The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

COMMISSIONER ZITO: Good evening. My name is Jim Zito, and I am the chair of the city Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, May 6, 2009. Please remember to turn off your cell phones. Parking ticket validation Machines for the garage under City Hall is located at the rear of the chambers. If you want to address the commission, fill out a speaker card located on the table by the door on the parking validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed cards in the basket near the planning technician. Please include the agenda item and not the file number for reference. Example, 4A, not PD 06-023. Or whatever. The procedure for this hearing. Is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on a submitted speaker cards in the order in which received. As your name is called, line up in front of the microphone at the front of the chamber state your name for the record. Each speaker will have two minutes. After public testimony, the applicant and appellant may make closing remarks for an additional five minutes. Planning Commissioners may ask questions of the speakers. Response to commissioner questions will not reduce the speaker's time allowance. The public hearing will then be closed and the Planning Commission will take action on the item. Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the city at or prior to this public hearing. The Planning Commission's action on rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold Public hearings on those items. First order of business tonight is roll call. And let the record reflect that all commissioners are present. And accounted for. Next order of business is deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission May determine either, A, to proceed with remaining agendized items past 11:00 p.m, continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date decisions on how to proceed will be held by the Planning Commission no later than 11:00 p.m. are there any cards or deferrals? None. Staff, deferrals?

SPEAKER: Thank you, Mr. Chair. There is one file that staff is recommending deferral on CP07-081. This is a conditional use permit to allow an existing private school gymnasium on a site in the R-1-8 single family residence. The record should reflect that there was at the request of the applicant Mr. Chair.

COMMISSIONER ZITO: Motion on deferrals? All in favor, that passes. Next is consent calendar items. The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately. Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time. No cards on consent. Staff, consent.

SPEAKER: Thank you, Mr. Chair. The only staff comment is that you should all have in front of you for item D, this is CP09-001, the capers loft project, you should have in front of you the copy of the letter that was distributed.

COMMISSIONER ZITO: I believe it was in support of the item. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Move approval of the consent calendar. I do want to make a comment on B, CP, 07-003. I want to recommend after tonight's hearing, I did -- let me just take you back. Did I take a drive out there and the neighborhood for easy for that business strip to get congested and I know parking might be an issue. As a good neighbor might serve you well to talk to your neighbors about doing a joint parking plan. But other than that, I think it would be a great addition to that business district there. Thank you.

COMMISSIONER ZITO: There is a motion. Is there a second? There is a motion and second. Any further comment? I do have a question of staff on item B as well. I understand that this particular permit doesn't meet the criteria where we have to go to the next level of public convenience hearing, I guess you can say. But there is the issue of the 300 feet or 500 feet within residences. I just, for the sake of consistency, I'm just curious staff's perspective on that issue. Typically in the past we've been somewhat, can I say conservative about enforcing that particular.

SPEAKER: Sure, thank you, Mr. Chair. Again, because this is a conditional use permit, and did not require the finding of public convenience or necessity, it's just got a little bit of different set of findings. It is within 150 feet of a residence but then there's kind of further conditions with the finding that says if it's situated in such a way that it does not have a negative impact on the residences, it's, you can still make the finding for approval, in this case the residents were behind it, it's oriented towards Monterey highway, there's sorts of a -- it's a pretty long walk to actually get from the residences to the store. Staff believe the findings could still be made.

COMMISSIONER ZITO: Thank you. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you. Since we're all asking questions on item number B --

COMMISSIONER ZITO: Do we want to pull it then?

COMMISSIONER JENSEN: Why don't we go ahead and do that.

COMMISSIONER ZITO: Right, so the friendly amendment would be all items except 2B, is that acceptable?

COMMISSIONER JENSEN: Correct.

COMMISSIONER ZITO: We will vote on all items except 2 B. All items have passed unanimously except 2 B. 2 B, CP07-003, conditional use permit for the off-sale of beer and wine for an existing grocery store on a .72 gross acre site in the CN neighborhood commercial zoning district, located in the southeast corner of Monterey road and rancho drive. Staff anything further?

SPEAKER: The location is a full serve grocery store. They've got a meat section, grocery section, generally oriented towards the Mexican goods but staff believes all the findings could be made for the conditional use permit for the offsale of alcohol and it is recommending Planning Commission approve this conditional use permit. Thank you.

COMMISSIONER ZITO: Being we did pull it we have got to give the applicant an opportunity to speak on it. So is the applicant present? The applicant present for -- I'm -- (inaudible).

COMMISSIONER ZITO: That would be fine. I think that's all it is, thank you very much. Back to you Commissioner Jensen.

COMMISSIONER JENSEN: Thank you. This is a question of over concentration. In looking at the PD report, it says that the number of authorized licenses of offsale sales is five, and that the current number of existing offsale licenses is also five. So if this one is approved, wouldn't that, then, put it in a state of over concentration, according to the ABC census tract? (inaudible).

COMMISSIONER JENSEN: No, I'm looking at the San José PD report. (inaudible).

COMMISSIONER JENSEN: Actually, I went to the ABC site myself and I have the report if you'd like to see it, according to the ABC site there are currently five active licenses in that census tract.

SPEAKER: (inaudible).

COMMISSIONER JENSEN: Yes. So staff, you can help me understand?

SPEAKER: Let me -- I guess according to both the police department and ABC, the issuance of this additional license would not result in overconcentration. The applicant has not been asked to file for a finding for public convenience or necessity so I guess –

COMMISSIONER JENSEN: If I read the PD thing it says it is not currently unduly concentrated. If it is over what ABC has authorized they consider it competence concentration.

SPEAKER: Mr. Chair, it's staff's understanding that we are responding, it's the call of the ABC whether it's overconcentration or not an the police department. We're relying upon their information when we make the recommendation.

COMMISSIONER JENSEN: And do you concur with the report?

SPEAKER: Was that a question of staff, Mr. Chair?

COMMISSIONER ZITO: I -- I guess --

COMMISSIONER JENSEN: Well, the San José PD report says they're neutral, and they don't make a determination of concentration or undue concentration. But we've been through this a few times before, and when there are more licenses than are listed as authorized, by ABC, we typically call that undue concentration or excess concentration. And I'm just trying to get clarification. I don't have a problem with this location having their alcohol license, but I'm trying to get clarification because we need to be consistent.

COMMISSIONER ZITO: Right. So let me just suggest one thing. Let me ask, we have the applicant here. We are with public hearing right now. If there are questions specifically of staff that's fine. But let's find out first if we have any further questions for the applicant.

COMMISSIONER JENSEN: I don't have any questions of the applicant. So move to close public hearing.

COMMISSIONER ZITO: One question, Commissioner Cahan? Staff, not the applicant. There is a motion to close public hearing. Is there a second? Second. All in favor, opposed, none. Public hearing is closed. So back to staff. As I'm reading this, it does say as far as authorization in the current ABC license, it's saying although there's five they're not unduly concentrated.

SPEAKER: It's coming from ABC, it's ABC's call. We rely on what ABC's telling us. They do the analysis, look at that time number and advise us whether they think it's overconcentrated or not and then whether -- and then based on that conclusion, or their decision, makes the difference in whether or not we do the public convenience and necessity process. That analysis, yes. So that may be the confusion.

COMMISSIONER ZITO: I also think part of the confusion is, when you do the public convenience, it is four within a thousand feet, is that correct?

SPEAKER: Four within a thousand feet, Mr. Chair.

COMMISSIONER ZITO: Where this overconcentration isn't dependent on radius. It looks like it has to do with the –

SPEAKER: The census tract and the crime.

COMMISSIONER ZITO: And population. So it's a different metric is what I'm seeing here.

SPEAKER: Yes, I think that's what staff believes too, Mr. Chair.

COMMISSIONER ZITO: Right. So the statement by ABC that it's not unduly concentrated at five, you know, could certainly stand on its own.

COMMISSIONER JENSEN: Yeah, at five, right. So my question would be, do you know what question it was, officer Enslin posed to ABC, did he say if there were six, and your authorization level is for five, would six then make it unduly concentrated –

SPEAKER: Yes. I'm sorry, staff's understanding Commissioner Jensen's question which is a very good one, but no, we don't know.

COMMISSIONER JENSEN: Okay.

SPEAKER: We don't typically, you know, question PD in that regard. However, that's a very good question that in the future we probably should ask and know the answer to but unfortunately we don't.

COMMISSIONER JENSEN: Because when I look at this I have to agree, at this point the authorization is for five. There are currently five, and therefore not unduly concentrated. But when you go to six –

SPEAKER: Laurel Prevetti: Mr. Chair, I believe the report from officer Enslin is simply reporting what the records of the ABC indicate. I don't think they're passion judgment one way or the other. They're just simply reporting. We don't know. It appears at this point that ABC doesn't believe there is overconcentration. They're simply reporting the data that exists.

COMMISSIONER JENSEN: And I have to say, I visited your store, it's really cute, you've got some really nice things, I came away with spices that I couldn't find anywhere else. My question is really a policy question and has nothing to do with your market.

COMMISSIONER ZITO: So Commissioner Jensen, there is a subcommittee dealing with the whole alcohol issue and I think this is an excellent point that you raise and should be part of that discussion in subcommittee.

COMMISSIONER JENSEN: Right, and I was planning on bringing that up later. Thank you.

COMMISSIONER ZITO: So note for staff, that that should be part of the discussion.

SPEAKER: So noted.

COMMISSIONER ZITO: Commissioner Cahan.

COMMISSIONER CAHAN: This isn't my regular question. This is going on what Commissioner Jensen is saying. If there are already five, that sounds like we cannot support a sixth.

COMMISSIONER ZITO: No, this is a very complex, an after years I still don't always have it down. It has to do with whether they met the threshold of meeting a public convenience and necessity hearing. They don't need that. If it were under those criteria you'd be correct. If it was within a thousand feet that there were four or more, right? So this five is talk about census tracts. It's a different metric that the ABC uses to determine overly concentrated as opposed to number of retail outlets.

SPEAKER: And if I may, Mr. Chair, I think it's also two different bodies that are requiring. So in this case it is the City of San José's requirement for conditional use permit for the land use part of this, which is to allow the off-sale use at this location. So we control that. It met our criteria for needing a conditional use permit and that's what the applicants come forward with. When we sent the referral to the ABC, and also to the police department, and got back both of their responses, neither response indicated that their review met the metric of overconcentrated. So when they would decide it's overconcentrated, that's when the city would then need do the review process about whether there were findings of public convenience and necessity that could be made that would be our argument back to the ABC about why an additional license should be allowed at this location. And since ABC did not indicate that under their findings they were determining it to be overconcentrated, we did not proceed with the public convenience and necessity process because it hasn't been required in this instance. So it's really, where we do a responding process to ABC's request for that information, when it's been determined to be overconcentrated and it wasn't in this case.

COMMISSIONER CAHAN: So Mr. Chair, is this something that the subcommittee could get better clarification and better regulation on, so that we don't have this confusion?

COMMISSIONER ZITO: Yes, exactly. That is one of the reasons we're having the subcommittee is to streamline and simplify this a little bit. Even for these years, even for us long standing commissioners it's been a bit of a complex issue and always trying to wait and see if we get it straight. So your questions are well founded and this is absolutely something that should be discussed and hopefully streamlined through the subcommittee.

COMMISSIONER CAHAN: I look forward to hearing that subcommittee report. And additionally I have a question about the fact that there is a drive-in theater across the street. I don't know if there is any sort of consideration for having alcohol at a club, and an alcohol store and a grocery store all in one section, directly across the street from a drive-in theater where it seems as though it's against the public interest to provide that much access to alcohol, and a place where people would be likely to consume their alcohol in their cars and then drive around afterwards. I don't know if that's within our purview to think about that.

COMMISSIONER ZITO: Okay, Commissioner Campos.

COMMISSIONER CAMPOS: One of the things I -- I recognize that as well. That is -- these business are not accessible to the drive-in. If someone's going to go to the drive-in, and they're going to buy alcohol, there's actually a liquor store right here. Capital expressway actually goes over Monterey highway. The only way to get over there you would have to maneuver over the clover leaf and get to the drive-in. There's a barrier there if that helps.

COMMISSIONER CAHAN: That does help, thank you. I didn't realize it was across from a drive-in, until after I had done the site visit. So thank you for that clarification.

COMMISSIONER ZITO: Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I'll put forward a motion. That we approve a conditional use permit for the offsale of beer and wine for an existing grocery store on a .72 gross acre site in the CN neighborhood commercial zoning district.

COMMISSIONER ZITO: There is a motion and second. Thank you for that. Anyone want to speak further on that motion? I see we have a -- you pulled your light, Commissioner Kamkar. Any questions, comments, concerns? Seeing none let's vote by light. That motion passes unanimously. Thank you. Okay. Consent calendar is completed. Public hearing. Generally, the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda such as to accommodate significant public testimony or may defer discussion of items to a later agenda for public hearing time management purposes. Staff.

SPEAKER: Thank you, Mr. Chair. Michael bills with city planning staff and with me is Andrew Crabtree. Together we'll be providing the oral report on the CIP. Immediately prior to this hearing the CIP, this study session was noticed as a public meeting, however, no citizens chose to attend. The Planning Commission's role in reviewing the CIP is prescribed by city charter, which states that the commission shall have input into the CIP. The CIP inputs the goals of the City's general plan and consistency is important in the review of the CIP. The CIP included a presentation from staff, the budget office, and kitchen commission discussion occurred with representatives from city departments. The CIP is organized around six city service areas or CSAs. And programs, neighborhood services such as parks and libraries, the airport, public safety facilities, traffic and park and the City's water and sewer systems. This year discussion at the study session was primarily focused on five capital programs, these are as follows. The developer assisted projects capital program within the Community and Economic Development CSA, the water, utility capital program within the environmental and utilities service CSA, the environmental and city services, and finally the traffic capital program within the transportation and aviation services CSA. Andrew will be following this introduction with a discussion of the major themes of the Commission's discussion and following this summary staff welcomes any further clarification or direction from the commission in preparation of a written manager's budged addendum that will formally transmit the Planning Commission's comments to the city council. Thank you.

SPEAKER: As Michael mentioned, during the study session the planners discussed the different components of the CIP, discussed how they relate to each other as well as to the General Fund.

I'd like to relate four of the key topics discussed 50 Planning Commission. First, members of the Planning Commission discussed concern about the social impacts particularly upon the city's youth related to the proposed delay in the opening of certain facilities including in particular the Seven Trees community center. Second, commissioners discussed opportunities to reduce the cost of implementing the CIP items or to increase the potential revenue sources that fund CIP, including possible increases of developer fees or incorporating within city contracts the ability to capture reductions in project costs if those come forward. Third, the Commission really expressed a desire to further support and encourage the use of recycled water throughout the city and discussed with staff different strategies that the city might use to further that goal. We discussed the ordinance that's being worked upon to require the use of dual plumbing at specific locations, the various funds the city is seeking that would allow for the expansion of the City's purple pipe, which delivers recycled water throughout the city, and also, we discussed how the goals of the City's recycled water program have shifted somewhat from reducing the environmental impact upon the pay to more generally how to deliver water as water becomes increasingly important resource for the city. As a fourth topic, the Planning Commission discussed the adequacy of parks and the progress of the city towards achieving the park lands goals that are incorporated within the general plan, and the commissioners encouraged staff to investigate the use of rooftops or others that would help us meet the general plan goals we have per park land per capita in the city. In general, the commissioners were complimentary of the quality of the CIP as it was presented to them. They mentioned the importance of using the CIP to advance the City's green vision, and make sure it was a sustainable document. And as part of the review of the Commissioners identified a desire to review the CIP in the future and specifically have time between the Planning Commission hearing to formulate their thoughts around the discussion. With this as Michael said, staff welcomes any further clarifications or directions from the Commission. Thank you.

COMMISSIONER ZITO: Thank you, staff. Any comments, additions from the Commission? Commissioner Cahan.

COMMISSIONER CAHAN: Thank you. I would just like to expand a little bit on the request to get the information prior to the meetings, a little bit further in advance, so that we can have a thorough review. And perhaps the recommendation to city council then is to do a charter change if that is what is required to allow us the time to review this information. We were told that this information went to print around mid April. So it sounds as though there is available time for us to receive this earlier. But there maybe a conflict about whether we are allowed to have it earlier or not. So perhaps a charter review would be necessary for that.

COMMISSIONER ZITO: Director.

SPEAKER: Laurel Prevetti: Thank you, Mr. Chair. I was actually just pulling up the charter. And section 1202, submission of the capital improvement program states that at least 30 days prior to the beginning of each fiscal year, or at such earlier time as the council may specify, the City Manager shall prepare and shall submit to the council a capital improvement program, or the five fiscal years immediately following the fiscal year within which such program is submitted to the council. On or before the day that he or she submits such a program to the council, the City Manager shall also file a copy of the program with the Planning Commission.

And then it talks about what it states. So it appears that the charter does provide for the Commission to receive it before it's provided to the council. So we'll work with our legal staff to see if this is sufficient, and then we'll also work with the City Manager's budget office to see if there might be an opportunity to work within this time frame. So I think we're okay in terms of getting you the documents sooner. The charter does go on and talks about how much time the Planning Commission has, and really, we're only given ten days -- you're given at least ten days to provide comments to the city council. And I believe that was the shrinking of the time period. So we'll look at both charter sections to see if any additional amendments might be necessary. Otherwise, we'll see if there's some administrative changes that we can do from -- in terms of our practice to make sure that have you a little bit more time.

SPEAKER: Just to clarify on that, the document was returned from the printer on Monday, April 20th. So we distributed it on the 22nd, two days after we'd received it at the Planning Commission just because that was the most expedient way to deliver to the Planning Commission. It wasn't that the document was sitting somewhere for a period of time before it was distributed.

COMMISSIONER ZITO: No. And when you read the date of mid April, we got it very soon after that. The only question I get and I think it was brought up at the study session, was if we could get a final draft before it goes to the printer, if that is at all possible, to get it to us a little bit sooner so we could do a little bit of head start review. Even an electronic copy or something along those lines, put it on CD, easier to mail, easier to carry, most of us have access to the CD. Something along those lines. But I think we recognize the time constraints that we're all under and just ask that do you what you can to get it to us sooner. It would be -- I think it was a good suggestion that we have an opportunity to get a study session earlier so we have time to ponder what we've learned and to formulate questions at that point to give more constructive input. To not put words in our mouths, it would be more like we're rubber stamping it and we all know that we don't want that.

SPEAKER: Player, if I could --

COMMISSIONER ZITO: Yes.

COMMISSIONER CAHAN: In addition, the study session was very beneficial. I would like to reiterate the request that we have that a week earlier. I know we have three sessions this month. It appears that we could still fit into that ten-daytime frame, where a study session could fit within that, the study session and then one week later have our comments on that.

COMMISSIONER ZITO: This has been an ongoing additional meeting every first week of May. Because it has to get to the city council by the next week. If we had waited until our standard meeting which is the second week, we would miss that deadline. That's why we have this meeting specifically for the CIP. The fact that there is some incidental consent items this is I think –

SPEAKER: Not to take anything away from the issue at all, this was actually a year where the CIP was delivered earlier than usual.

COMMISSIONER CAHAN: Oh, really?

SPEAKER: So in past years there hasn't been the ability to have the study session two weeks or whatever the regular interval would have been ahead of time. But certainly, you know, it's a valid concern and something we can discuss further.

COMMISSIONER ZITO: Sure. SPEAKER: Although I guess I would have a follow-up question, occasionally we have a Monday meeting. On the time when it is delivered on May 1st can I is the date it is due, would it be useful to have a study session on a Monday, with the hearing on a Wednesday, I'm of the opinion that getting the week gap is not likely in many years. But I guess I'm interested in hearing from the commission whether, even getting that study session that's a day that's different than the Planning Commission date, I mean it would also maybe provide staff ability to write up a little bit more, well not coherently, he was very coherent. But something we could actually distribute about what we've learned about the questions from the study session.

COMMISSIONER CAHAN: I'd like to defer to the members who have been on the commission for a while. I feel like I'm too new to really have a good understanding of the answer, good answer to that question.

COMMISSIONER ZITO: I think the tradeoff is participation versus getting the information earlier. So you may give up the fact that several of the commissioners may not be able to make it on a Monday because of other conflicts. But it is certainly something to consider and maybe on a year by year basis, how things meet accordingly. I don't think we need to beat a dead horse, but you understand what we're asking for. See what you can do on a year to year basis and appreciate your continued support of us here. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. I would also like to express my appreciation to staff. As much as we don't appreciate 400 pounds of document on our lapse to drag home and drag back, I know this took a lot to put this together. And as usual, the CIP is very detailed, and very informative. And very dense. And you guys have done a great job, as you always do. My special thanks to Mr. Crabtree for managing to listen to everything we said, at you know only a few moments ago, and make it sound comprehensible when you came in here. I just wanted to express my appreciation. And with that I'm prepared to make a motion.

COMMISSIONER ZITO: Okay.

COMMISSIONER JENSEN: Recommend to the city council adoption of the proposed 2010-2014 capital improvement program, CIP, as recommended by staff.

COMMISSIONER ZITO: There's a motion and second. Any further comments? Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. I guess I'd just like to request that the sustainable especially aspect be -- somehow be emphasized a little bit more in the

recommendation. I realize that those things cost money. And in times like these, money is tight, and so the spending is earmarked towards the things that are truly urgent, and so on, so forth. But I guess I -- not that I read through the report or anything like that. But it just seems that if there is a way to add a section or a paragraph or something like that, to express in a sense it's like a value statement on what the City's priorities are. And to emphasize that having a sustainable community and having sustainable practices and so on, so forth, is a high priority for the city, then to me, I think that that would make sense. Thank you.

COMMISSIONER ZITO: Thank you, Commissioner Do. My comment was that what I think would be helpful for the commission is to get a retrospective of what had been reported in prior years and how well the city was able to deal with the challenges. Because this whole program is forecast. It's essentially what are we going to do in the five years coming forward. You really don't know what you're up against until that day comes when you're actually implementing, whether or not the revenues meet goal, whether or not you're able to develop the programs and the infrastructure that you're asking to develop. And so having a slight portion of the presentation kind of as a scorecard, to say okay, you know, five years ago we reported this, here's how it worked out, in a sense. You know, then again I say five years, it could be two years, it could be three years, whatever. And how that will impact the CIP going forward. You know, we had anticipated finishing projects X, Y and Z in prior years. It impacts the CIP in that we have to do them next year or the year after, something along that line. Kind of an ongoing scorecard if you will. I think it gives a more complete picture of what we're up against as planners. And some of the challenges that we face. Okay? And whether or not some of our assumptions were -- you know, we learned from our assumptions and we learned as we go forward. So that was one of the requests that also came out of the study session. So I really appreciate that and not to expand the time it takes to do that. I know maybe it requires a separate report, even if it's given to us up front. But not to really expand the time it takes to do that. So I know it's a lot to request. But that would be helpful information. Okay, there is a motion and a second. Any further comments? Seeing none let's vote by light. And that motion passes unanimously. With our appreciation and congratulations on another year of fine effort. Okay. Moving on. Petitions and communications. Public comments to the Planning Commission on nonagendized items. Do we have any cards on that? None, Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Mr. Chair. Please tell me if this is the appropriate place to have this discussion. The environmental issues are something that the city is very concerned with, and clearly, commissioners are also concerned with, making sure that we are providing planning that is environmentally sensitive, and I understand that we do not have a standing committee that researches environmental issues. And so I would propose that we have an environmental committee, so that we can really review environmental issues, and make sure that we are well educated and that we are providing the best feedback possible to meet the Green Vision, as well as any other environmental improvements that come about.

COMMISSIONER ZITO: To answer your first question, there is no other time that is more appropriate, there are no public speakers requesting time so I don't see a problem with that. To address your specific question, director.

SPEAKER: Laurel Prevetti: Yes, thank you. This is not on our agenda so we really can't discuss it this evening. If you would like, we can put it on the agenda under good and welfare for our next meeting. I would just caution, our very limited staff resources. So we can discuss that more fully at our next meeting but that's just something to think about as we move forward.

COMMISSIONER ZITO: Okay. So that seems appropriate. Yes, so bringing up to ask to be agendized, that's fine. Okay. Let's make -- just to make that official, let's make a formal motion on that. A motion to bring it on the agenda, no, okay, sorry, can't even do that. We'll just request that it be put on the agenda.

SPEAKER: It's going to be put on the agenda.

COMMISSIONER ZITO: So we don't have to make a motion to put things on the agenda. All right. On to referrals from city council, boards, commissions or other agencies.

SPEAKER: Laurel Prevetti: None.

COMMISSIONER ZITO: There's none, okay, 6, good and welfare, report from city council.

SPEAKER: Laurel Prevetti: I just would like to report to to the commission that our city council considered the operating budget, this morning they considered our CSA, our city service area around development and community, and there are a lot of good words from our council with respect to planning and development and you know of course we are really going to be the engine that drives us out of the doldrums for the economy. So we don't know how the council will make the difficult choices that it will have. So you'll be reading about it presumably in the newspaper, et cetera. We will be getting your CIP comments to the council, so that will be for their consideration prior to their consideration of the capital improvement budget. So we're moving as fast as we can to get those applications to you. So that way you can be participants in that economic recovery, and we're hopeful that council will do the right thing to make sure we can continue to provide the excellent service that all of our customers need. And that concludes our staff report.

COMMISSIONER ZITO: Thank you, and we certainly support you and send our recommendation to the city council in the sense that we feel that you guys work really hard, and I agree with your statement, that you are at least one of the major impetuses for getting the economy moving. Absolutely. Commissioners reports from committees. Norman Y. Mineta San José international airport, Commissioner Campos.

COMMISSIONER CAMPOS: After almost a full year of put giving the same report, I'm happy to say we'll be meeting in Tuesday. He'll be giving a report a week from there -- actually, the next night.

COMMISSIONER ZITO: We do have a meeting the next Wednesday. Okay. Envision San José 2040, general plan, Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. Our next meeting will be Tuesday, May the 26th. That is different from the Monday meeting because Monday would be the memorial day holiday. I should have a more detailed report after our Tuesday meeting. We have a Wednesday the 27th meeting so that would be the next night, too.

COMMISSIONER ZITO: Okay, thank you. Item C, review of synopsis. Do we have any comments? I'm sorry, Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair.

COMMISSIONER ZITO: On the envision, right?

COMMISSIONER JENSEN: On the envision and then I think a request for committee work that we're trying, struggling to get through. So at the end of the envision 2040 meeting last time, task force member Shiloh Ballard invited members to a whistle stop tour, on Saturday, the 16th. I'd like to have it the Planning Commissioners, from Campbell downtown to the Diridon station and you can find it online at the Silicon Valley leadership group site. Would this be then the appropriate place to bring up the revisions to our process on consideration of alcohol licenses within neighborhoods?

COMMISSIONER ZITO: Director.

SPEAKER: Laurel Prevetti: Thank you. Again, this is not on the agenda for discussion. Perhaps what we can do is have a good and welfare item of a report to the Planning Commission on outstanding items, because I think this is another one where we do want to have a conversation in terms of what is a reasonable expectation for getting that subcommittee launched.

COMMISSIONER JENSEN: We discuss this at every meeting, it seems like and it never gets to be agendized. I would like to discuss this with Commissioner Campos' permission, he has no idea I'm going to say that, we feel very strongly that this is an item that needs to be worked on and come forward. We understand that staff is stretched very thin and we are happy to help out in any way we can. In lieu of staff's attendance and get started on this and then meet with staff when staff does have time, does that –

SPEAKER: If I might comment on we are in fact working with our partners in the Office of Economic Development, for the budget that they needed to be providing in doing some background research on the sizes of supermarkets. I'll look to Ms. Prevetti, we're needing to focus on the size of grocery store and that type offsale as opposed to a broader issue as to what might or might not need revisions in the offsale of alcohol and PCN, the role of all those owners. I think what staff started discussions on is trying to facilitate those offsale situations where the council has shown it's ready most of the time or maybe 100% of the time, we're trying to get that statistic for you, to go ahead and follow you know, a commission denial with an approval. So that's the piece that we have started work on the background information for. Some of what was being discussed earlier today was sounding a little bit broader, and that wasn't initially where staff was feeling we had the resources to proceed. We will be looking to try to schedule a

session with the Planning Commissioners as we get the background information Do together and we are in fact in process for that.

COMMISSIONER JENSEN: Right, and the initial request was for grocery stores. And I know Commissioner Campos and I are very interested in work with you on this and it's wonderful that staff is actually having meetings. If staff could organize a meeting at the time the commissioner and I would could attend we would be grateful.

SPEAKER: Staff is not having meetings. Staff is discussing with OED in preparation of meetings. Just to point out we have four owners heading to the May 19th council agenda. So it is partly a stack queuing nature of some of the work that happens in the department.

COMMISSIONER JENSEN: That's great. Do we have a time frame for, would it be like May 20th, as the first day you could consider, since you're working on the owners that are now there?

SPEAKER: Laurel Prevetti: Excuse me, Mr. Chair. May I have a suggestion that we table this immediate discussion to consider future study sessions and dates? I think that's probably the most appropriate way to move this particular topic forward.

COMMISSIONER ZITO: Yes, we have to be careful on what we discuss here because it's not agendized and there is the issue of Brown Act. So let's move it on, and I think I understand the crux of what you're asking, Commissioner Jensen. So I think our next item is review of synopsis. Okay, is there any questions, concerns on the synopsis?

COMMISSIONER CAMPOS: Motion to approve.

COMMISSIONER ZITO: There's a motion to approve the synopsis as presented. There's a motion and second. All those in favor? Any opposed? I believe Commissioner Cahan you were not here for the last meeting. So Commissioner Cahan would have to abstain. Right? Okay. So that passes unanimously. With Commissioner Cahan abstaining. Now, we get to consider study session dates and/or topics and I think one of the questions was, how best to report back on subcommittee progress. And I think that's a good point. The director made a recommendation, possibly adding an extra item on good and welfare which would be the appropriate place to discuss these kinds of items so that they are agendized. And so taking that recommendation, is there any comments from the Commission regarding an additional item to good and welfare?

SPEAKER: Laurel Prevetti: Mr. Chair, if I may.

COMMISSIONER ZITO: Please.

SPEAKER: Laurel Prevetti: The reason why I suggested we discuss this under study sessions, I heard two requests for study sessions, the CIP and how well we do in performing, so whether we schedule that for sometime early in 2010, so that way you have that well in advance of your next, or if there's an interest in moving that sooner during the summer months, while you're still thinking CIP, so I would put that one to your question. The second I think is just the whole issue of the current regulations around offsale of alcohol. And public convenience and necessity.

Since the findings are different I think it might just be the best way quite honestly to jump start the Commission's sincere interest in reviewing the offsale issue. And I think a study session is the best forum so that way the full commission has the benefit of understanding how these rules work, when do we decide something's over concentrated, what's the role of the different entities. Then we can include in that study session, and nose accordingly that the study session would begin its changes, if any, what are the low hang fruit, that staff can address, and then we can discuss the ordinances that we see being handled in the short term and then what might be longer term work programs. So I think in terms of scheduling future study sessions, I think that one is a more urgent need since those topics keep coming up.

COMMISSIONER ZITO: Thank you, director. I concur in that the urgency is there. We did appoint a subcommittee and so therefore should get to that question as soon as possible.

SPEAKER: To that point, Mr. Chair.

COMMISSIONER ZITO: Sure.

SPEAKER: Looking at your schedule, your upcoming schedule, there's the study session that the currently on for June the 24th on group homes, reasonable accommodation, there is the study session coming up on the 27th on green principles, and we're presuming that would be one the commission would want to hold. But in terms of looking forward, would the alcohol one be one that we would want to try to move in ahead of, say, group homes and reasonable accommodation?

COMMISSIONER ZITO: Right. So –

SPEAKER: Generally, Mr. Chair, in terms of priorities, to prepare for an offsale alcohol study session will take staff a little bit of time to make sure that we adequately coordinate with the police department, you know, ABC and so forth. So to really do, you know, the job and deliver what the Commission's concerned about, respond to some of the questions you've asked, we need a little time to prepare. Just a question Mr. Chair.

COMMISSIONER ZITO: So you're suggesting that June 10th would not be a viable date due to the time constraint?

SPEAKER: We could, if you want to do study sessions back to back to back. That's really the question I guess, Mr. Chair.

COMMISSIONER ZITO: So the choices are that, or me pushing it to, say, July 8th, because there is a study session July 22nd, as well. So unless we move it to August which I don't think was the intent of the commission to push it that far out, I'll let commissioner Jensen weigh in on that.

COMMISSIONER JENSEN: Thank you, Mr. Chair. June 10th I've already notified the chair and the deputy that I'm not able to attend. So June 10th is not a good time. One reason the subcommittee was formed, the discussion of offsale at grocery stores and the need that the city

council has in order to try to have guidelines that would allow us to be able to approve grocery stores, and not always disapprove them, and the second one is the broader discussion of offsale alcohol. And so on the subcommittee item, I would like to encourage staff to find a date when they can meet with us, again Commissioner Campos and I have been and are continuing to be very willing to work with staff on helping that. We both have grocery stores that are deeply affected in our communities and would like to be a part of that discussion. And then with respect to the broader issue of offsale alcohol, I would think that the July 8th or even August would be fine, because that is a broader discussion, and I understand staff resources may need to be pulling more time.

COMMISSIONER ZITO: So what I'm hearing commissioners say is that you actually don't want to link the two. So if it's possible that staff could go ahead with the subcommittee focused on the charge of grocery stores, specifically –

SPEAKER: Yes, and we are in process towards that end. And we are cognizant that it is taking longer than any of us would have wanted.

COMMISSIONER ZITO: Okay, fair enough. So June 10th would not be a good study session date. July 8th is a possibility but again, we still have some back-to-back in that regard. And then moving it into August is a possibility, assuming that we're not coupling the two together. So if you want to come back to us whether the July the 8th or August –

SPEAKER: Certainly, Mr. Chair.

COMMISSIONER ZITO: We appreciate the challenges staffing and timing and there are probably lots of issues that are at least equally as important as this is. But it seems to keep coming up in our commission packets and we would like to get some direction.

COMMISSIONER JENSEN: Mr. Chair, if I may.

COMMISSIONER ZITO: Please.

COMMISSIONER JENSEN: So we discussed the study session for the broader issue but I'd like to request that staff see about proposing a date when the commission subcommittee of Commissioner Campos and myself might meet with staff.

COMMISSIONER ZITO: So we meet next week.

COMMISSIONER JENSEN: And the week after.

COMMISSIONER ZITO: No, I guess it's two weeks after that, next week, and then two weeks after that. Is it possible for staff to come up with a date? Would that be possible?

SPEAKER: Yes, I believe that would be possible. We're going to consult with our partners in Office of Economic Development.

COMMISSIONER ZITO: If you could offer us a date reflection week that would be great.

SPEAKER: Thank you.

COMMISSIONER ZITO: Thank you. All right, I'm not sure there's anything else left to talk about. Let's see, Commissioner Cahan.

COMMISSIONER CAHAN: That date that you were going to get back to us on, is that for the study session for all of us or is that just the meeting?

SPEAKER: It's both, actually so at the next meeting we'll be proposing a date for the subcommittee meeting which is going to be Commissioner Jensen and Campos.

COMMISSIONER CAHAN: I know we have very, very busy schedules. I will be out of town August 10th.

SPEAKER: Since you don't have the wealthy of experience that the other commissioners have sitting through some items.

COMMISSIONER ZITO: Not that that's helpful. Additional good and welfare, item E, would that be helpful to add an item E?

SPEAKER: Laurel Prevetti: I believe that might be appropriate. We'll figure out appropriate wording so it's not too limiting but it gets to the intent because sometimes there are other questions that you pose to us, and this might be a vehicle to be able to report on those.

COMMISSIONER ZITO: And I think in the past when we had specific subcommittees they were actually added as items under B, right? When we had specific ones. But you're right, something more general so we could have a slot to bring up maybe additional comments would be great. Okay, with that, any further comments, questions, concerns from the commission? Do I hear a motion? I hear a motion to adjourn, and a second? All in favor? Any opposed? None we're adjourned. Just a reminder, those staying for the discussion on the deferrals, the deferral subcommittee, we'll do some work here tonight for maybe an hour or so. Thank you, good evening.