, none oppose, that's approved. 8.1, purchase of real property and easement for relocation of fire station 21. Director of Public Works, Katy Allen has a couple of things to add to this.

>> Katy Allen: Thank you, Mr. Mayor, Katy Allen, director of Public Works. Before you is the proposal for purchase of property for relocation of fire station 21 oop we learned on Friday that the posting for the EIR had not been complete so we worked very closely with the city attorney's office in planning and that resolution is now complete. It is not a legal requirement of the EIR and I just wanted to bring to your attention the need to weigh the posting requirement of a resolution. And I can answer any questions that you have or the City Attorney, I've been told, is also able to answer any questions related to this. Thank you.

>> Mayor Reed: We need to put that as part of the motion?

>> City Attorney Doyle: It's just a waiver of the sunshine, yes.

>> Mayor Reed: Okay. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to thank staff and I do want to make a motion to accept item 6.1, and twaif sunshine requirement as requested by the Public Works director. And I just want to say a couple words --

>> Mayor Reed: Let me see if there's a second. There is a second. Okay, we have a motion on the floor.

>> Councilmember Herrera: Thank you. As we all agree, Public Safety is a immigrate service provided to the incredibly important to the Public Safety of the residents of the pleasant hills area. We had a response in the pleasant hills area, fire department response was not meeting the goal of an eight minute response time for 80% of emergency service requests. So this means that people were left waiting. So

the location this this area is really going to be critical to adequately serve the area. So I strongly support this land purchase, moving this forward to allow for the improved public safety for residents of this area.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. And actually, we know that response time and where some things located, is very, very crucial. And this currently is a small house that is in my district. But in meeting with the chief, as we've gone through this for the past several years and the analysis that they did as far as getting services to respond in an appropriate time was very helpful. And I am very supportive of purchasing this land, making sure that we have a state of the art facility there so that our public safety, firefighters will be able to have the tools that they need to respond to the residents in the east foothills and mount pleasant and Pleasant Hill because it is all in that area .

>> Mayor Reed: I have no cards from the public to speak on this item. I have a motion to approve by Councilmember Herrera. All in favor? Opposed? None opposed. That's approved. That takes us to the open forum for the city and the redevelopment agency board which is our next portion of the agenda. So as we're changing staff, we'll take the open forum. Ross Signorino.

>> Ross Signorino: Thank you, mayor, members of the city council. With regard to the agenda item 5.2 and Councilmember Liccardo's recommendation to find a more spicier name for this organization, these volunteers, Parks, Recreation, and Neighborhood Services, I think whatever name you pick, don't use the word grass in there. Because people may think it's a dispensary. But nonetheless, what I came up here more than anything else is I'm glad to see Vice Mayor Chirco here sitting, it's been so long since we've seen her. And I think her heroics even to come up here and be sitting in the city council meeting right now, I think it's outstanding. And we talk about people that are heros, certainly you are a hero sitting there and listening to all this and being able to put up with all this. But nonetheless, certainly we all wish you well, and our prayers are with you. Thank you.

>> Mayor Reed: That concludes the open forum. We'll now convene the redevelopment agency board, first item is the consent calendar. We have a motion to approve the consent calendar. All in favor? Opposed? None opposed, consent calendar is approved. Item 7.1 is the reimbursement agreement with ultratech. I think we have some representatives from ultratech here in the audience who may wish to speak. I'd just like to take this back a little bit to 2007, when I did a CEO business appreciation visit. And I was out meeting with ultratech and they were contemplating expanding and maybe moving out of San José. And we had a great conversation with them about how they really need to stay in San José and that we would work with them to figure out how to make that possible. And this is an outcome of that meeting, and a lot of staff work to make it possible for ultratech to stay in San José, to grow here, and we have somebody here from ultratech now? Come on down. I want to thank the agency staff and the city staff for working together to make sure that businesses like ultratech stay here and grow here. I know that our staff did a lot of work on the permitting and I want to thank Joe Horwedel and Ed Tolen tirvetionino and others on the fachg process. Ultratech, speak.

>> Well, first of all thanks so much for he giving us the opportunity to be here. And this is a great year and a great partnership with City of San José which we have. This September will be 30 years, ultratech started its business, 30 years ago, 1979. So it's a great year for us, and we've been in San José for 15 years now. 15 -- 92, so yep, 17, sorry, 17, time flies. And we are very happy to be here, we want to grow in San José as we've always done. Our commitment to San José has been great and the partnership has been super. And we're doing some construction right now, expanding. I know economic times are tough. But we also beef this is a good opportunity to do right things, so that our competition which is not here, it's always overseas, as we ship and sell 60% of our stuff overseas, we always -- it's a challenge. And this is the only factory we have in the world which is in San José. So we are happy that we can continue. It's a very high-paying job, the manufacturing jobs in San José are averaging \$90,000 plus. You can see it's a very high paying jobs. I believe in our sector, that is something which is a must. And we are happy and delighted to be in San José, and want to be the cornerstone.

>> Mayor Reed: Thank you. We're happy to have you here, as well. And here, means council district 4. So I want to vital Councilmember Chu who represents that district, to speak at this time.

>> Councilmember Chu: Thank you, mayor. I just want to add to mayor's comment and specifically thank Sandra RDA staff to business trtion in north San José. I'll move the memo.

>> Mayor Reed: Thank you keep operating here in San José.

>> Thank you.

>> Mayor Reed: We appreciate it. All in favor, opposed, none opposed, approved. Next item is reimbursement agreement with solar junction. 7.2. Once again, staff has been out working to make sure that companies stay here and go here and solar junction is one of those.

>> Hornl Mayor Reed and city council, I'm thrilled to be here representing solar junction. The City of San José and redevelopment agency. The agency staff under Harvey Mavrogenes has worked quite an effort with John Weis, Leslie effort. Solar junction is on a course to realize the highest power output basically on the face of the earth. And that is to happen here in the City of San José. This in this location of San José, the technology is not only developed, it will be deployed here. That is somewhat unusual in some circumstances, within this space. We look to a future of not only solar farms but also in the words of agency staff, solar gardens, where we can realize basically high power density to power urban areas which is somewhat unusual. We are creating not only the current research and development jobs but also several hundred green collar jobs in the years to come. While less than two years old the direction we have set will allow solar junction to remain in New Jersey a large manufacturing base. In these trying times it is very encouraging to see that the city has the vision to look out into the future and see that we can create these green collar jobs for business. We would like to continue to seek the support of the city and very pleased to be working with the city and the RDA, thank you very much.

>> Mayor Reed: Thank you. Thank you for your investment in sedge and the jobs you're creating. Don Burru sirvetion, Don was the project manager on this one, Don and the RDA staff there's more work to do in the permitting process, as you grow and expand so Joe Horwedel and Ed Tolentino will make sure you continue to succeed in San José. Councilmember Liccardo .

>> Councilmember Liccardo: I just wanted to thank the folks in solar junction for your willingness to invest here in San José. I wanted to give you a time capsule RDA investment and city investment we've had in all these solar exeabs in Edenvale and throughout our city, newing in the solar space we have an enormous amount of competition, just the way solar junction hits the jack polt it's going to be an extraordinary thing for our city, extraordinary thing for our residents, for a lot of folks who are going to be employed at solar junction. And certainly it's worth the investment and worth the risk for us. So I think it's appropriate that we take the risk with them. I also think that the way that we are creating a real symbiosis of all these companies being in one space is it's becoming more increasingly recognized throughout the country, I'm hearing friends of mine from the East Coast talking about the extraordinary solar incubators that we seem to be creating here in San José and really have a concentration of great solar companies is what it's all about. So thank you for being here and we look forward to your success.

>> Thank you for your support .

>> Mayor Reed: You said you most efficient solar cell producer, sunpower and the lowest cost, nanosolar. Now we'll have the highest output solar producer, is that the way to describe it?

>> Yes.

>> Mayor Reed: How does it work?

>> You want an explanation of that?

>> Mayor Reed: Please.

>> One represents the world of silicon solar sells, which is photons into electrons. The other is on the extreme of low cost manufacturing so you can deploy in areas that basically you're not land-limited. Okay, we are in the very high end of the efficiency scale. Similar to what is akin to what is on satellites for basically solar conversion. So we can, in a very small area, generate a very high amount of power or energy. Twice that of what you know of normal silicon. It comes, though, with a higher cost point so we use what is referred to as concentration. We concentrate light down into a cell. Instead of having a cell yay large, we have a cell this large. Therefore, we can 55,000 square foot building off of Charcot. We can effectively put 200 watts of power into that building, that represents the highest output on earth.

>> Mayor Reed: We like to be the best. Councilmember Chu represents the area that this is in.

>> Councilmember Chu: Again, I'm I'd glad to see another positive productivity in the North San José. That incentive program attracted clean tech with high paying jobs, contributing to the City's Green Vision, as well as the General Fund. With that I'd like to make a motion to improve the reimbursement agreement.

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

>> Councilmember Oliverio: Thank you, mayor. Because you're building these concentrators which are really large, it's a big item, that's why it would be made locally versus overseas?

>> Correct.

>> Councilmember Oliverio: Similar to skyline solar, they just did the thing at VTA and glshes skyline is concentration but it is concentration in the 30 X range so 30 thumbs. What ours are applicable to is 500 to a thousand X. So basically spartan stadium would fill normal solar cells we would be filling an area one quarter of spartan stadium.

>> Councilmember Oliverio: Definitely a differentiator. And are you VC funded today? .

>> We are VC funded. We are a year and three quarters old and probably coming out of stealth in the August time frame.

>> Councilmember Oliverio: Series A or series B?

>> Series A was a seed round where we were actually asked to come into being. Series B was last May and we'll probably be going out there at the very end of next year for our next round .

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: Thank you very much. Does anybody else here wish to speak on this item? I think not. We have a motion on the floor to approve. All in favor, opposed, none opposed, that's approved. Thank you very much.

>> Thank you very much. We now will take up items 8.1, 8.2 and a joint session city-RDA, 8.1 is an amendment with the DDA with 360 residents LLC development on agency owned land. That is also Mesa development I think more commonly known as. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Want to express my support for this amendment to the DEA. I see Charles Young is here and I think Rick Freedman was here earlier. I want to thank them for their risk to take a chance here in City of San José. frankly haven't seen it anywhere in the region I just wanted to explain why I think it's worth us taking this effort to subordinate the \$2 million in the repayment structure. It seems to me that building eye and mid rise in our core is the only way that we could build housing in the city that does not drain us fiscally. We've seen that in past demonstrations from staff in terms of what housing costs us in terms of the General Fund. The only way we could build housing is at very high densities without us continuing to cost the General Fund or increase the burden on the General Fund in provision of services. It's also the high density transit oarpted development is the only sustainable way we could build housing or the most environmentally sustainable. An really, there is a consensus that the success of our downtown is really dependent on our ability to bring residents into the core. This is I think critical for our efforts to create a vibrant urban center in the valley and for all the other reasons I recited fiscally and environmentally, for those reasons I'd like to make a motion to approve.

>> Mayor Reed: Motion to approve. One request from the public, Charles Young .

>> Good afternoon. I am senior development director for Mesa development and the project development for 360 since we've been on the land since 2003. First of all I'd just like to thank the mayor, councilmembers and RDA for their support over these many years and considering this matter today. Your decision will be very helpful, we hope, for the long term success here, and you know, we look at it as time is our ally and what you're buying here is us to try to weather the current economic storm that we're in. There continues to be high interest and there's good traffic for the downtown high rises but unfortunately we're still in a period where there's a lot of uncertainty and fear for the buyers. And you know, we're looking at, you know, this time period as a way to avoid having to make short term kind of drastic decisions but keep to continue to work towards a future where the market will return to a sense of normalcy. To keep it brief and in conclusion, we are cautiously optimistic about the future and we 30 your- as here will continue to make us successful for the city for ourselves and most importantly for the downtown. As Councilmember Liccardo said, we thank you for all of this.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. Just a question for the gentleman from Mesa. The question is, on the people that have purchased, are you seeing a trend, I mean would you describe who's bought, is it an empty nester, is it the young urban professional qups many?

>> Yes. The little bit of a combination of both, I think our approach has always been to try to go after the empty nester but we have a real mix of units that go from smaller units which would be a move up buyer or a young executive officer or young couple but we also have larger units on the top of our building that can attract moving out of downsizing out of a larger home. We are getting a little bit of a balance. That was our goal to try to appeal to a cross section. We are going to a higher end of the market which in these times is slower to get to right now.

>> Councilmember Oliverio: If you're getting interested buyers, how many are a certain percentage of them limited by credit being tight? Historically if someone made \$120,000, now they can't get the down payment ?

>> Part of my statement returning to a normal time, it's not the economy in general but it's the lending market that is a real challenge right now and it is also impacting if high rises in terms of the presale requirements and some of those necessary friermts Fannie Mae and Freddie Mac. As you know the credit markets return to a place of balance. But right now, it is a challenge for some of the buyers to find mortgages. And we're being very creative, all of us are being very creative to try to do that for our buyers.

>> Councilmember Oliverio: And final question, since you have properties in multiple cities, how is San José ranking against your other portfolio markets?

>> Across the nation it's a pretty consistent story, there's challenges throughout. I think there's definitely a difference between the markets especially statewide in terms of the economics and how much deposits can be taken and held versus other markets than California, which affects final decisions for a the buyers but ultimately if the credit markets affect us all, there's no change between state to state. And you know, there -- this slow down and the job losses are across the nation.

>> Councilmember Oliverio: Thank you.

>> Thank you.

>> Mayor Reed: Any other questions for Mr. Young? We did have another question for you Mr. Young. Councilmember Pyle.

>> Councilmember Pyle: We won't let you get too far. I don't think you can realize how much we want you to succeed. That's a given oop but I want you to talk about the one time transfer, let's talk with the empty nesters, for example, they can take a one time transfer of their Real Estate tax value to the terms of \$250,000, is that --

>> In terms of the equity in their home?

>> Councilmember Pyle: Yes.

>> I'm not a tax expert, I think it's 250 for an individual and 500 for a couple.

>> Councilmember Pyle: That makes a difference. Some people need to move on because the schools need younger families to be moving in. Once they hear that, that makes a difference.

>> Very good point.

>> Councilmember Pyle: We'll keep getting the word out. Thank you.

>> Mayor Reed: I think no more questions for you sir. We have one other card from the public, Ross Signorino.

>> Ross Signorino: Oops, there goes another rubber tree plant. I almost forgot to speak on this subject. I'm wondering if we're going to do the same thing we did with the Denato market out there, many times come back and get more redevelopment money, and reopen and close and so on. Now, realizing that times are bad, housing, foreclosures, and economic and regards to the jobs and so on, and it's hard to forsee all these things that are going to happen, because of the arrangement that you have to make years in advance before you can start a project like this, then you have to renegotiate loans with financial institutions and so on. But I don't know what I could say to you to try to help new this regard. I'm criticizing, that's about all I'm doing, and seeing that this place is going empty right now and that we have to supplement it with redevelopment agency money is somehow or another, we could work out a -- some sort of a plan where we wouldn't have to take such chances. We don't have the United States government what it did with Chrysler and GM to bail us out in this regard. I don't know, it does concern me, it does worry me and I think it's something that hits the head are lines and the papers, that we have to come up with \$2 million to hold the project together. So I hope in the future that these things don't happen. And I wish you good luck in all these things that we undertake. And I think it's a good idea what you want to do. But at the same time, we should be very weary of venture things that we don't know what the outcome is going to be. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I think it's very important in light of the comment that was just made to point out that this is not a case of us coming up with \$2 million. This is a case of less in the way of receivable, John, would you like to jump in on this one? I think it's very important to get the message out there that we're not --

>> John Weis: Yes, councilmember, John Weis. The original agreement we had with Mesa which was probably 2005, the purchase price was \$10 million. We amended that, I believe, in 2007 or 2008, to make it an \$8 million payment when we closed. We received that money. We have that money. And that we put off the \$2 million until the first unit would be occupied. We're now basically putting that out further, until the debt on the property is paid, and the equity is paid back. But it's before any returns on equity go to the developer, we get our money back.

>> Councilmember Pyle: Thank you, I appreciate that.  
>> Mayor Reed: Councilmember Liccardo.  
>> Councilmember Liccardo: I might also add briefly, given where land values have gone, we would all look at an \$8 million price on this land as being a pretty good deal for the redevelopment agency today.  
>> Mayor Reed: Are there comments on that? We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Last item on the agenda, 8.2, findings for the demolition of vacant city owned buildings on Park Avenue, I believe. Councilmember Liccardo.  
>> Councilmember Liccardo: Thank you. I just wanted to thank the redevelopment agency for giving this building a belated demise. It's -- this is the poster child for blight in the Delmas Park neighborhood and we are extraordinarily grateful for its soon to be disappearance. So with that I'll make the motion to approve.  
>> Mayor Reed: Motion to approve the disappearance. All in favor? [ ayes ]  
>> Mayor Reed: Opposed? None opposed, that's approved. I believe that completes our agenda for today unless the City Clerk tells me otherwise, we are adjourned.