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City of San José city council meeting March 24th, 2009. Have.

>> Mayor Reed: Good afternoon. I'd like to call the San José city council meeting to order for March 24, 2009. Councilmember Liccardo.

>> Councilmember Liccardo: Today we have the pleasure of having San José ballet, one of the best of the 450 students of ballet San José school, 13-year-old Alyse Gillam is here to perform, she's accompanied by Lise La Coeur. The San José ballet, have awarded over \$150,000 in tuition assistance, it's wonderful. As I mentioned, 450 students including 34 boys. So Pete, there's still time. If you want to get out there. More than 130 of the students perform with professional dancers on presentations such as the nutcracker. At the center for performing arts, April 2nd through the 5th midsummer night's dream and song and dance May 7th through 10th and at the California theater May 27th through 31st, we'll see them performing in the little mermaid. BalletSan José.org is their Website. With no further ado, Ms. Alyse Gillam. [ ♪[music♪ ] [applause]

>> Mayor Reed: Thank you, now please all stand for the pledge of allegiance. [ pledge of allegiance ]

>> Mayor Reed: Under orders of the day, we have some changes from the printed agenda. Item 5.1, report of neighborhood service and education committee will be deferred to our next meeting. It's April 7th. I'm going to take item 5.4, which is the Cesar Chavez memorial walkway right after 2:00. Redevelopment agency plan amendment and cap changes, we will open the hearing, take public testimony, but we will not take action. We'll continue the hearing for two weeks, again, to April 7th. Any other changes under orders of the day? Councilmember Constant.

>> Councilmember Constant: Mr. Mayor, I'd like to ask for a deferral of 4.2, and I apologize for not catching this during Rules. I think that an issue like this that has significant public interest and impact really should be an evening council item. I know there's a lot of people in my district who have expressed an interest and I think it would serve the district better if we had that at an evening meeting. I don't care which one it is, whichever one.

>> Mayor Reed: That is the rereoval process?

>> Councilmember Constant: Yes, sir.

>> Mayor Reed: Any first conversation on that? One other item under orders of the day, we will adjourn today's meeting in the memory of four police officers from Oakland, Sergeant Mark Dunakin, Sergeant Ervin Romans, Daniel Sakai and John Hege, the great tragedy for the police department and all of Oakland as well as all of California. So we will adjourn this meeting in their memory. Motion is to approve the orders of the day. All in favor, opposed, none opposed, those are approved. Closed session report, next item.

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

>> Mayor Reed: We'll move to the ceremonial items. I'd like to invite councilmembers Chu, Pyle and Kalra, as well as members of the Assyrian association of San José to join me at the podium. Today we're issuing a proclamation in recognition of the Assyrian new year which is celebrated on March 20th. Councilmember Chu has some words about this.

>> Councilmember Chu: Thank you, mayor. I'd like to thank my colleagues and the mayor in joining me to proclaim the week of March 24th in celebration of Assyrian new year. I also want to thank my Assyrian chief of staff, to bring this new year celebration to my attention. The City of San José's greatest strength is in its diversity of residents. Like myself who came from other parts of the world, bringing with us a celebration of traditions and festivities that further promote the appreciation and understanding of various cultures. Many nationalities and religious groups in the Middle East and Asia celebrate arrival of spring. The spring equinox, brings the Assyrian festival. The Assyrian festival begins in March 20th for the year 6759. The essence of Assyrian new year is the renewal and revitalization of earth, new life on earth and better harvest for the new year. Assyrian believe as the earth changes they have to change as well. Celebrate all the earth is offering to them. To better celebrate Assyrian new year, is Ninios Babla, if I murder your name I apologize. From Benaham, Inc, an Assyrian cultural organization dedicated to the national aspiration and well-being of the Assyrian people. [applause]

>> Thank you, councilmember Kansan Chu, for recognizing Assyrian new year, and also would like to thank you, Mr. Mayor, Chuck Reed and also councilmembers Nancy Pyle and Ash Kalra for this recognition. I would like to say, happy new year to Assyrians around the world for year 6759. And as was mentioned, Assyrian new year was celebrated first day of spring, which is rejuvenation or renewal of the earth, and the nature. So that festivity was celebrated for 12 days and each day commemorated each month of the year. And each day was celebrated with its own festivities and prayers and all the things that

recognize that month of the year. There again, thank you for recognizing Assyrian new year. I hope all the people around the world, with the rejuvenation of the earth, which is the nature, live in happy prosperity and Happy New Year. Thank you. [applause]

>> Mayor Reed: Okay, next, we're going to have Councilmember Chu, Pyle and Kalra join us. City of San José is happy to support and celebrate with this proclamation, Councilmember Chu has some details of that.

>> Councilmember Chu: Thank you again my colleagues and the mayor and also my chief of staff, he was actually born in Iran. The spring equinox also marks the beginning of the Iranian new year, also known as Noruz. Correct me Chinese Iranian accent. This celebration is observed by the Iranian community and has spread to many other parts of the world, including central Asia, south Asia, Northwest in China and some ethnic groups in Albania, Bosnia, Kosovo. In the City of San José is Satar Deldar, from Apadana TV, an international television broadcasting outlet. Mr. Deldar is a prominent member of the Iranian community. He emigrated to the United States in 1989. He started Apodana TV in San José which has expanded from an hour-long program to 24 hours a day reaching millions of viewers worldwide. Mr. Deldar. [applause]

>> Thank you so much. Noruz means new day, new beginning, new life, new life for human and for nature. Persian Iranian have a very simple message, peace for everyone, for everybody. Noruz has like more than 7,000 year history, with this message. And I'm very happy, City of San José, recognize our Noruz. Today, at this 300,000 people from my country living in this Bay Area, they are very happy. They are happy to your participation in this celebration, your action and President Obama's speech for Persian new year, made 7 million Iranians happy. And I am very hopeful they watch this ceremony tonight, these millions of Iranians around the world. And I wish new year would bring everyone happiness and prosperity for whole world. And I want to thank Councilmember Kansen Chu for his initiative in recognizing the Iranian new year, also thank the Mayor, councilmembers Nancy Pyle and Ash Kalra for cosigning the commendation of the city council for approving this. Thank you so much.

>> Mayor Reed: Now, March is a busy month for celebrations. Would like to invite Councilmember Constant and members of the Greek community to join me at the podium. Recognizing 188th anniversary of Greek independence, March 25th, 2009 as Greek Independence Day. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. This is one of the great things about living in the City of San José. As you can see we're celebrating multiple different cultures at one time in one council meeting. I'm very fortunate in the fact, at least I feel very fortunate that I was born to a Greek-American family. I like other councilmembers up here, our families came from a different part of the world to raise their families, I'm very fortunate that my family did that and I'm here to make the fabric of our community so great. Today we have several people joining me. Behind me we have Mike, president of the Garden City chapter of the American Hellenic association, and Nick Preus lieutenant governor of district 1 Hepa organization, which covers San José, San Francisco and Monterey. March 25th is Greek Independence Day. It celebrates the end of an 11 year war that followed four centuries of oppression. And it is a day that is celebrated in Greece and in areas of the world where Greek Americans now reside. We all know that the Greek culture has left a very large footprint in the society. Our Greek ancestors have contributed so much to the society as a whole. The strength is grounded in the idea of academic discovery, the significance of the struggle for freedom that went on for years is very prevalent, can be found in many of the symbols of Greek life. In fact the Greek flag is -- has a white cross that symbolizes the Greek orthodox faith which is a central part of the culture. Has I'm sorry, blue stripes that talk about, the strength, the Aegean sea, and nine stripes that represent freedom. Tomorrow we're going to have a flag raising event at City Hall. We invite all of you to attend, we will be flying the Greek flag next to the American flag, we invite all of of you, Mr. Mayor, if you can present the proclamation. Councilman Pete, thank you so much. I think he said it all. Hepa is kind of the Greek version of the Shriners, if you want to know what we do. There is another festival that we have in town that I'd like to also take the opportunity to invite you to. And that's the first weekend of June, Greek festival right at the Alameda and 17, 1260 Davis street. The other community thing that hopefully I don't have to invite you to, but I just want you to know, we have, we've been recently approved by the Red Cross to be a disaster preparedness center for the City of San José. We do reach out to the community and we appreciate all that the city council has done for us. Thank you Pete Constant so much for your support. Thank you. [applause]

>> Mayor Reed: Now I'd like to invite representatives of the donate life California organization to join me at the podium. We're proclaiming March as donate life month in the San José, donate life California is a nonprofit organ and tissue registry, donating to thousands of Californians who are awaiting

transplants. Donate California allows you to express your commitment to become an organ eye and tissue donor. Please consider signing up to become a tissue donor next time you renew or apply for your driver's license. I think we have a proclamation.

>> On behalf of the California transplant donation network, I'd like to thank you, Mayor Reed for issuing this proclamation in celebration of national donor life month in the City of San José. Thank you. I'm donor parent and also a donate life ambassador at California transplant donor network. Our daughter, Kelly, was a donor. She donated five of her organs, and has saved actually five people. Kelly and I, on this day, in 2002, were in Tuscany planning her wedding. When we came home she and her fiancée went to Squaw Valley to get away for a weekend. They went skiing. We received a phone call that Kelly had been injured. We flew up to Reno where she was in the hospital. She was on life support, and we had to make that decision to take her off of life support, because there was no hope for her. Several times in Kelly's life she told me, "Mom, if anything ever happens to me I want to be an organ donor." Of course as a parent you look at your child and say, "Don't even go there. It's not going to happen." So it made our choice easy. We didn't have to make that choice. She made it for us. But being an RN I think would I have chosen also, I know I would have chosen that she be an organ donor. She has given life to five people, and several generations down the line. We're so very, very proud of her. In our eyes she's our hero. I ask that you all sign up. Think bit and the next time your driver's license need to be renewed why don't you sign up to be an organ donor. Give life to someone. And give -- make yourself a hero to someone. Thank you. [applause]

>> Mayor Reed: That was Phyllis Monroe who I neglected to introduce. I've already signed up. That's okay, I've done it. For the next item, I'd like to invite artists and representatives of support women artists now, to the podium. You already know that March is women's history month in San José, we proclaimed that last meeting. The last Saturday in March is women's history, last Saturday in women's history today, known as Swan Day, support women artists now day. To recognize the important contributions that women artists are making and have made in our community, to continue to support these artists so we can foster art, represents the true complexity, diversity of women's experiences. So we're going to proclaim March 28th as Swan Day in San José, and I have a proclamation.

>> Thank you very much. Well, thank you, Mayor Reed and city council. On behalf of Pat Johnson who wrote a great letter for this proclamation, but couldn't be here today, the Alameda artworks and myself, I'd like to thank the San José for their special recognition of Swan Day with so many other cities around the world. For those of you who are not familiar with Swan Day it stands for support women artists now. This is the second year of celebrating and honoring women artists who contribute to the aesthetics and inspiration in our communities. I would like to invite all of you to our event this Saturday celebrating women artists of Silicon Valley, and extend an invitation to all women artists to join with us, in collaboration of next year's event. Thank you. [applause]

>> Mayor Reed: Next item is the consent calendar. I have one request from the public to speak on the consent calendar, that is item 2.3. Any other requests to pull items off the consent calendar? Motion is to approve the consent calendar.

>> 2.3.

>> Mayor Reed: Motion is to approve the balance. All in favor, opposed, none opposed, that's approved. Item 2.3 is a recommendation to name a new plaza at Evergreen park. As the John J. Montgomery plaza. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just wanted to acknowledge the effort of my predecessor, supervisor Dave Cortese, formerly the vice mayor, to name the plaza in Evergreen park the John J. Montgomery plaza. John Montgomery is a famed aviator who took several test flights in his glider near this site in Evergreen. He's credited with taking the first manned controlled heavier than air flight in the United States. We're very proud that he did this in district 8 in San José and I'm just proud to continue my predecessor's efforts in recognizing Mr. Montgomery's place in aviation history. I think we've got a resident who's going to come up and speak.

>> Mayor Reed: That's probably Gordon Lund. I have a card from Gordon. Please come on down.

>> I'm Gordon Lund. I'm a resident of Evergreen and I have Vicky Atherton here with me, she is a former director at the library, Evergreen Valley College, and she is now associated with the board of the California History Society. We were both on the committee for public art for the selection of the artist and the design of the current installation at this location. We think Montgomery is such an important symbol of the entrepreneurship and creativity that this valley is so proud to brag about, that we think anything you can do to celebrate and recognize this gentleman is very appropriate. I wanted to add to that, that

Montgomery died in 1911, Halloween, October 31st. It's almost 100 years now. It is certainly an event that I think should be celebrated. He died in his last flight of a fixed aircraft by having crashed, which his head connected with a stove bolt. And that's what killed him. But it represents to me an example of what a garage shop sort of a thing this was. It's so typical of what happens in this valley, from a location like that in -- with stove bolts, you create a whole industry of aviation that's very important. Thank you.

>> Mayor Reed: Thank you very much. Okay. That concludes the public testimony. Councilmember Herrera. Do you want to make the motion?

>> Councilmember Herrera: Yes, motion to approve.

>> Mayor Reed: Motion is to approve.

>> Councilmember Herrera: The recommendation of naming this J. Montgomery plaza.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. I'm going to take up the item 5.4 at this time, shortly after 2:00 and that is the Cesar Chavez memorial walkway designation. I'm very happy to bring this to the council with a recommendation to designate this memorial walkway. I grew up in farming country out in Kansas. And I spent some time working in the fields, so I was an admirer of Cesar Chavez, when I was young. I always figured anybody who could get rid of the short-handled hoe was a saint. And it's just one of the many things that Cesar was able to accomplish. When I moved to San José I began to learn much more about Cesar Chavez, the man and about his family. And a couple of years ago, I was honored to participate in a group trip, a pilgrimage to La Paz where I got to spend some more time with the family, a group of people, many of whom had known Cesar when he was work here in San José. One of the things that came out of that trip was the formation of a mayor's committee to honor Cesar Chavez, because I thought there were more things that we could do here in San José, because Cesar is really one of our home town heros that really made it big worldwide, and we ought to do more to honor his memory. So I asked a few people to join that committee. Some of them are here today. Might want to introduce all of them. Reverend Deconsal Alvarez. I saw him here earlier, I think he'll speak in a minute. Rudy Chavez Medina, former mayor Susan Hammer, we have been working on a series of ideas to try to honor Cesar Chavez. And one of those ideas that we're taking up today and that is to designate a memorial walkway. But before we get into that I do want to introduce some of the Chavez family members who have joined us today, members of the family and from Chavez family vision, board members, that is Rita Chavez Medina, if you could wave Rita or stand. Cesar's sister, Rederanda, Cesar's son-in-law, rudie's wife Gloria their son Gabriel and nephew Daniel and Abraham Arranda, we really welcome you today. What I'm recommending the council do is to designate this walkway and improve the signage for it. As we sought ways to honor Cesar Chavez, it became clear that it's not just about honoring Cesar Chavez, an important historical figure, Cesar Chavez is not about the past, the past is important, the future is important. But it's about our kids, when we look at the kids in our community today, the kinds of role models that they look up to, it's often people that are famous for having done infamous things. Where Cesar Chavez represents an important message I hope all of us can take to heart, honor in justice and work about the future, this memorial walkway is based on history. But it is in hopes of catching the attention of the next generation, so that they can learn something about Cesar Chavez and to honor his memory with how they carry out their lives. So what I would like to do is show a couple of things. First is the route, that I'm recommending we had a series of community meetings with a range of possible routes, this is one that came out of that discussion with the community. It began at Plaza de Cesar Chavez, San Carlos street on to the San Jose State university campus, Massachusetts the arch of dignity equality and justice, which is a great thing San Jose State has done for our community, go through to 9th street to East Santa Clara street, continue on East Santa Clara street as it turns into Alum Rock, it makes a right hand turn at Sharf Avenue and goes past the place where Cesar used to live. Turn left on San Antonio street, past our lady of Guadalupe church, I can't tell you how important that is to Cesar and the movement but that's for another day. Past the Cesar Chavez elementary school. Up King Street to Alum Rock, and to the location of the very first grape boycott. Certainly a very important place for the history of the farm workers, Cesar Chavez in this country. The best of all ideas seems to work very well. But we also need to have some signage. You may have noticed around San José and other places, historic signs for the Juan Bautista de Anza trail, marked throughout the state. We have sort of the same concept with this sign, community thought was the best version of many alternatives of signs that will mark the route. Today is not a day to worry about how to pay for it. It's not a budget decision. It's really the designation of the sign. And we still have to get permission to hang it in a couple of places like on the state highway, Alum Rock. But we want to get the sign designated. This is the one that the community thought was the best at the three communities that were held in January and March. I'm going to speak

about those community meetings a little bit because the committee thought it would be better to go to the community first, before coming to the council. Rather than having us launch this at the council, and then the community try to catch up with what we're doing. So we did outreach with the help of the Chavez family visions, the community honored Cesar Chavez through Latino and community based organizations, my office and districts 3 and 5 with Councilmember Liccardo and Campos helping us with their newsletters and community organizations. Through January and March, a couple at the Mayfair community center, lots of people attended, Spanish speaking moderators, opportunity for bilingual comment, what it is we should actually do. For those who didn't have the opportunity to attend, we had conversations through e-mail, each built upon the ideas of previous meetings. Got a lot of input, the route and the sign results that you see were changed at each of these meetings as we went through the process and I think they very well reflect public comments and concerns. We met with a lot of people. Of course, you can't reach everybody but we believe that as people see this, beginning to unfold, what they do is they get excited and start thinking of more things to do. Because there are many more ideas about what we can do about this memorial walkway once we get it designated and begin to build on it. That's phase 2, and phase 3. Phase 1, designate the route, identify the signage and then we build on that. Because there are some great ideas out in the community how to honor Cesar Chavez and tie him in to the community with other historic events and places. So that is the proposal. And if the council approves it, I think we'll have the unveiling part of the actual sign this weekend, as part of the march that we have annually for Cesar Chavez. For that, I'll open up for council comments. I do have requests to speak from the public, but I'll open it up to the council first, unless you want to wait for the public first. I think we'll wait, Rudy Chavez Medina, deacon Alvarez and Elsie Arranda. My bad eyes get those confused at times.

>> Good afternoon, mayor, councilmembers, I'm Rudy Chavez Medina, president of the Cesar Chavez vision. Look with my mom and my family members we're here to support this proposal because besides everything that the mayor has said, we believe that it's a way to memorialize and to keep the memory of Cesar Chavez and his values alive. And it's not just a one-day event. It's not just a one-time action. This action, if you do pass it, will keep this memorial walkway, memorial walkway in place, in San José. One of the things that I've always strived for since we developed our nonprofit was to let people know how significant the City of San José is to the movement to Cesar's legacy, and everything that he accomplished all started here in San José. And that's why we believe and we support this recommendation. And we will also, and I believe the mayor and I had a discussion, and I agree with him 100 first. Cesar was humble. Let's keep it simple. Let's get the path, let's get the route, let's get the signage and we can build on all our technology and everything else in our later phases. But I think keeping it simple is the way Cesar would want it. That's the way we would want it, also. Not to bribe you or anything. But I want to present to all the councilmembers the City Attorney and the City Manager, one ever our flags. This Saturday is going to be the inaugural memorial walk. And this flag is going to be one of the things that we're going to be giving to every single paid participant. Although everybody can participate, you don't have to pay but if you're a registered participant, you're going to receive one of these flags. I want you to be one of the first individuals to have one, and we hope you'll be there on Saturday also.

>> Mayor Reed: If you will give the flags to the clerk when you've done.

>> Yes. Thank you very much for all the support we got from Councilmember Liccardo, Councilmember Campos, Councilmember Kalra, Councilmember Nguyen and all of you, Pete, you too, have been awesome, you too Kansen. I could go on and on. Thank you very much, I know my time is up. Welcome Councilmember Herrera.

>> Mayor Reed: Sal Alvarez.

>> Mayor, members of the Chavez family, councilmembers, it is an honor for me to be here today, 16 years after Cesar passed to represent the mayor's committee to honor Cesar Chavez. As the mayor indicated, there's a number of things that the committee has been active in taking the initiative on. First, the organizing of the pilgrimage. And the solidarity that the mayor and the Vice Mayor made, with Arturo Rodriguez, the president of the farm workers because the struggle continues. And most recently, the secretary of labor, Hilda Solis, we were able to stop the importation of guest workers that were displacing the workers from Salinas. The big eagle that Richard Chavez designed way back, we're grateful for your support, mayor, in that effort, and then now this walkway, which will memorialize the historical sites. This Saturday I attended the memorial service for Renaldo Florez. He made his Cassilo in 1963. His spiritual path changed enormously after that Cassilo. Lastly, I want to say this walkway will put into place then

something that the city council, the mayor, can take to a larger level. Last year, congresswoman Hilda Solis had a bill that would actually do a study on a memorial trail for Chavez, similar to the Martin Luther King trail. And our committee will be coming back to the council with a resolution urging that secretary of the interior, Ken Salisad, actually include in that study the City of San José. We're asking the bishop of San José to do the same. It's very important that in that historical trail that what Mr. Medina said representing the Chavez visions is held. So I indicated that at one of the community meetings. Those community meetings took place because the committee met with the mayor and Mon Signor, and ten of the churches are very happy these are happening. They're delighted because not only was it the student movement, the church movement that played such a significant role in bringing about a successful unionization of farm workers led by Cesar Chavez. So I congratulate the council, the mayor and members of the city council that have brought forth this recommendation, and with that, we are in support.

>> Mayor Reed: Thank you. Elsie Arranda.

>> Hello, I need to applaud mayor read, Councilmember Campos, Councilmember Constant, Councilmember Liccardo, and the rest of this board, for the support in the proactive steps that you've taken to make a long-awaited dream for so many just a reality. That we've got the history every site on there, going to remind the younger generations why that site is important, exactly what it means. To be able to again reiterate what Mayor Reed said, he needs to be a beacon for our kids. Because if nothing else he came out with a cry of si se puede. Thank you very much.

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

>> Councilmember Liccardo: Thank you, mayor. I just wanted to thank Rudy Chavez Medina and deacon Sal Alvarez for making this happen. It's wonderful to have members of the Chavez Medina family here. As deacon reminded us, the widespread support of the churches nearby was really important, and the community support and effort. I want to thank the mayor for his leadership making this happen. I'll defer to Councilmember Campos on the motion but I want to express my strong support.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, Councilmember Liccardo. I'd like to move the memo that the council for the council to consider voting on, mayor Chuck Reed, myself, Councilmember Liccardo put before you, embedded in the spirit of the memo that we move forward. I'd like to get a second.

>> Mayor Reed: There is a second on your motion.

>> Councilmember Campos: I'd like to speak further on this item.

>> Mayor Reed: Please.

>> Councilmember Campos: I think Cesar Chavez touched us differently, whether it's community service, whether it's being a leader of a neighborhood association, whether it's just lending a helping hand to someone that is in need. And I think more than ever we see a lot of his teachings now in the hard times that we're dealing with, whether it's serving others, whether it's nonviolence, whether it's making sure that social justice is respected in the city in which we live. I think for me as an individual, and for my family, my father had an opportunity, and I say an opportunity because I think it was a real opportunity for him, and he looks at it as an honor, to be able to organize with Cesar Chavez in the late '60s, early '70s. And I think for me, I saw it as an opportunity to be able to learn these teachings as a young child. And I have carried them to the work that I do today. And so for me, this is a real joyous time to be on the council, to be able to cast my vote for this memorial walkway and to be able to say that I was a part of something that was so important to my family, and to be able to be a part of that, I think is one of the greatest accomplishments that I'll be able to take with me as an elected. Cesar was a very humble man. And I'll always remember, and there are many stories but I'll always remember this one story that my mom said to me, when Cesar was visiting them in their home in Minnesota when they lived there for a short time. You know, he was such a simple man that she called me and she says, "what am I going to serve him for dinner?" And I said, "Mom, I think whatever you choose he would be very grateful that you even opened your home to him." That's the type of man he was. He wasn't into fancy things, wasn't into people fussing over him. He was just grateful that people opened their hearts to him and their home. And I think I'll remember the various stories that my parents share with me about Cesar Chavez and also Rita Medina who shares those stories with us as community. So mayor and my colleagues, I ask that you support this and it is a great pleasure to be a part of this vote today.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Oh, I just want to lend my thanks also to the Chavez-Medina family, to Sal Alvarez, for the mayor and for Councilmember Liccardo and Councilmember Campos bringing this forward. As a member of the council, growing up in East San José be very proud to vote on this today. I

think we should recognize, we should be proud to recognize Cesar Chavez's connection to San José, his great legacy, and the struggle for social justice is something we should carry those goals forward, as well. Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, I wanted to chime in and thank Mayor Reed and my colleagues who are bringing this initiative forward. I too was a former farm worker, I grew up and worked in the fields of the central valley for a very long time, until I went to college. When I was at U.C. Santa Cruz, I worked for the United farm workers more than I attended college, which I won't recommend the college student to do. I believe Cesar Chavez is a hero for all migrant farm workers. Including me. He symbolizes a beacon of hope. Many years ago I was a little kid working in the fields and now I am an elected official who is making decisions that affect policies and working families. That's who he was for many generations of young people. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I just wanted to say, add my thanks to everybody else. And I'm just happy that I get to have a very small part in this, being on this council. And Rudy, I want to thank you for bringing the flags. Unfortunately I won't be able to join you this weekend because I'll be at that time Greek event this weekend which you learned about earlier. But it's just wonderful. Again, I just want to emphasize how great it is in San José because we have all these different cultures and we get to learn about each other and our cultures and we get to weave it all together and make San José such a great place. And who would have thought, Rudy, when we met, I don't know, four, five years ago that we would be sitting here doing this. Thank you.

>> Councilmember Pyle: First time I heard about Cesar Chavez, which wasn't part of history in upstate New York, I cried. I thought, what an extraordinary human being. He would be very, very happy with this walkway for several reasons. Number one, it incorporates history, he played a part of that history. As was mentioned he is a very humble man. But I would think he would want the legacy of that history to be carried on to younger people. He was a teacher in so many ways. Also, he would appreciate the fact that it's a very helpful thing to do. To get out and walk and get into the fresh air. He'd be very impressed by the fact that we're not talking about any carbon emissions, we're doing great things for the environment, and for my own personal view, there are heroes among us. And any way that we can honor and remember them is a great thing. So I really appreciate all the work that went into this. And congratulate ought of you. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, Mayor Reed. I just wanted to give the Chavez and Medina families a big thank you, for giving us the privilege of honoring this great man, who played a great role in my decision to dedicate my life to public service. I think the objectives, all of which are great objectives and Rudy as you mentioned to finally have something that's there, that is tangible and I think it's so important to have that, and the first objective paying tribute to the nonviolence and civil rights teachings of Cesar Chavez, I think that's probably the most important objective. Not just paying tribute but extending that knowledge to our youth right now. We have so much poverty, we have so much violence amongst our youth that any time would be a good time to honor this man, to honor Cesar Chavez. But if we had to pick a time I think right now is a pretty good one to do that. And to extend the teachings regarding civil disobedience, nonviolent noncooperation, to respect the value of work and of those who do the work and respect the humanity of every person. I want to thank you for even allowing me to be part of this. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just want to also add my thanks to the mayor, Nora Campos and councilmember Sam Liccardo, as well as the Chavez family, to make it possible that we dedicate a memorial walkway in honor of his contribution to our community. Thank you.

>> Mayor Reed: Thank you. Before we vote I want to remind everybody that Tuesday, the 31st is Cesar Chavez holiday in San José. And you can celebrate that and commemorate that by marching on Saturday. The march Rudy outlined or a breakfast on Tuesday at the Mayfair community center. We welcome everybody to participate in those celebrations. With that we have a motion to approve, as made by Councilmember Campos. All in favor? Opposed? None opposed, that's approved. Congratulations and thank you all for your help. [applause] now I'll go back in numbers, anyway on the agenda, item 3.1, report of the City Manager.

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

>> Mayor Reed: Item 3.2, report of Rules and Open Government for March 4th. Have a motion and second. Councilmember Liccardo, to approve. All in favor, opposed, none opposed, that's approved. Item 3.4, settlement of card room litigation. Before we get started I just want to disclose I have met with a host of people on this in preparation of this meeting or my staff has. Michelle Lew, Patricia Gardner, Olivia Sosa Mendiola, (saying names) all talking about the role the nonprofits might play in this. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just had a few questions. I don't know if there was a staff presentation first. If you would like to --

>> City Attorney Doyle: Let me summarize what's on the table. This represents certain closing or potential closure of seven years of litigation, seven-plus years. And the recommended item before you today is authorizing the City Attorney to execute the settlement agreement which has been provided to you in your packets and been online for more than ten days. Approve an ordinance revising title 18, gaming regulations, approve a resolution of the council initiating proceedings, under title 20 to look at revisions to allow relocation of card rooms that will initiate a process that will go back to the Planning Department, and they will carry through the Planning Commission ultimately to come back to council with recommendations and item D is a resolution which amends the schedule of fees to set the fee for -- table fees at the fiscal '08-'09 level. And then we are here, my staff and Richard Tangman are here to answer any questions.

>> Mayor Reed: Let me just add a couple of things. I think maybe Councilmember Campos and I were here when this got started. This has been in litigation for the whole time I've been in office, pretty much. And I'm very pleased to see that we're bringing this to an end. I think it's important to note that the card clubs have put on the table for us as part of the settlement an effort on their part to do a couple of things that are really important. First is to help fund services for people who are victims of gambling and the ills associated with gambling, the families and our community in ways that have never been done before. I think that's a very important step. And also, to take upon themselves to control problem gamblers, to limit their time in the club, another important step at trying to deal with the problems of gambling. Gambling and card clubs of course are legal. There's a great deal of gambling in California in lots of other ways. But there are some problems associated with it. And I'm really pleased to see the structure that the staff and the card clubs were able to put together to resolve this litigation that helps us deal with the problems that are associated with gambling, and I'm hopeful that we'll be able to get this resolved. There's still some more work to be done. It will be back to the council for some additional action. But I think this settlement offers a great deal of optimism for dealing with the problems associated with gambling and an end of an era of litigation. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. And I know there's not a motion on the floor at this point. So I'd like to go ahead and put a motion on the floor and include our memo that the mayor, Vice Mayor Judy Chirco and myself, signed. And I don't know if --

>> Councilmember Constant: I'll second it.

>> Councilmember Campos: Thank you.

>> Mayor Reed: We have a motion to approve the settlement of the card club litigation with the additional recommendations at outlined in the memo.

>> Councilmember Campos: Correct, thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I certainly appreciate the need to move on and move beyond this litigation, so I will support the motion. And I certainly appreciate the additional funds that are being made available to critical service providers in our nonprofit community. I wanted to focus though for a moment on the relocation issues that are spelled out in the proposed -- it would be 3.4C, the proposed resolution, and specifically pages 13 through 15. I know I asked some of these questions in private, and I wanted to make sure we were all clear in public about the meaning of some of these presumptions that are embedded in this document, and specifically in paragraph E. I guess I'm concerned about the council has discretion to fully decide if and where card rooms should relocate. In paragraph E, it states that the -- that the fact that this is a card room or making the application or title 16, the mere fact of its status as a card room use does not adversely affect the -- will not adversely -- we are to make a proclamation that it will not affect the peace or welfare of the people working in the surrounding area nor impair the value of the others that are located in the vicinity of the site or be detrimental to the health safety or welfare. That's certainly a -- if that presumption were stated to conclusion, it would be far from obvious, and in fact many

of us would take issue with that. I wonder if the council's hands are tied in any way, in relocation, given this presumption.

>> City Attorney Doyle: Councilmember Liccardo, I'm going to ask Nora Freeman who has done most of the work in the settlement discussions, to speak on this, only to add that it's the council's decision to adopt any ordinance, that is absolutely within your legislative duties. I'm going to let Nora continue.

>> Good afternoon. The same paragraph decides that all of the decisions that goes into a zoning decision, all the criteria are still in place. So is it a good location, the parking decisions, the location itself, whether or not it's located too close to a residential area, churches, those kinds of things, all those remain in place. And the concern that, when this language was drafted, both with planning and the planning attorney in our office, what they were attempting to do is not have the fact that it's a card room, just that fact in and of itself disqualify it from the particular zoning that's been designated. So that's the purpose for that language.

>> Councilmember Liccardo: Thank you, Nora, for the explanation. I just wanted to make sure that council continues to have, if this passes its existing discretion over land use.

>> That's the intent and we believe that's what it accomplishes.

>> Councilmember Liccardo: Okay, great, thank you. The second question I had related to --

>> City Attorney Doyle: The second thing I want to add, you have discretion, if you adopt the ordinance allowing for relocation, the first issue will be that the council once it gets through the Planning Commission process needs to adopt the changes. If they don't, then again, that's your discretion but then the card rooms have the right to walk from the agreement. If and when any card room decides to apply for a relocation, the criteria set forth in whatever ordinance is adopted will be what is applied.

>> Councilmember Liccardo: Thank you, Rick. And I appreciate, I just wanted to make sure we're not headed down a path where we're tying our hands in a area where we'll regret later. The answer is I assume that we're not. The second question related to paragraph B on the prior page, I believe it's page 14, in addition to the zoning districts in which a relocated card room may be conditionally permitted, a relocated card room may be loud in a planned development rezoning district. My question is, if you look at the interrelationship between that paragraph and the prior paragraph, paragraph A, does that mean that if you have a planned development permit, then you can ignore the proximity restrictions that are outlined in paragraph A-1 relating to keeping card rooms, card rooms can't be located closer than 150 feet to residence or 500 feet to a school, et cetera. Is that an exception or loophole of some kind?

>> Again, that was not the intent and I don't think they're meant to be inconsistent. The distances are meant to apply to any type of zoning.

>> Councilmember Liccardo: Okay, regardless of how the -- thank you.

>> City Attorney Doyle: And I'd note when you do a PD zoning you have a lot greater flexibility in what additional restriction you want to impose.

>> Councilmember Liccardo: Thank you, Rick. I wanted to make sure we weren't again eliminating restrictions if our intent was to keep them. Thank you very much.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Just a question, Richard, one of the proposed amends to title 16 is the prohibition of individuals patronizing the card rooms for more than 20 hours. Can you just talk to us a little bit about how we monitor that and also follow up to that question, how do we know an individual who doesn't spend 20 hours at Bay 101 and then go over to Garden City and spend the next ten hours? How do we monitor that?

>> Good afternoon, mayor, councilmembers, Rich Tang, division of gaming. To answer, Councilmember Nguyen, to monitor someone in the card room, we heavily rely on the card room itself reporting system. Just like any other internal controls in place, there is no such thing as a fail-safe system. The best thing we could hope for is for the card rooms themselves to comply. Much like the federal government where they would require all the financial institutions to report any and all cash transaction that are greater than \$3,000 to be logged and anything greater than \$10,000 to be reported in a cash transfer, cash transaction reporting. Taking that spirit from working for the Nevada gaming control board, the card rooms and I have come up with a system what they call the 10, 16 and 20 rule. That is at the end of the 10th hour, the card rooms first of all work on three different shifts, day shift, swing shift and graveyard shift. So for each shift there's a person who's dedicated as the observe the player coordinator if you will. And this is a person who is in charge of the entire shift. And we're going to hold that person responsible for any and all activities that are occurring in the card room. And so this person is -- one of his responsibilities would be to ensure that people do not gamble more than the 20 hours, as we all

know. But how do you keep track of that? Well, at the end, sometime into the first or the first and a half shift, the first half hour, the card room would have to require a players log. You would put down the description of the patron, approximate height, weight, clothing, and what game this person was playing on. And then at the end of the 16th hour, someone from the card room would have to approach patron and advise the patron that he or she is getting very close to the 20th hour. At the beginning of the 19th hour, and into the 20th hour, the person is going to be either, one, voluntarily leave, or two, be subject to arrest or cited for trespass. I headed several meetings with the card room, and particularly with bay 101. I'm sure Garden City is also on board with this one as well. And that is, when someone on the casino floor is monitoring a player, again it goes to 10, 16 and 20-hour scenario. Someone from surveillance would have to start keeping track of those activities as well. So we as regulators, okay, we would go to the casino and we would look at those logs and we're going to make sure that at the 16th hour, the person who has been on the casino floor, where they're not playing, some communication has to be made between the casino floor person and the surveillance people. Because this gets very technical, but at the end of the day, it's this. If one person is barred, either voluntarily or involuntarily, that same person cannot go to the second card room and gamble for those four hours. And there's a regulation that we put together and that would require an industry-wide borrowing requirement. And that is if Richard were to be at Bay 101 for, say, 20 hours and I was barred for 20 hours, Richard could not go to Garden City, because there are communications made, as required, will be notified of that as well.

>> Councilmember Nguyen: And the staff who are monitoring the players' time, I would assume that the staff from the card rooms, not necessary staff from PD?

>> That's right. We're going to rely most of those activities by the card rooms. But then again, we are going to do sample testing on a daily basis. We'll make sure those things are being done.

>> Councilmember Nguyen: Thank you. I just wanted to make a few comments. I really want to commend the office of the City Attorney as well as the card rooms for reaching a settlement. In my opinion, this not only serves the entities but the public as well. Nobody wants to go on with this litigation since we've been at it for so many years. But at the same time, I want to make sure that the enforcement of title 18 is greatly monitored. Unfortunately the Asian-American community, we have seen a lot of families being broken because of gambling addiction, gambling problems. I'm leary to see that they're willing to contribute funding to make sure that gambling problems can somehow be -- that we're going to help with folks who have a gambling addiction solve their problems. I want to make sure that the City Manager and groups reach out to organizations that cater to ethnic groups, organizations like AKI, I think they play some a tremendous role in terms of reaching out to these families and I hope we can include them as we begin our outreach process. Thank you.

>> Mayor Reed: We do have some cards from the public that people want to speak. I think there is somebody from AACI who will speak soon. Councilmember Chu.

>> Councilmember Chu: Thank you Mayor, I also wanted to echo Councilmember Nguyen's comment. Healthy Neighborhood Venture Fund, Councilmember Campos and to make sure that the settlement money, a good portion of or percentage of it, a great percentage of it will go through the Asian American community, and to go through the culturally competent service. And I want to also emphasize, on those treatment of the problem gambling. Thank you.

>> Mayor Reed: We'll take the public testimony at this time. Please come on down when I call your name so you're close to the microphone. Patricia Gardner.

>> Thank you mayor and council, we're pleased to be here. We really want to thank the city for looking for funding to mitigate the problems associated with gambling. We want to just make a few points today and a few of our agencies are here. We want to really extend the network that the council has, to talk about the gambling issues with the city. Many of our agencies have had experience with this, some of us actually went to one of the card rooms today. And we saw beyond the healthy neighborhood current guidelines of seniors and youth, there was a lot of working people there. So we want to make sure that that target population includes those people that are really being impacted by gambling and the addiction of gambling. We want to really encourage the city to have a fair and equitable process related to this funding, to keep this funding separate than any other HNVF funding, and to look at ways that we can use these fundings that create ways that the city doesn't have as much oversight, larger grants amounts, collaborations, other ways that the city can use these funds. It's a unique process that you've developed here where the funding is going to be overseen by the city but directly funded to the agency. So we're interested to see how that will unfold and we're excited to work with you on that. And maybe you can give United States some more information about how that process is going to work. Thank you very much.

>> Mayor Reed: Thank you. Dennis Scovall Scutmar, then Michael Pritchard.

>> My name is Matt, speaking for the Silicon Valley council of nonprofits. Gambling is an addiction, addiction is a prime cause of homelessness. One thing we've noticed lately in our homeless shelters, we have people who have a little bit of income. Not just people who don't have any jobs, no income, they actually have some money in their pockets. The way I see it is these people are particularly vulnerable to the pitfalls of gambling. You know, you have a little bit of cash, you may have lost your job, you may have lost your home. And you might be looking for a quick fix. And you know, this is a good way of maybe chasing that. The problem is, they're almost assured of digging themselves into a deeper hole. So I hope that you approve this measure, and thank you very much.

>> Mayor Reed: Scott Marr, Michael Prichard, Michelle Lou.

>> I'm Scott Marer. I'm here to ask you to please use some of the card room settlement funds to help the victim victims of gambling addiction address legal issues that arise from their debts. One of the consequences of household gambling is debt. Credit cards and other loans, including home equity loans to finance their gambling addiction. And the legal problems that result, I'll refer to as Mr. A, Mr. A was a young Vietnamese immigrant and San José resident that was exposed to gambling when he was hired by one of the card room. He fell into the gambling are trap, proceeded to lose everything he had, took out one loan after another from various credit card companies to get back what he lost. He hoped his luck would change, it never did and finally he did come to grips with his addiction. He quit gamble, quit his job, he took a low wage job but he realized he could never hope to pay off the large amount of debt he had run up. He came to the law center with advice, we provided him a list of private attorneys who would do the bankruptcy. He attempted to go through the bankruptcy process on his own. Predictably he was targeted by some of the creditors, he was pressured to receive pressure to reaffirm debts that would be dischargeable in bankruptcy. Fortunately in his particular case with some assistance he was able to get that fresh start. The bankruptcy system is --

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

>> All right, thank you.

>> Mayor Reed: Michael Pritchard, Michelle Lew and Michael Calvin.

>> Good afternoon and thank you for the opportunity to speak before you. My name is Michael Pritchard, executive director for pathway society, we provide city and county wide substance abuse services. You have heard the phrase a rose is a rose is a rose, in our field, addiction is addiction is addiction. Gambling is a powerful drug that left untreated can be an out of control addiction. Substance abuse chase that rush, gambling addicts face that rush. One more hand, one more game, it's the same. Societal acceptance in gambling rather than substance abuse. We need look no further in what's going on this month, March madness, billions and billions are lost over the course of this month. We look at online poker that are affecting the colleges across our nations, people are flunking out, using methamphetamine to stay up all night to recover their losses. Left untreated, gambling addictions can lead to other addictions. A treatment counselor clean for six or seven years had gambling problems, we had to fire him because he was dealing from the agency. We have crime to pay for, losses of the gambling, you have mental health problems, potential depression, possibly suicide. This is not even include the collateral damages to families that gambling addiction causes. Prevention, intervention, treatment and after care. Thank you.

>> Mayor Reed: Michelle Lew, Len Cao and Ross Signorino.

>> Good afternoon, my name is Michelle Lew and I'm the president and CEO of Asian Americans for community involvement, AACI. Among our staff of 140, we have over 40 counselors who specialize in mental health services and addictions. Individuals and families of all backgrounds are not immune to the issues of card room gambling. However as you develop your framework for administering the charitable contribution funds, we do hope that you remember that K A, Asian Americans are the predominant clientele at the two client card clubs. I want to thank Councilmember Chu for his leadership a year ago when this topic came up. As my colleague Patricia Gardner mentioned, we hope when you develop the framework for the charitable contributions, the target of populations of seniors and youth. If you go into either of the two card clubs, you'll see college students, work adults, nonworking adults. And as Councilmember Nguyen pointed out, card room gambling often affects entire families and we need treatment services that address the entire family. In closing I hope that the city will not hesitate to call upon AACI or any of our nonprofit colleagues here today. We have dozens of years of fees when it comes to card room gambling services. A similar summit we hope to do right here in San José and we'll follow up with more information to your offices. Finally I want to give a letter to the City Clerk which summarizes me comments here today, and thank you again for listening.

>> Mayor Reed: Len Kao and then Ross Signorino.

>> My fame is Lee Ann Kao and I'm the associate director for ACI in San José. My Vietnamese hairdresser is very talented. She's in her early '40s. She recently lost her house, her marriage and custody of her three boys due to gambling addiction. It started when she had her first son. She felt totally ashamed and depressed. She started gambling, a pastime that is socially acceptable in our culture. She has not been able to stop since. I see her every six weeks. I talk to her but she needs intensive treatment. She speaks English but she needs culturally competent services. Females are very aggressive, they organize free transportation, you see daily bus loads of Asian American seniors, they give targeting directly the Asian community. Casinos cater to Asian customers. As you have heard from Michelle, problem gambling in the Asian American is three times higher than to generate population. A UCLA regional research shows that up to half of Asian Americans are problem gamblers, also meet the criteria for pathological gambling. A San José metro article estimated that Vietnamese and Chinese Vietnamese comprise from 50 to 70% of card room patrons. You can see it is much higher we need direct services to our communities. We need for the funds to be deregulated directly to our -- the services that we need, and we need an allocation plan and decision plan that is at least management intensive and the least costly so that the majority of funds and the resources can go directly to our clients and our communities. Thank you.

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

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. For eight years, mayor Gonzales was trying all he could to shut down the card clubs. And many of the reasons he was trying shut them down, you just heard testimony in that regard. The Vietnamese community, how it's been hurt, and so on. And FBI report was that when bay 101 opened up, crime rate within a mile radius of there, went up. That means that was a report that lawlessness is around the casinos or card clubs. And that means that our police force has to be stretched even further, because of that. And we talk about how budget is affecting them and so on, and one thing, too, Councilmember Chu sometime back said that he had a report showing that it cost us more, for us, the city, in litigation, bringing people to trial and costly law enforcement because of what we were gaining out of the card clubs financially. I asked Councilmember Chu for this report twice, and I called his office. I never got the report, so I don't know. But I take his word for it in that regard. And it's been proven over that they are not cost efficient for the cities. But nonetheless, you could argue, or they would go up the peninsula someplace else. And that is true, gamblers will do that. But at the same time, we have to understand what we're doing when we say it's okay legalizing right now, whatever legal agreement you came to with them is too complicated for my mind to understand. But nonetheless you should understand too that when you say police should do this and patrol here and there, they also have to patrol these card clubs at the same time. Thank you.

>> Mayor Reed: That concludes the public testimony. I'll bring it back for additional council comments. I would say I agree with several speakers who talked about the need to have a culturally competent program. We have to reach the people with the problems and that means we have to be specific with how we do that. The memo that Councilmember Campos and Chirco and I have authored which is the basis of the motion does not contemplate that it's just for seniors and youth, we expect the HNVF committee to figure out where the money needs to go in order to solve the problems that need to be solved and so it's intended to be broad enough to deal with the problems that we have. The good thing is we'll have a funding source study, dedicated funding source to deal with this and that will make it possible to deal with the problems that people have outlined so I would urge my colleagues to support the motion. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I also wanted to disclose that I met with Ed McGovern, just wanted to disclose that. First of all mayor, thank you for those additional comments addressing some of the speakers and Councilmember Chu and Councilmember Nguyen's concern about the Asian community. So Rick, I wanted to ask you, when you look at the memo that the mayor and Vice Mayor Chirco and I signed, it doesn't specifically say a particular population. Is bullet point No. 2 too narrow, do we need to add another sentence that says, "target the population in need," is this broad enough enough? I want to make sure that Healthy Neighborhood Venture Fund guidelines are very tight and I don't want to box us into a space where we can't address the concerns that are expressed by the public as well as my two colleagues.

>> City Attorney Doyle: No, I think -- I would prefer it to be broad only because I don't -- I think you have some legal issues if you make it a particular race or gender-based guideline. So I think what you need to - this is very good. We are going to be crafting something that will be outreach and as I read the memo,

it's to go back to the HNVF leadership committee. And so that is something that clearly, in the end, they're going to have to identify what they believe are the targeted communities that need the most help.

>> Councilmember Campos: Thank you. I think it's important for the speakers to be able to have that on record. Because when we go through the Healthy Neighborhood Venture Fund, there will be no gray area on where we can take the discussion. So thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I also had the opportunity to meet with Ed McGovern and the management of bay 101. I was satisfied in looking at the security systems they have as well as the expertise that we now have at the table with Mr. Tang which I really appreciate, I think it's really important that we have someone from the city side, to offer that expertise and help coordinate with the two different card clubs, particularly with some of the details not to be able to gamble beyond 20 hours at a time, that's going to be important. And I wanted to second the concerns that Patricia guard Gardner and Ms. Lew and Vice Mayor Chirco and Councilmember Campos which is a creative way to address the funding to make sure it goes the right place. And to ensure that the money here supplements rather than supplants existing HNVF funding. And the concern from Councilmember Nguyen and Chu are critically important as supported by some of the speakers as well, that we make sure the funds are targeting populations that are most disproportionately affected by problem gambling. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Yes, I just wanted to disclose I met with Ed McGovern and management from bay 101. I want to commend staff for getting this put together, have some good coming out of this for opportunity of nonprofits to focus in on treating the serious problems that we have with addiction to gambling. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. I did not meet with any of the gambling casinos and will be supporting the motion today and for good or for bad, this city receives \$13 million from these legal card clubs under state law, so you have to take it, in both situations, and you know, whether residents or nonresidents gamble at the card club in San José or they go at home and gamble on the Internet, the option there, it's individual choice. And with much sadness, many people have a gambling addiction, we've heard about the impact on people's lives, much the same like alcohol, much the same that that addiction ruins people's lives. As many people spoke about the evils of gambling, perhaps they should ban alcohol from their events, if gambling is addictive so is alcohol and very much hurting the families. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I'm not sure if we need to disclose these issues, I've had a card room in my district, Garden City. I've had numerous conversations, but none specifically related to this settlement agreement.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I would like to thank Nora and Richard in resolving this intractable litigation we had. This is going to benefit the city greatly and thanks for all your hard work.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: I wanted to disclose that I personally toured garden city and I want to thank the speakers this afternoon.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: I wanted to disclose I met with representatives from Garden City.

>> Mayor Reed: I think that concludes the council discussion. We have a motion put on the floor by Councilmember Campos. All in favor, opposed, none opposed, that's approved. That concludes that item. Item 3.5, we're not going to take up until after 4:00 p.m. Item 3 many 6 is a report of the rules and open government committee for February 18th. We have a motion to approve. All in favor, opposed, none opposed, that's approved. Item 3.7 is report of Rules and Open Government committee for February 25th. Motion to approve, all in favor, opposed? None opposed, that's approved. Item 4.1 is a report of the Community and Economic Development Committee special meeting from March 12th, Councilmember Pyle is the chair of that committee.

>> Councilmember Pyle: Thank you, mayor. I would just like to tell you that I think that we all learned a great deal from our gathering. I'm looking for my notes here. But since I can't find them immediately, I just want to congratulate Ed Shikada and his team, Jim Orbal and let's see, who am I missing? I'll think of it in a minute. They did a superb job. I want to thank Debra Figone for her part of this matter. I think we've

learned a whole lot, helping us make the transition anything from the budget that we deem should be outsourced, it sets up guidelines and dusts off our thinking in how it should go. So thank you. I move for approval of the item.

>> Mayor Reed: The item is just a report-back. And I think City Manager has some additional information, and Councilmember Kalra did you want to wait until after the City Manager does her report-back?

>> City Manager Figone: Thank you, mayor. Actually, I will turn it over to Ed Shikada, to turn it over to the council.

>> Councilmember Pyle: Thank you, Debra, the two names I didn't remember, Walter Rossmann and Sheila Tucker.

>> Ed Shikada: Ed Shikada. This is the verbal report-out, as your pleasure I'll just cover it again now.

>> Mayor Reed: Okay.

>> Ed Shikada: Chair Pyle and special thanks to the panel that we brought in. A panel of ten members of administrative perspectives. Staff is evaluating that input and attempting to organize those into major themes. And at the action of the committee, we'll be bringing back the issue for further discussion by the committee at its regular meeting at the end of April, April 27th. And at that point, or in preparation for that date, be getting back in touch with our stakeholders as we put our recommendations together. So with that, Mr. Mayor, that's our report.

>> Mayor Reed: Okay, thank you. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I wanted to first of all thank Ed Shikada, you did a terrific job in running that meeting. And especially with the diverse number of stakeholders we had, I thought I certainly got a lot out of it and thought it was effective. But I just wanted to note in regards to the update given here, that that reflects what occurred that day. I think it's a pretty good reflection of what occurred. I just wanted to note that it was my recollection that we did certainly as far as action, approve and -- or ask for the City Manager and staff to return to the Community and Economic Development Committee on April 27th for further discussion. We had further specificity in regard to option number 2, to see -- to have at least the City Manager's office look at how that may or may not be implemented, any challenges with that. And in addition to other issues and concerns that were raised during the course of the committee meeting. And chair Pyle, you can correct me if I'm wrong, but I recall that as being one of the more specific components of the action.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wanted to add a correction to the minutes on page 3, it should be, "she suggested creating an approved vendor list," not "approved."

>> Mayor Reed: I could also be approved, but it was improved.

>> Mayor Reed: Report back from the City Manager, I'm going to take any testimony on either one of those, since we are talking about both of them, I do have one request to speak, Lisa Jensen. Anybody else wish to speak on 4.1 or 4.6? 4.6 is city policies related to contracting for services. Same report.

>> Good afternoon Mayor Reed and council, I was here nearly four months ago to speak to this issue and I encourage you to move forward with it. If we assume this is an effective delivery of services, it helps is couple oget a good return on its investment. Particularly in this dire economic time. We've all watched with growing dismay the results of the national level of decisions that were made last year regarding investments that didn't have clearly defined standards and guidelines. This determined it made sense to implement such standards before we can look at new contracts as a cost-saving mechanism. There is no better time to implement a policy requiring a clear standard to ensure good investment on returns. We're fortunate to have a thoughtful and competent staff, I'm confident that they can put together a successful proposal. Like our City Manager, Debra Figone, is awas Pointed out art CED, we need the clearly defined measurable outcomes and standards which are inherent to any successful project. Thank you.

>> Mayor Reed: Thank you. That's all of the requests for testimony on this from the public. Councilmember Pyle would your motion include 4.1 and 4.6, and changes noted by Councilmember Herrera?

>> Councilmember Pyle: So moved.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed and thank you for Ed Shikada, the report of the meeting. The most it would have 19 steps and 93 weeks. And to add any additional steps to that would be interesting. So I'll look forward to when this comes back to CED a second time, but otherwise, everyone

needs to know that at home, that that's how long the process takes to do something of different delivery model in the city today.

>> Mayor Reed: Okay, we have a motion to accept the reports. All in favor? Opposed? None opposed. Those items are completed for now. The committee has got some more work to do. That moves us to item 4.3, recommendation to amend the agreements for the airport West property. We have a motion to approve. Paul Krutko is coming down in case there are any questions. I have one request from the public to speak on this. Does Paul feel compelled to make a presentation? No, he doesn't. Let's see what Don gagliardi has to say.

>> Good afternoon, mayor and councilmembers, I'm Don gagliardi, president of soccer Silicon Valley. An advocacy group for thousands of San José earthquakes fans. I know you're familiar with us and the San José earthquakes and what their value is to the City of San José. But for those of us in the audience and for those watching on TV, let me say that soccer is one thing that's very unique, I think, in bringing together the various multicultural communities here in San José. And also, building bridges with San José and the rest of the world. Every culture on this planet loves soccer. Every ethnic community in this city loves soccer and I know our group, on behalf of the fans of the San José earthquakes, we've worked with the Iranian American community, we've worked with the Latino community, we've even worked with the Assyrian community in holding our annual dinner last year. We've worked with the Greek community, with Pete at least. So soccer is extremely valuable, a great asset, the San José earthquakes are a great asset. And for those of you that have been on the council a while you'd know that San José earthquake fans have been known to come and fill this chambers, and we're all very grateful that we get to go to soccer games and we don't have to simply go to city council meetings. So thank you very much for your anticipated support. Thank you.

>> Mayor Reed: That concludes the public testimony, unless there's somebody who's got a card in that I don't have, which I don't think there are. That concludes the public testimony on this. We have a motion to approve the staff recommendation. Any further council discussion? All in favor? Opposed? None opposed, thank you. That's approved. Item 4.4, the city generated zone towing, and appeal. We have a recommendation from staff, and appeal part of the recommendation. This is sort of a combination, report on the request for proposals as well as the appeal. So what I think we'll do is hear the appeal first unless staff wants to do something else first.

>> Walter Rossmann: I would like to give a short presentation first Mr. Mayor and then hear the appeal.

>> Mayor Reed: We'll take up comments or questions after the appeal.

>> Walter Rossmann: And respond to the appeal as well.

>> Mayor Reed: Thank you.

>> Walter Rossmann: Good afternoon, honorable mayor and councilmembers. I'm Walter Rossmann. The city services the city currently contracts for and changes in the RFP process including the protest and the appeal which the mayor just mentioned. The agreement specific to tows which are actually of citizens that are requested by city staff, that includes the apartment for accident vehicle violations, the Department of Transportation for abandoned inoperable and illegally stored in the right-of-way, six towing zones, annually that generates about \$1.6 million in revenue which reflects about 24,000 tows. The current agreement is to expire at the end of this month and that's why we're here today to award new agreements for that type of service. If you look at a significant change to this contract in 2008, last year, the city did agree to or the council approved that the actual rate for towing would be adjusted or aligned with the California Highway Patrol rates. Additionally, in October 2008, the transportation and environment committee approved there is a flat security deposit for all zones, the GPS technology for two vehicles will be required and that the storage facility staffing hours will be aligned with the police order desk hours. What that means is whenever the police have open to issue authorization to pick up a towed car, that an hour before, an hour after the actual towing companies have to be open to serve the customers. The -- quickly the RFP milestones, we issued the RFP November 3rd. Eight companies responded to the RFP about a month later. A three-member evaluation team evaluated the written evaluation and in January 2009. Based on the site visits was disqualified because it did not meet the minimum qualifications. One thing that is important to notice is the site visits were an integral part of the process. Key to the protest and following appeal. Section 14.3 states, the proposed vehicle storage location will be visited by the evaluation team, for the purpose of verifying and site are present and accounted for. Based on the evaluation process which was concluded a written evaluation and site visit, what you see here are the six zones on the very left column and then the next column over the six proposers which we recommend for award today. At the bottom was extreme together, appellant today

and as you can see on the very right column of this table, they received the lowest score overall of all companies which proposed. I received history, make sure you see how we arrived at issuing results of the RFP process which happened on January 24th. January 29th as is customary for us, in request for briefing, staff met with extreme towing, briefed about the shortcomings of the proposal. Shortcomings were discussed, that the proposal didn't meet the rest of the evaluation, that the ingress and egress, the access actually to the towing yard was not sieve or in compliance with the RFP requirements and that the closed circuit television system did not function properly as intended by the RFP. Finally, there was a theft prevention reporting procedure which was not in -- within the guidance of the RFP and was not fully developed at this time. What happened on February 5th, we received a protest, I then spent the time reviewing the -- all the documentation of the evaluation team. I looked where the RFP was scored fairly and consistently and based on that I denied the protest. That's the close of the staff presentation at this time and allow the appellant to speak to the matter.

>> Mayor Reed: We will allow five minutes for appellant, I've got a card from Willard Alves who will speak on behalf of the applicant and then we'll come back for staff response and then we'll take up council discussion.

>> My name is Willard Alves and I want to thank you guys for the opportunity to speak today. We entered into this application process for a zone with the City of San José with the realization that most of the zones have not changed in 50 years. The vast majority of tow companies have passed from generation to generation all while keeping the zones they originally were awarded. City tow was passed from father to son, motor body was passed from father to son. Delta towing with family connections to motor body was passed from father to son. Courtesy towing was also passed from father to son. And has held its own since the early '70s. The owner of courtesy towing also owns the majority of mattsos towing. Another majority long term holder. These companies have been awarded the towing contracts, with no new companies able to prove themselves as equal or better towing companies. Though we scored fewer points shy of the competition we feel that the points that were subtracted were not deserved and with clarification our scores should have been superior to the competition. During the application process we were told that as long as things were in place by the start-date we would be given credit for them. Our public restroom is completed. Our surveillance system has always been up to the specifications required by the city. In addition we have modified our employee handbook to meet the format requested by the city, the material is always complete, just not in the format desired. Our facility is fully enclosed and has almost zero impact on the environment in the neighborhood. There is no chance of groundwater contamination. We pride ourselves in having excellent customer service and extremely high standards for our employees, all of which was noted by the city and scored highly on our inspection. Part of the difficulty with the application process is poorly worded language in the RFP itself. Despite hiring a consultant, the advantage still lies with the existing companies and there is definitely an insider advantage. We feel the applicant would have better playing field for the current companies who have been awarded the zones for so many consecutive years. We hope you will consider our application giving the opportunity to work with the City of San José we are confident we will not only meet but exceed your expectations. Thank you.

>> Mayor Reed: Anything else from the appellant? Okay. Staff response.

>> This was a challenging competitive process. It required a significant amount of investment over many years and that is reflected in the quality of the applicants that come before us that are being recommended by staff. This applicant I would like to applaud because within a four-month period they were able to really become competitive with the exception of being able to complete all the items that were required at the time of inspection. As was mentioned the intent of the site visit was to investigate the applicants, it was true that there were many opportunities for them to do in the future we couldn't create a competitive disadvantage for the other operators that we were evaluating by taking their word of things they would do or things they would complete. At the time of the inspection there were three items in question. The bathroom was simply shelled out, hadn't been plumbed, roughed out or fixtures in it. They did have a porta potty accessible, but was not accessible for ADA, that is something we do look for. Additionally the entry ways of the building were not secured. Temporary fencing separated the storage area from the customer parking area and as a result we couldn't assure the type of security that would be required when we trust to have cars towed on our behalf for the contents of the items. There were some deficiencies, GPS was not on hand, their procedures and process, cars taken and towed for the city on their behalf, security of valuables. I believe they've corrected many of these items but again it was a moment in time and looking at the inspection we scored for the competitive process objectively and

consistently with all those that had come forward. The process clearly laid out what qualifications the scope of services that were required. As much competition as possible, staff is recommending that you uphold the -- that you deny this appeal and uphold staff recommendation for the award of the contracts.

>> Mayor Reed: I have a question. There was a comment made by the appellant that someone told him or he thought that if everything was in place by the effective date that that would be good enough. Could you talk about the difference between the inspection date and the effective date in the scoring process?

>> One thing that was very clear was that we could only evaluate on what was in place at the time, and that was clearly stated in the request for proposal and then the scope of service. We did have an opportunity to have a preproposal conference and there was an opportunity to respond to questions as they came up. None of these questions regarding whether they would be given credit for things they anticipated doing in the future came up during that process but we did go through in our preproposal process the RFP and scope of services so we could eliminate as much misunderstanding as upon. But we could only evaluate what was exactly on the site at the time.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Jamie, could you relate what the anticipated action is, at the time we evaluate these issues?

>> It's a challenge. I had to set my situation aside, I really did like this company. Within a four month period they did a tremendous job to set up what they would like to provide for service and be competitive in the future. But in the absence of us being able to evaluate their scope and proposal, we would be giving not only an unfair advantage but we would be dismissing the significant investments the other operators had made to be sure they are ready for this process. Even if all points are awarded they still would not be competitive with the existing operators that we're recommending approval for.

>> Councilmember Liccardo: Thank you, Jamie. I would make a motion to deny the appeal and proceed as recommended by staff.

>> Mayor Reed: I'd like to hear from the public testimony. Burt Dean and Ross Signorino.

>> Nonessential towing is never a pleasant thing. The City of San José has always pushed the laws that probably the strictest in the state of California. Perhaps even the nation. I think the offside of the law is the higher the cost of operations. I think with the higher the cost of operations we eliminate the higher the standards the higher the cost of operations we eliminate some of the bandit towers and then maybe we're offset and do a little bit better in the way of volume performance so we can improve our operations with volume efficiencies. I just want to support the city with its higher standards and continue to support that. Thank you.

>> Mayor Reed: Ross Signorino.

>> Ross Signorino: I put my card in to speak on this before the first speaker got up and spoke. It was a point I heard many times earlier in some years back even. In regards to pollution, ground contamination, and the first speaker did touch on that particular item, when he said groundwater contamination. And I wonder if the panel could speak on that, whether we're watching that carefully.

>> Mayor Reed: Thank you, that concludes the public comment. We have a motion on the floor to deny the appeal, and approve staff recommendations. Any additional staff report? I think we got everything. Discussion on the motion? All in favor, opposed, none opposed, staff recommendations are approved. Next item is 4.5, planning and building fee resolution amendments. We have a motion and second to approve the staff recommendation for changes. Council questions for staff on that? There's a motion to approve. All in favor, opposed, none opposed, that's approved. 4.6 we've already covered. 4.7, rezoning of property at the west side of north 11th Street. I have -- I've got some cards here. Do I have some cards to speak on that. Is there a staff presentation? Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd be happy to await public presentation. I know the applicant is here and I'd be happy to defer my comments until the applicant has had a chance to speak.

>> Mayor Reed: Does applicant wish to speak? I've got a bunch of cards here. I'm not sure who the applicant is.

>> Councilmember Liccardo: Brian Bulges.

>> Mayor Reed: Start with the applicant. The owner, I do have one from the owner.

>> Good afternoon, Mayor Reed and councilmembers. My name is Brian Bogus, I am the owner of the property at 55 north 11th street in San José. I acquired the property in August of 2007. I'll go through a couple of quick chronological order of events. This property is not necessarily about a PD zone change but about the history of the man who lived in the property. In June of 2008, the historic landmarks commission voted approval of a structure of merit designation for the structure which is the original, old

design, the first level A-frame of the old design that's before you. Before that designation happened, I had submitted preliminary review of up to seven town houses on this lot. The reason I did that was because it's in a TOD corridor, it's zoned high density residential, it needed to match the density of the surrounding neighborhood, all the apartments next door and across the street are of high density. So I was trying to match the neighborhood and the requirements of the general plan to allow that to happen. In that process, HLC determined that it was a structure of merit. And I revised my vision of the property, decided to retain the existing structure. Not because it's architecturally significant but because of the man who lived there and his name is Tommy Smith. We all know the history of Tommy Smith as in the hallway we had speed city designated by the city and of course, the university has jumped on the band wagon and given him a beautiful statute to commemorate him. He is not deceased and California register and national register do not recognize him as historical figure and that's a shame. I am here to support the memo of Councilmember Liccardo in favor of taking the existing structure and bringing it back to the HLC and allowing them to redesignate it an historic landmark. I am not in favor of not passing the PD zone application today. I believe that we can work with Planning to design an alteration to the existing structure that would accommodate the historic guidelines preservation. Ironically, the plans that were submitted given the old design before you, that was approved by Planning. And it has to, as a structure of parity, be approved or recommended, I guess, as a historic guidelines conceptual plans. It was. Unfortunately the community did not like that. Given the impact of the community I have spoken to, beyond the exact I've spoken to, and I have several people to speak here today, they have helped me understand that you need to keep the existing structure as much as intact as we possibly can. So assuming that you all are able to approve the PD application I would be resubmitting new conceptual plans for the existing structure that would allow for the integrity of the structure to remain intact and removing the mass of the second-story addition and two-car garage in favor of keeping the mass of the existing structure and minimalizing the existing addition. The construction would be green construction, green certified product, they will not interfere or affect the existing structure. Now, I have several people here today that want to speak on behalf of the history of the property and the landmark designation. I fully support that, and I hope that you all will, too, and bring that back to HLC. But I don't want that decision to hinder the time and the resources that I put in personally, to have this application before daw. It's been a year and a half. I'm not of deep pockets. It has cost me quite a bit and I have had to sell my property that I live in to rent, to be able to afford to carry this property through this process. Given the economic times, I've lost considerable amount of money on this so I'm hoping that you all can help excite this. It can get back to HLC quickly. That they'll give it the landmark designation so the city will win. And frankly I want to share with you all my true vision on this property, and that is to be able to offer the inventory that will be generated from it back to the university for student or faculty housing whether it's minority or for an African American student to live there. I would like to have the university on board. Thank you, mayor.

>> Mayor Reed: Okay, we allow the applicant more time than others, because they've got sort of the burden to carry here. But we have other people to want to speak, two minutes to allow others to speak. Dr. Oscar battle.

>> When I came here in 1971 from Vietnam, I noticed there westerly opportunities and many sites around here in the community where African Americans had lived and there was really no historic landmark for African Americans, who contributed significantly to this community. Likewise, there were individuals who had been here in the civil rights movement for many, many years, and there was no area that we could designate specifically for that group. Some 40 years later, I, Mr. Bogus is talking about taking a spot and I think it's certainly significant because that spot that he's talking about is not only significant to the African American community but it is significant to the City of San José, to say that what people that have come out of San José, such a diverse community, realizing also that Tommy Smith, went to San Jose State, we have a statute there. By recognizing this site creates a marriage between the city an San Jose State but also, the first measure to young people if you have your passion about anything, regardless of what it's about is that you should be committed and we have a conviction that you should rise up and at least take a position on that. So I think it's an ideal setting for African Americans, City of San José and San Jose State that we pay tribute to the African American community and support his proposal. Thanks.

>> Mayor Reed: Ellen Rolling.

>> I'll defer.

>> Mayor Reed: Okay. Matty, why don't you give us your last name. Hold the microphone down just a little bit. Little bit more. There you go.

>> My name is Matty Tensley. And I'm here in the behalf of Tommy Smith. Hopefully, that home will continue to be. I'm not a speaker. You don't believe how nervous I am. But I've been here in San José since 19 and 48, and that's longer than most of you was born. So I would like to see this historic home go through. And I would like to thank Brian for considering Thomas Smith as using this house as a historic house. Thank you very much.

>> Mayor Reed: Thank you. Okay, Ellen Rolling.

>> Good afternoon. Thank you so much. And I'm here on behalf of the African American heritage museum, and as a historian, to support Brian and to thank him for having the wherewithal to consider the community, in regards to his actions. We know that he didn't have to do that. That he could have went on and did whatever plans, commercial, he had. But he has a higher goal in mind. And we think it's a beautiful opportunity for the city to support its members of this community in a very fantastic way. So we support your support of Brian's design, and what he would like to do. Thank you.

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

>> Councilmember Liccardo: Thank you, mayor. I wanted to thank the members of the community that came to speak and thank Mr. Bogus for all of your efforts. I really have two objectives with the motion I'm about to make, one is to designate the house a landmark for this community and for future generation, also to allow Mr. Bogus to move as quickly as possible through the remainder of this process. He certainly has endured quite a period of time to get here and I want to make sure he's able to continue with the rest of this development and move forward. I wanted to amend the information you see in the memorandum of March 23rd, slightly, because the proposal has evolved somewhat as Mr. Bogus has attempted to address concerns in the community at the same time that we've tried to weave our way through the legal complexities of provenning this development plan zoning district. I wanted to amend recommendation 1 to approve the planned development rezoning as I stated in the memo with the addition that we're approving not only of course the construction of the additional three single family attached residential units on the site but also any permitted addition to and movement of the existing structure. As the Planning Department approves, so that would be first. And I'm told by our City Attorney that with regard to paragraph 3, I cannot direct staff to proceed with the processing of the perms. Perhaps I can urge the staff, I'll replace the word direct with the word urge, to proceed with the processing of the permits applicable to any of these units, respective of what happens with the original structure through the process, and the historic landmarks commission. So we can at least ensure that Mr. Bogus can begin construction, do whatever he needs to do, if for any reason things get held up as I hope they're not. With regard to paragraph 2, the City Attorney has informed me there's a challenge with what I'm seeking do, which is to get this process moving as quickly as possible. But there's a problem with the existing ordinance. Rick.

>> City Attorney Doyle: One, the Brown Act, commencing or initiating I guess is the correct word, a historic landmark issue. And two, the council requires that be done as a resolution. We need to notice it. We can come back on April 7th which is our next meeting and have that formality taken care of, but it is an issue.

>> Councilmember Liccardo: Perhaps we would like to move forward and address the designation. But I believe we have to go back to HLC. What is the most ambitious schedule we could set for coming back to council?

>> Joe Horwedel: The landmarks commission does meet once a month. So it's going to be a matter of seeing when that meeting is, whether I can get onto the April agenda or not. We're right on the cusp of this. I would say that while we have the formalities of discussing this, asking the staff to make this most expeditious, I'm not going to wait for that process to be done but going to the landmarks commission, if I can get there in April I will get there in April.

>> City Attorney Doyle: It is not uncommon when Planning Commission items come to the council, we get these agendaized on the city council, this is going back the reverse, I think as long as we have this resolution adopted, at the April cents meeting, and the landmarks commission takes it up later, it is a formality that we need to go through.

>> Joe Horwedel: It is my opinion that we can get if not the eight weeks, very close to the eight weeks back to council with the question.

>> Councilmember Liccardo: Great, thank you, Joe, appreciate that. I also had, I know, the applicant did have a question with regard to whether or not there would be additional fees for having to go back to the HLC.

>> Joe Horwedel: For the landmark question, landmarking, we do have some other parts of our process, so ultimately it's been talked about whether a fifth unit might come into play or not, we would do that on an hourly charge rather than a normal flat-rate fee.

>> Councilmember Liccardo: With that being said, I'll make the motion, with the amendments I described in paragraphs 1 and 3 and then with regard to paragraph 2, we -- aim able to say anything with regard to scheduling?

>> City Attorney Doyle: Yes, you can say first, direct staff to bring it back in a formal resolution on April 7th and work with the HLC to get it on their agenda ASAP.

>> Councilmember Liccardo: Okay, so moved. If I could just add, thank you for the second, I spoke to Mr. Smith, Tommy Smith yesterday, second time I had a conversation about this, he also expressed gratitude to the developer Mr. Bogus, for the respect he has shown to the historic nature of this site. Certainly we look forward to maybe in the future a ceremony of some kind as we move through the landmark status. But I just want to articulate first I appreciate the enlightened approach that Mr. bogus has taken here. And secondly, this is an area of the city where there's quite a significant amount of African American history, Antioch church, oldest African American church in the neighborhood, and what we hope to see here is a reemergence of the contributions of the African American community to our downtown. Thank you.

>> Mayor Reed: I have a couple of questions about the motion and what you're asking the staff to do. First is, what's the hurry? If I understood the testimony, the building is not at risk. It's not going to move off the site or be torn down. In fact he's going to preserve the building. So if that is the zoning that gets approved, then why do we need to hurry to get any kind of a designation on it since there's no risk that this development process is going to, you know, wreck the historic resource?

>> Councilmember Liccardo: Mayor, may I respond?

>> Mayor Reed: Please.

>> Councilmember Liccardo: My understanding this has undergone some changes and various iterations. But most recently the applicant has proposed moving the structure and his plans to move forward with construction, I imagine if the former holds up the latter, excavation, might hold up the former.

>> Mayor Reed: It will still be historic, if it's moved, or as long as it's preserved.

>> Joe Horwedel: Let me take a crack at it. That the -- one of the things that staff wants to look at with the applicant is with the modifications that are being talked about, how that would affect the historic significance of the building. Staff did look at it, consultant looked at the building. There was not a lot of architectural integrity left with the building. There was not a great significance how we treat the structure. As it relates to the historic building code as well as waivers for construction taxes that do kick in for landmarks and actually we want to come back to the council to look at broadening those benefits. But there are benefits that are available for a landmark unlike a structure of merit. And so wanting to make sure all the available tools are in play, we want to make sure that the applicant has that availability. That said, if we find that because of landmarking, would preclude some of the things that are being talked about we may go forward and do those changes first, and then come to the landmarking question, just so we don't penalize the applicant.

>> Mayor Reed: Second question I have is, as to do with timing of this. And that's why I asked, you know, what's the hurry? Because we had a study session about three, four months ago with problems that we had with the landmarking process, and the sort of strange way we have to go about doing it, as well as the survey instrument. And it appears that the landmarks commission has already considered this twice. So I'm assuming they'll probably come to the same conclusion as before. And I'd rather wait until we finished the changes in that process that we've been talk about in order to take us up with some confidence that the survey instrument and the analysis that's been done on the historic nature of it is something that we can rely on. And I'm not very comfortable with the current survey instrument as a means of telling us whether it's historic or not, just because it's in flux, and I think it's probably going to be August before we see any ordinance changes on the last schedule I saw for the staff's work. So I can't tell what good it is for us to adopt a resolution on April 7th in terms of moving this project forward. Because I'm not interested in delaying the project. And I don't really know on merits of this whether or not it's a historic building. Since he's not going to tear this down, I'm less concerned about the immediacy of it. By the standards of the ordinance we have, then what do we do?

>> Joe Horwedel: At the end of the day, the council does get to make that decision. You are the policy body, the landmarks commission is only carrying forward the recommendation of staff. The California

register and the national register allows us to recognize something that is unique. It is unique to San José, it is important to the residents, to the council. I think your question about the timing is a relevant one. I don't know that there's an imminent hazard, an event that would occur that if it was landmarked in September versus in June that that would change. Other than the timing of the applicant if you wanted was trying to do building permits. But I don't think he would be getting a building permit that fast. So that is one of the things we want to walk through at the applicant to make sure that the schedule really works for what we're trying to do with the project.

>> Mayor Reed: If I understood the City Attorney, we are the people who make the decision. We think it is a landmark, Hominy Dominy the landmark. We can't do it today that's why Councilmember Liccardo has his motion, I think. Okay. Councilmember Liccardo, did you have any additional comments?

>> Councilmember Liccardo: .

>> Supervisor Yeager: , I'd be happy to adopt that as a motion, whatever that was, Hominy, Dominy. Joe, my only concern is simply allowing the applicant to move on as quickly as possible. If there is another way I'd be happy to make that as a motion.

>> Joe Horwedel: That's how I was taking the encouragement to staff, to not let that linger and slow down what the applicant was trying to do with the project. So what I take away from this is that the applicant has a three-unit project that is receiving zoning that we would move forward with the planned development permits for those buildings, that he has an existing home that he would be able to relocate, and also, do an addition to, and that we should also address that in this permit and moving forward, expeditiously, talking to landmarks commission about revisiting the question of should this be a landmark, as well as just coming back circling back with what we're doing with the revised project, again, goal on expediting it through the process that we develop policy issues and kind of move on.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I'll be supporting Councilmember Liccardo's motion. I do think as we go through the process of improving on our historic landmark process, that at this point it looks like the applicant is willing to move forward, in respecting this property, and its historic nature and I just wanted to thank the speakers that came out, to speak in regards to the historic nature of this site, and also, to thank Councilmember Liccardo for his enlightened view of what historic means. I think that it was really interesting to read the analysis, in regards to what was brought up whether a person was living or dead and how that plays a role. Particularly when we're talking about civil rights leaders, those that were part of movement who may have been vilified at the time and in some sense have been reborn as heroes, I think some of that can be recognized as well when we look at some of these historic buildings, particularly how some of these important figures like Tommy Smith who played a role in our city's history. Thank you.

>> Mayor Reed: Okay, we have a motion based on Councilmember Liccardo's memorandum as modified here, including the getting a resolution back to us, April 7th. Further discussion on that? All in favor? Opposed, none opposed, that's approved. Next item is 4.8, rezoning of real property located on north side of Michigan avenue. Councilmember Chu.

>> Councilmember Chu: Any staff presentation? No? Any resident wanted to speak on this issue?

>> Mayor Reed: I have no cards.

>> Councilmember Chu: No project. This project is consistent with the Alviso plan. Since the first meeting of the community, I will move to approve the staff recommendation.

>> Mayor Reed: Motion is to approve the staff recommendation. All in favor, opposed, none opposed, that's approved. 4.9 is another rezoning of property on the southwest corner of Hostetter road and frost drive. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Any resident want to speak?

>> Mayor Reed: I have no cards on this one either.

>> Councilmember Chu: Staff know that this is a neighborhood shopping center next to a large shopping center on Hostetter avenue. The developer has compromised with the neighbors by reducing the hours of the proposed patio and also reduced the number of outdoor seating and during this economic time, I think the expansion will be able to use the patio area, would definitely help with the business there. I also received a letter from David Hua addressing some speeding issue and my office is looking into resolving those issue that brought up by Mr. Hua. So without any further speakers, I would like to move to approve the motions as stated by the staff.

>> Second.

>> Mayor Reed: Thank you, have a motion to approve. I'd just like to disclose that I've had sandwiches there, it's a good place to sit outside and eat. Further discussion? All in favor? Opposed, none opposed, that's approved. 5.2 is consolidated plan, annual action plan. Do we have a staff presence? Leslye Krutko.

>> Leslye Krutko: Thank you, mayor, Leslye Krutko, director of housing. Annual consolidated plan opened on March 17th. This is last year of the City's five-year plan. We're to start the process with the next five-year plan which will be back before the city council for approval in 2010. Today is an opportunity for the public to provide any comments. Anyone interested in submitting comments during this 30-day comment period can access the report online, can pick up a copy at the housing department office or call and request that a copy be mailed. As a little bit of background, the consolidated plan is required by the U.S. housing and urban development program, the city receives about \$15 million in HUD funds each year but this year due to the federal funds that are earmarked for both foreclosure and economic relief the amount of funds anticipated is closer to \$28 million. The consolidated plan includes information on housing and community development needs and the City's plan to address these needs. But it also lays out the City's plan for expenditure and award for four different housing programs. The Community and Economic Development program, the home investment partnership program and the housing for people with AIDS program. Under the CDBG program the majority of grants this year were two-year grants. But for the available funding we received considerably more request than funds available. Subsequently not all funding applications are being recommended for funding. Applicants have been notified, and any applicant that is not satisfied has several opportunities for appeal. First they have the ability to appeal the decision to the director of housing, and also, there are two hearings before the council, one of them is today. We'll be returning to the city council at the end of the 30-day public hearing process and we'll bring forward any comments at that time. Including any appeals. And we do need to submit this report to HUD by the May 15th deadline. And with that I'm available for questions.

>> Mayor Reed: Any questions? I do have one card. Melissa Morris. We'll take public testimony at this time. Anybody else wish to speak on the plan? Please submit a card, while Melissa is coming down.

>> Good afternoon, Mayor Reed and councilmembers, my name is Melissa Morris, and I work with the fair housing law project of the law center of Silicon Valley which is part of a collaborative along with Asian law alliance and project sentinel to provide housing for City of San José. I wanted to express our appreciation to the council and also to the department. I also wanted to point out that the amount of funding allocated for fair housing organizations this year from the CDBG funds in total is actually about \$80,000 less than last year. And so I'd like to suggest that should additional funds come from the federal government, they can be allocated towards housing needs in the City of San José, that that department and the council consider very seriously allocating those funds to organizations that provide fair housing services in our community. We along with our partner agencies provide education in the community on House how -- on fair housing rights and obligations in the community and also people who have been denied fair housing in their area fight for their rights under the law. Predatory lending is a housing discrimination issue, I know that's been in the annual action plan in previous years, and it's remarkable that the city has had that foresight to recognize that predatory lending has often targeted seniors, people with disabilities and others that are protected 50 fair housing laws and even though the mortgage lending market has changed dramatically even in the last year the kinds of shady practices now we're looking more at foreclosure rescue scams and loan modification scams are still going to target minority communities, seniors and people with disabilities. And so I'd like to encourage the city to keep that among their priorities. Thank you.

>> Mayor Reed: That's all the requests I have to speak on the plan. Anyone else wishing to speak on the plan? This is only the beginning of time for comments. Leslye Krutko outlined the ways that people can get their comments in. We're not taking any actions today, is that correct? That concludes today's proceedings but doesn't close did plan out yet. We'll move on to the next agenda item. We had one item noticed for not before 4:00 which we passed because the time had gone, we are not there yet and that is item 3.5. That is appointments to fill vacancies on the police and fire retirement board. We have two applicants, one for each position that have been recommended to us. And this is the interview process that we usually do in the other room but we only have two candidates today. We'll do the interviews in the way we usually do them. Even though this is a more formal setting. What we do is allow the applicants two minutes to talk on why they want to be appointed to this board and then we'll do questions until the council is satisfied. There are two separate appointments One applicant for each. So take it away.

>> Good afternoon Mr. Mayor councilmembers my name is Conrad Taylor. I'm on the police side. Let me just give you my background and a little bit -- tell you a little bit about myself. I have eight years of public accounting experience. I was a tax manager at Ernst and young. I'm a certified public accountant in the State of California. I'm currently a trustee on the city's deferred compensation board. I hold an accounting degree at San Jose State and I was a fraud detective. My goal is I have a vested interest in this, that I want to make sure that we're going to have a strong, safe and transparent fund. I want to bring the public trust to ensure and I want to have it be transparent. I want to work to make sure there's no inefficiencies between the retirement board. I want to work with investment managers, I want to pick the appropriate investment managers and want to make sure that we have the proper asset allocation.

>> Mayor Reed: Okay. That's short. Short is always good. Let's see if we have some questions. Do I have some questions. I've got your questionnaire that you filled out. And I had some questions about some of your comments. First, I just want to thank you for your interest in ensuring that the plan is transparent so that the public can see what is going on, and understand what's going on. As you're probably well aware, pension plans across the country have lost a lot of value over the last year, and so they've gotten a lot more attention. And one of the questions I had, it's not clear from the answers to your questions, and that is, whether or not you understand that if the retirement board does a bad job, that we, on behalf of the taxpayers, have to make up the difference, and come in and backfill to ensure that all of our people that have been promised benefits get those. There is another role beyond your fiduciary role to the people who are going to retire, whose money is in the plan along with taxpayer money but also to the taxpayers. It wasn't clear, from your answers to your questionnaire, whether you view that as an important role.

>> It's a very important role to ensure that the fund is safe. And also, looking out for not only for the people who have a vested interest but also for the citizens of San José.

>> Mayor Reed: Okay, thank you. Other questions? Councilmember Pyle.

>> Councilmember Pyle: Thank you. Thank you for stepping up to the bat and taking this on. Away do you consider to be the three most important issues currently facing the City of San José? Certainly, at the retirement board.

>> Specifically for the retirement board?

>> Councilmember Pyle: Uh-huh.

>> Obviously, currently the economic conditions. It is not just the City of San José, but a worldwide event. Secondly I think we have to have public trust and especially everything that's going on. And third, it has to be transparent. It has to be open, people have to know what's going on, especially the citizens.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: I had one more question. On your answers on the questionnaire, under your experience and expertise, there's a question about fund managers, investment managers, when you might terminate an investment manager. I take it from your answer that if investment manager is not meeting the standards set by the board, you have -- it's okay to terminate them based on the standards that have been set.

>> I think you have to establish policies and procedures but you have to look at everything. You have to make sure that they're currently holding their license, make sure they don't have any disciplinary process, involved in any disciplinary process, doing anything illegal. It's an ongoing process. It has to be evaluated. It is a continuous process, it just doesn't stop. It's just a moving, it's a fluid event that you're always evaluating a fund manager.

>> Mayor Reed: If there's a manager, investment manager that's not doing the job based on the policies and standards, even though they might be a personal friend, or a good person, or a nice guy or however you might want to characterize it, you wouldn't have any trouble terminating if fund manager?

>> I wouldn't have any trouble with that.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Hello, thanks for applying. I wanted to ask a question I didn't ask before. I know the issue of travel expenses has come up with the retirement board. If it was demonstrated to you that it is extremely rare for a trustee to ever travel for the purpose of doing due diligence, the standard of practice in the overwhelming majority of trust funds, the trustees do not travel for due diligence, staff travels to interview fund managers, would you still insist for the need for you to be flying out to New York or London or anywhere else?

>> I am not one -- well, let's go back. Put want the retirement staff, if they want to do the due diligence, I have no problem. As long as they understand what the consequences are of doing the due

diligence. Reading the travel audit, I mean I think you should not have a large group that should attend. It should be limited on who travels and it has to be a specific purpose of why they're traveling. I have no oaks to say okay, if the retirement board or people that are staff of the retirement board, they're going to travel and they say I can't travel, I don't have a problem with that.

>> Councilmember Liccardo: Thank you very much.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Hello again.

>> Hello.

>> Councilmember Herrera: I had one question. What do you see are any improvements that could be made to the board as you're contemplating coming on, that you think we should be making to improve it to either save costs or to improve?

>> Well, I think one of the improvements would be just for the travel audit. I mean it was there, it was just the basic accounting principles that you should have. If people are going to put expenses out, I think they're the individuals that are going to be signing those vouchers, rather than having other individuals write their name on behalf of that person that's putting in those expenses. Second thing again going back to the travel would be that it should be limited. It shouldn't be a large group that should be going in and they should have a specific purpose of why they're going and it should be on a time frame.

>> Councilmember Herrera: Thank you.

>> Mayor Reed: Any other questions? No? Thank you very much.

>> Thank you.

>> Mayor Reed: We're going to do both interviews, then take public testimony before we take action on either appointment. Now we'll do the second interview for the other spot. I think you were here so you heard the description of the drill.

>> Yes, sir.

>> Mayor Reed: You talk, we ask questions so take it away.

>> Thank you, Mr. Mayor. As the young lady said earlier I'm not a public speaker so I will be brief. My history is, I have 31 years of firefighting experience. I came from another department. I've been in San José since 1986. Currently, I am a battalion chief in the fire department. I guess my strongest qualifications for this position, is my desire to ensure the success of this plan, and its designated purpose. I think I have the skills needed to obtain this objective and these skills are the ability to plan for the future, a fiscal knowledge, and ability to listen, to ask questions on topics that are complicated, a decision making ability, leadership, and the ability to work with a diverse group of people in a teaming environment. As a battalion chief I use these skills every day. My current assignments: I am the fire department communication manager. In this responsibility I do long term planning, achieve short term goals, do budget management and do personnel issues and it also involves working with the police department communications. So with this, I think I have the proven leadership, skills, to create a teamworking environment, to manage the plan.

>> Mayor Reed: Okay, thank you for your interest in serving on the board. I know these are often time consuming jobs. I had a couple of questions for you, other councilmembers may have some questions as well. I notice on your application form, number 4, in the general background you note on your goals and objectives, serving on a retirement board is one of those is to control the expenses of the employer.

>> Yes, sir.

>> Mayor Reed: Which I think is a good thing because we have to backfill whatever gaps there may be if the board doesn't do a good job. So appreciate that interest. That's of course good for the employees as well. There is an employee contribution element here as well, as well as the employer's contribution. Let's see if there are any other questions. I had one more. I'll come back to it. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Chief, I wanted to ask you the same question I asked Conrad, which was if you were present information that demonstrated that it is extremely rare for for a staff to do the traveling, would you be content to allow the staff to do the traveling and avoid the exotic trip to Aruba?

>> Yes, I think there's many phases to that. I think that one of the things that makes this board unique versus PRS board or boards, nobody watches your money like you do. So having an integral part of that I think makes this a little bit separate but specifically to your question, I think that the board's ability to adapt to the environment is an integral key. So if that is like you said a proven thing, that that is not the best practice, then yes.

>> Councilmember Liccardo: Okay, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, Mayor. What would you say are the three most important goals of the retirement fund?

>> Well, I think the first one is the success of the plan for all parties concerned. To achieve that, I think we need to address the way the economy has changed most recently. So its short term impact on the fund and then along those lines, the long term impact on the fund and then back to the economy, how are we going to address this in a long term fashion.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, hi Keith, thank you for applying, stepping up. I'll ask the same question I asked Conrad. Do you see any kind of process or change that you could make to improve the board as you think about coming onto the board,.

>> I think it's too early for me to make those inclusionary remarks. Being on it and having a knowledge of the workings of the board I would be better able to make those with a deeper knowledge and experience, really.

>> Mayor Reed: I have a question about, under experience, expertise, we had a question number 55 investment managers and how you would evaluate them. When would you terminate an investment manager, you say you believe the plan has successful policies that address these issues. So would you be willing to terminate an investment manager who's not meeting the policies even though they might have a long relationship or a good relationship or an excellent relationship with individual members of the board?

>> Yes, sir, simply put, performance matters. This is about the plan being successful.

>> Mayor Reed: Okay, thank you. Any other questions? All right, I think that concludes our questions. We do have some public testimony which we'll take at this time and then allow the council to make a decision. Jeff welt and after Jeff welt, Ross Signorino.

>> Thank you, Mr. Mayor, honorable council my name is Jeff welt representing San José firefighters local 230. On behalf of the firefighters local, we give our full trust and confidence into Mr. Kiesling's appointment to the retirement board. He has served the city well over 23 years as a firefighter, over 12 years on the executive board he has the highest level of integrity and character and you'd be hard pressed to find a more suitable replacement for the resigned Mark Stevens. Thank you.

>> Mayor Reed: Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor. Your opening remarks, Mr. Mayor, at the beginning were very appropriate. I think I just about covered everything and I'm wondering why I'm up here speaking at all. But nonetheless this is a very important subject that's on the agenda. And it is important in the fact who we pick to try and handle these managements of retirements, because as you can see, what's happening to market recently, the value of the retirement fund has gone down something like a billion dollars. And now the taxpayers of San José have to look to this to see how we could still fulfill our obligations in regards to the retirement to police and firemen. Again, you have to be very careful as to who you pick right now. I have no choice who they both are, they both sounded very good to me but nonetheless, that's a big responsibility you have right now. And we don't want to go back to the old days where we lost what, 40 or 60 million, the City of San José because of risky investments. Then in Orange County, another thing that was a huge loss of money because of risky investment, I'm not saying that you, the people on the board were doing any risky investment but we got to make sure that somehow or another, I don't know how we can manage through these times and I don't know how they can manage through the times that will come up in the future. But we do have now some history behind us and that is what we have to rely on. To go through that point of history and see that those times don't happen again. Thank you.

>> Mayor Reed: That concludes the public testimony. Bring it back to the council for some action there. There are two openings, that we have candidates to fill. And these are both required to be employees. First is a vacancy for an active employee member of the police department, for the police and fire retirement system and that term expires November 30th, 2009. And that's Conrad Taylor is the member of the police department. The other is, a vacancy for the active member of the fire department, again for the police and fire retirement system board, that term expires November, 2011. In this, councilmembers are allowed to abstain. Typically we are not under the charter, this is an area in which we may, because it is essentially a no vote. We do have to have for each of these appointments an affirmative of six votes to take an action. It is up to the councilmembers to decide whether or not they

want to support either or both of these candidates. So we should vote on them individually. So at this time, I'd entertain a motion regarding the employee member of the police department spot.

>> So moved.

>> Mayor Reed: So we have a motion to appoint Conrad tailor to the police spot. Discussion on that motion? All in favor? Any opposed? Any abstentions? That's approved. With more than six votes. The next item is the appointment to the employee member of the -- from the fire department. Keith Kiesling is the candidate for that spot. Is there a motion? We have a motion to appoint Keith Kiesling to that spot. Discussion on the motion? All in favor? Any opposed? Or abstentions? None? So we got at least six votes for that. So Keith Kiesling is appointed. Thank you, both of you for being willing to serve. After you see the workload, you may wish that you'd found somebody else to do it, because there's a lot of work and we appreciate the time and service of all of the members of the board, including our councilmembers who carry that workload with you. So thank you for your interest and look forward to working with you. That concludes all the actions I think on the retirement board that we need to take today. So we're going to move on back to the spot we were in the agenda, which is taking up item 5.3, designating a portion of the Washington SNI strong neighborhoods initiative area as a conservation area. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I wanted just to ask one question, to follow up. I know our staff, I believe, reached out to Acony Daniels. I'm not sure if Acony is here, probably not. Given has the case -- oh, hi, Joe. Joe, I think yesterday we inquired, in inthis neighborhood, just to give you some -- as you know, this neighborhood in Washington is about 80% Latino, very significant percentage of the residents are Spanish-speaking only. So my only concern in all this is the outreach, that it be done in Spanish in some way. The information we received from Acony was that that letter went out in English, that people were given the opportunity for Spanish translation, which doesn't sound helpful to people who don't know exactly what that letter's saying. Is there anything more we're doing to -- in the communities where we've got language barriers?

>> Joe Horwedel: Well, that's a very good point you've raised, through the SNI process we've mostly done multilingual interpreting, I've got to go back and see why we didn't do that, that's something we've worked hard to do. I would need to get back to you on that.

>> Councilmember Liccardo: As I recall, I'm looking at notes that looks as though there's some notice on the bottom of the letter that gives a phone number or something like that.

>> Joe Horwedel: Right. We do have staff that work in SNI that are very fluent in Spanish, and so they very regularly are talking with residents in the community. We do put the translation notice on the bottom so that if somebody is only able to communicate in Spanish or Vietnamese, we do have staff that are able to talk with them. But they first have to go through the entire notice in English to find out at the bottom that those translation services are available. That's one certainly with this neighborhood that doing that in Spanish would have probably, including it at the same time would have made a lot more sense.

>> Councilmember Liccardo: Appreciate that. I know you guys are swamped. I guess in the cases where we have these kinds of form letters, I'm hopeful that, as we -- when we're engaging in really standard procedures like this, that eventually we develop a file, library of bilingual letters or trilingual, whatever it may be depending on the neighborhood, in the hope that you know, we can make sure that everybody understands what's happening. I know that this process will continue. So I don't want to hold things up. I do want to thank you for moving this process forward. This is a naked that's remarkable older structures. My grandmother actually lived in the neighborhood when it was called goose town back when it was Italians and Mexican immigrants and now it's predominantly Latino. But a lot of those old buildings are still there and it's certainly worthwhile preserving it any way we can. So I make a motion to approve.

>> Mayor Reed: We have a motion to approve the staff recommendation. I have no request from the public to speak on this item. All in favor, opposed, none opposed, that's approved. Our next item is item 7.1. Commercial solid waste systems redesign. I have some staff to come down to talk about that. We have some people here to speak on it, as well. We'll start out with the staff presentation, John Stufflebean.

>> John Stufflebean: Organic, John Stufflebean, director, environmental services. We do have a short presentation on this item. Okay, the city council has adopted some aggressive goals, so that San José can continue to remain environmental leader. The zero waste goal green states that 75% of our total waste will be diverted from landfills by 2015. Green waste 2025, council approved redesigning the commercial system to an exclusive franchise system and that is what we're here to recommend today. Making the next step towards that. Our specific recommendations are to create two exclusive

garbage recycling and organics franchises, to amend the living wage policy. This process will be accomplished through a request for proposals, and the T & E committee heard this recommendation last month, and they approved it, with the caveat that we provide some additional information to council regarding three issues. One was, the benefits of combining recycle, collection and processing services, the second was the impact of prevailing wage on the new system and the third is the proposed system features that will mitigate cost. We submitted a supplemental memo to deal with those three issues and also the City Attorney provided a supplemental memo to respond to that as well. I'd also mention that there was a memo that we saw from Councilmember Chu and some other councilmembers, we think we can accommodate the provisions of that memo, as we move ahead. And we can talk about the details later if you like. Why are we focusing on the commercial waste stream? This is the lowest performing structure of our waste stream. We talked about this on several occasions, particularly on the zero waste plan. We are recycling only 15% of the waste in this waste stream. We are looking at the material that's going to the landfill and this is the pie chart where we found that almost 80% of the stuff on the commercial side that's going to the landfill could be recycled if we improve our system. We have done a lot of outreach for this program. Starting way back in 2001, when we notified the haulers that we would be potentially changing the system, and we continue to make them and all the stream part of process. We held the meeting with the hauler in September of 2008. Labor representatives were present at the hauler outreach meetings and we've had extensive outreach from the beginning of the process. The goal was to engage stakeholders and use their feedback to shape the system and in fact we made some changes as we moved along based on the feedback we received from the stakeholders. The results we heard from the community is they would like to have more recycling choices from their haulers, lower recycling fees especially, and we think we've responded to those concerns. The feedback was a large part of developing resources, remove the construction and demolition debris from the program. Listened very carefully and I think we received some pretty good satisfaction from them as well. We've met with BOMA, and the leadership group. The issues we've been dealing with, the current system the recycling service is fairly inconvenient, there's inequitable rates, the current system, is based open how much material is going to the landfill in terms of how much revenue the city gets. And so as we move ahead, we certainly want a system that doesn't penalize the City's General Fund if we're really good at recycling We want a system that accommodates both systems at the same time. Excess miles being driven, we also have problems in the current system with limited compliance performance standards. An exclusive system would allow us to have better control over the haulers and better compliance. Issues of customer service and being difficult to recycle organics. We should mention that San José one of the only cities in the Bay Area that still have a exclusive system. Cities like San Francisco and Oakland have a strong zero waste system like we do have exclusive systems. Basic details of the RFP, certainly we're looking at two districts. We based a lot of the RFP details on our recent experience with the recycling system, recycle contract, selection process. And one of the main lessons that we learned from the 2006 process was that were that one, the six-year term was too short. So in this case we've proposed ten year term with potential extension up to 15 years. The second issue was that the mobilization or transition period was too short and you recall there were some reasons there in the residential program so we're here proposing about a two-year period for the transition. In addition, we need to make sure we include some efficient services to attract the larger companies. We've also as part of our process move ahead in response to the concerns we've heard were reserving capacity for organics processing to encourage participation in the RFP. The advantages of the redesigned system first of all it meets the green vision objectives and several of them actually. It meets of course the zero waste objective. Goal three, it meets the energy objective to proceed feedstock, we may also support the green fleet goals, by requiring more stringent emission standards. Secondly it stabilizes the General Fund which currently is again as I mentioned tied to how much material is landfilled. It certainly encourages private sector development, special material recovery, more jobs are needed to recycle than needed to landfill. Landfill you just have to have somebody operate the big bulldozers. Finally, we wanted to minimize the impact open small businesses. So we've certainly crafted a program I think that will achieve that as well. And finally the final slide here is our next steps. Our next proposed next steps are to release the RFP in the summer Our business representatives, franchises will then be awarded in December of 2010 and a system implementation in 2012. And as I said, there are two issues that were brought up in the council memo one regarding labor peace and we can certainly accommodate the labor peace as written in the council memo which would require the proposers to present information on how they will achieve that. And the second issue was separating the organics from the rest of the process and we accomplished that. We met with the city attorney's office

yesterday, and by having a parallel RFP process where we can composting by itself separate from the rest of the process we think we can accomplish that as well. That concludes my presentation. Be glad to answer any questions you have. Thank you.

>> Mayor Reed: I have some requests of the public to speak but I have questions from the councilmembers first. Councilmember Chu.

>> Councilmember Chu: Let me first do my disclosure, CIB, green waste, Mary Chrisman local 350. I'd like to thank the staff working on this commercial redesign, have seen a lot of benefit from going to this exclusive franchise system, and turn up the revenue, General Fund revenue for the city as well as reaching our green vision goals. I'm pleased to see that the technical assistance to the business is part of the RFP. And I do believe that separating the process of the organic RFP, from the rest, will open up the competition which will result in the greatest value for the lowest price of the business in San José and also to ensure that there will be no disruption of the services, I'd like to propose labor peace agreement. So with staff, can we make a motion now, or do you want to hear the public testimony first?

>> Mayor Reed: If you'd like to go ahead and get a motion on the floor, go ahead.

>> Councilmember Chu: Thank you, mayor. I'd like to make a motion to accept the staff proposal with the two items, the memo that is co-signed by Councilmember Herrera, Campos, Kalra and myself dated March 20th, '09.

>> Mayor Reed: Okay, we have a motion to approve with the additional conditions outlined in the memo. We take some public comment now, or Councilmember Herrera you wanted to speak first or you'll wait? Okay, I'll come back to you. Let's take the public testimony. I have half a dozen cards or so. Please come on down when I call your name so you're close to the microphone. Mark Arsenault, David Smith, Brock Hill.

>> Good afternoon, Mayor Reed, councilmembers, my name is Mark Arsenault, general manager of Stevens Creek recycling. John's presentation changed what I was going to say but I'm very happy that staff is able to accomplish this split in the RFP process. It really is a critical component in keeping a cost-effective RFP process in place so that the bidders that don't have the local infrastructure can participate in a competitive way. So we're very pleased to see that change and thanks staff very much, thank you all.

>> Mayor Reed: David Smith, Brock Lil and Charles Actmed.

>> I just have a couple of comments as a business owner in San José. One of the things that I would like to see throughout this process is definitely a more competitive process for all different types of recycling. Currently as a business I've got the opportunity to take all of my recyclables and either generate a revenue stream or have them picked up for free. My major concern is should we actually go to a monopoly, which this is essentially going to be, it is going to hinder my ability to generate revenue from those recyclable materials. The other thing, I guess the technical assistance will be broken out, that was a big concern I had in terms of the ability to actually audit the incumbent haulers in terms of the divergent factors and other things as well. Finally, I would like to see other companies participate because as a business other than it gives me more options for handling my waste and cutting my waste stream. Where we're paying two or \$3,000 a month in garbage fees, we need to cut that as much as possible and not be held hostage, thank you.

>> Mayor Reed: Brock Hill.

>> My name is Brock Lil, I'm with premier recycle. This referred to the February 2nd memorandum, attachment A. The exception to the scope of the exclusive collection system. I'd like to ask the city council to ask for more clarification ton C and D exclusion to the commercial redesign. Whether it is based on the generation of the material or the material itself. Premier recycle is a San José and sorting and transfer facility that employs more than 50 residents and has been in business since 1992. We average over 80% landfill diversion. This has been achieved without city subsidies. Premier recycle paid over \$700,000? In fact we were employed to divert material in the construction of this City Hall building we are currently sitting in and achieved over an 84% rate. We ask the City Council to clarify this C and D exclusion so we are able to operate in an area that does not need a system redesign. Help us remain a leader in green construction but not allowing constraints on construction demolition material. We have been told by city staff that this redesign excludes C and D material pep we hope the city council notes that this is very important to us. Thank you.

>> Mayor Reed: Charles actman, Larry Doherty, Marshall Actman.

>> My name is Larry Doherty. I want to thank Councilmember Chu, Herrera, Campos, for this decision to split the RFP. It makes the playing field fair for workers like myself so we may have an equitable solution to this problem and also helps the city financially so thank you very much.

>> Mayor Reed: Larry Doherty, Marshall harden, Ross Signorino.

>> Good afternoon, Mr. Mayor, councilmembers, my name is Larry Doherty, Teamsters local 350. We represent the majority of the drivers and mechanics that are currently servicing the City of San José. I'm asking council to support the motion before them separating the organics RFP from the rest. This is a great solution to staff's issue of processing of recyclables, separating out the organics processing will allow the greatest number of bidders for both RFP. In my 26 years as both a driver and a business rep for the Teamsters in this industry we used to be called garbage men. Not quite so PC anymore, it's all about recycling. I have seen an exclusive city franchise with no recycling, that is not meeting the city's zero waste goals and resulting to loss of revenues to the City's General Fund. We think this process here with the splitting of the RFPs will help in both of those areas. For those of you that were around a while back, the last residential RFP that did not have enough competitive bidding process resulted in 73% increase in the cost of the yard waste collection for the City of San José and their residents. Separating these RFPs will eliminate that from happening again. It will allow competitive bidding. I'd like to thank staff and also councilmembers Chu, Herrera, Campos and Kalra for the memo and all the hard work they've put forward on this and I would thank you.

>> Mayor Reed: Ross Signorino, Marshall harden, Louis Peligrini.

>> Ross Signorino: It mention in here living wage. I think that's a very important thing in regards to the garbage collection, the last speaker wasn't too keen on the word garbage, or what are you going to do, it's there, it's there. And nonetheless, I think that our workers, these people who work there need a living wage. We talk a lot about people that work for the city, I think they have a hazardous occupation. I consider all these people who pick up this material, sort them out day in and day out, these are the heroes too keeping the city going and functioning in the most sanitary way. So I think the point of always keeping an eye on this particular thing of a living wage is warranted. Thank you.

>> Mayor Reed: Lee Peligrini and Mary Chrisman.

>> Good afternoon, Mr. Mayor, fellow councilmembers. I'm Lee Peligrini. I'm here to support staff's recommendation including the council memo and RFP regarding labor peace. Creating a level playing field in the terms of the smaller haulers, we look forward to responding to the RFP and potentially being a service provider to more of San José. Thank you.

>> Mayor Reed: Mary Chrisman is last speaker.

>> Good afternoon, mayor and members of the council. I don't need to speak because it seems like we have a consensus on the speakers of what it is necessary to move this thing forward. I wants to thank Councilmember Chu, Ash Kalra, and rose Herrera, thank you. It's a great compromise house to move forward, meet the needs, fix challenges, and also make sure the city meets its goals. I want to thank you and urge you to move forward.

>> Mayor Reed: That completes the testimony. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. John, I appreciate you and I know Joe Zintec has communicated with our office to help us understand what the implication are and motivations that appear in the memo. Appears everything can go ahead as we had hoped. One concern I had is getting back into the problem we had I think it was in roughly '07 where we had problems with diversion rates. But the particular hauler I think it was Norcal with a particular recycler, and everybody was pointing fingers at the other saying you're not bringing it to us, no. It was hard for us to sort out what was really happening. So can you help me understand how we can avoid that under the proposed course that's taken by the memo signed by four of my colleagues?

>> John Stufflebean: Right, yeah, there's a couple of things to mention on that. First of all the handoff that was made that caused the problems back in '06 and '07 was the handoff on recycled materials. The difficulty is that recycled materials are very heterogeneous mix of stuff. So determining whether there's contamination in that mix of materials is difficult. Organics, yard waste, food waste and so on, we think the opportunity for determining the quality of that material whether its meets a start is much easier to determine. That's one thing. The composting is easier than the recyclable. The second thing is doing this parallel RFP process we think we can establish a better relationship between the potential hauler and potential organics processor. We think that will be healthy as well. The companies are used to -- I guess the third thing is the companies in this area are used to working together on the waste streams. There are examples, because there are such limited processing facilities of organics, one company collecting, other doing processing, we think that for many reasons it's okay to go this way.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I had a question, I was a little bit confused about the fact that there are only two companies that are capable of processing the organics material, is that correct?

>> John Stufflebean: There are two companies that have large local facilities for processing organics.

>> Councilmember Pyle: So are we basically going to employ both of them to do this, or will there be separate? You mention RFP but you don't mention it in reference to those companies.

>> John Stufflebean: Potentially, they could both be used depending how the proposals come together. But we are looking at the possibility of one organics company handling the whole city, it would be one or it could be two. Everybody decides to pair up in terms of how they submit their proposals.

>> Councilmember Pyle: Okay, thank you. So you would have a separate RFP then? Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just wanted to thank staff for considering the memo that I along with three other of my colleagues signed onto for the challenges it can be -- it can be incorporated and I just want to urge the best of my council colleagues to support the motion that council has put forward. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you. Just disclosure, I met with Larry Daugherty from Teamsters and Mary Chrisman from South Bay labor council. I will be supporting this motion, I signed on to it and I want to thank staff for presenting at the transportation and environment committee, incorporating 1 and 2 into your proposal. I appreciate your hard work and your thoughtfulness in doing that. I think it's very important to have as much competition in this process as possible. Now, by setting this up in the way we're doing it with two RFPs, we're going to allow other companies that were not able to compete, to compete. And still award of franchise. It's great to be involved in a win win all the way around and I thank staff for support and urge my colleagues to vote yes. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I would also like to encourage my colleagues to support the memo and I want to disclose that my office met with Larry Duarte, from the Teamsters local 350 and Mary Chrisman from the South Bay labor council, and Mary we wish you well in your new adventure and it's been a pleasure working with you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. I want to say I appreciate my colleagues' work on the memo. I want to say that you know, any time we can take more waste out of the landfill and put it to recycling is a good thing so I support those initiatives. However, I cannot support putting restrictions on the RFP process that will not allow full competition from all of the companies that will want to quote on the business that inevitably raise bid prices that we charge to the businesses. Because as we add layers of things like living wage there will be somebody that won't bid on it because they're not comfortable with it. We see it with the City Hall space that sits vacant, and we as a council decide to spend another \$500,000 on it. Even a member from the Teamsters said it, when you had low competition, we increased the rates 73%. And so I remember when we did this for the consumers and the residents and everyone came out to speak on that and origins of the RFP had a lot of that. When we get to the diverting of the stream we'll be thankful.

>> Councilmember Pyle: I just wanted to disclose that I met with Mary Chrisman and Larry Daugherty.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: By bifurcating we are increasing competition in this case and the lack of the bifurcated process in previous years is probably what led to the lack of competition more than anything else. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: And I respect my fine councilmember from the beautiful district district 2 in Edenvale, we agree to disagree on that concept, thank you.

>> Mayor Reed: All right, I think that concludes the council discussion. We do have a motion. And all in favor, opposed, one opposed, Councilmember Oliverio. So that is approved. I have a question or the the staff before we move on, though. Under our process integrity guidelines, at some point, the bidders, potential proposers are prohibited from contacting us, and if we do contact us, we're supposed to send them to you. When does that time period start? And will you send us a memo letting us know?

>> City Attorney Doyle: Go ahead. Once it hits the street so once the RFP is on the street, there's a period of no communications, until staff is prepared to make a recommendation. So the evaluation period is ended. But we can get a memo confirming that so the council is aware of it.

>> Mayor Reed: Okay, let us know when the flag drops and if people contact us, who to contact. You've done that in the past, just want to make sure that happens this time. That concludes the work on 7.1 then. I need to go back in the agenda to item 3.4 to just clarify the motion. That was the settlement agreement with the card clubs and I didn't make it clear enough. I assume that the motion included all four of the items on the staff recommendation, as modified by the councilmembers councilmember's memo and I just want to verify that with the maker of the motion.

>> Councilmember Campos: It did.

>> Mayor Reed: Any questions on that? Good enough for the City Attorney? Okay. That takes us to 7.2, municipal storm water NPDES permit.

>> John Stufflebean: John Stufflebean. Melody Tovar will make a presentation on the storm water permit we're responding to.

>> We're here to present a report on the storm water program. Our storm water program is a multifaceted permit. Timing of the draft we want to let you know did not afford us the opportunity to go to the transportation and environment committee so we're coming to you to the full council. A quick reminder that this is the program and permit related to our storm water discharges. Unlike flows that go to the treatment plant which is the top bar on the chart shown here, this permit pertains to the rainfall that washes through our storm sewer system comprised of over 1200 points to our local creeks and eventually to the bay without treatment. For context we've had a storm water permit as a county since 1990. For more than three years we've been involved in an effort to develop a regional permit that would go Bay Area wide. This regional permit for storm water seeks to bring together permits for county wide programs across the Bay Area, affecting 77 agencies, mostly cities. Rather than having different program requirements from different counties on different time lines the advantage of this regional approach is that it offers a common set of standards across the region and a level playing field. We received the second tentative order, the second draft of this permit in February and the water board will be having a hearing related to this permit in May with implementation slated to begin July, 2009. As I said this is the second formal draft. San José provided comment about a year ago as did many Bay Area stakeholders. We sought a permit that is feasible to implement. I've highlighted those areas of the permit, including redirecting approaches on integrating storm water treatment for trails and road rehabilitation process. The former draft of this process, we're happy to report that the current draft offers a much more focused approach in these areas. Also, this latest draft offers much more flexibility in our maintenance and enforcement programming over the last draft again with cost savings for the city, compared to the last draft. Staff believes the revised draft that we are set to respond to here has come a significant distance from where it was a year ago. But we are not there yet. Several key concerns remain, our report with you today outlines these issues and offers staff's recommended position. I've listed the key issues on the slide and I'll book end them for purposes of time today. They have offered several improvements to the storm water treatment requirements for new developments. But there was an addition, a troubling provision that would require that certain projects go to water board approval, specific land use projects would go to water board approval before the city would be allowed to approve them, if that project proposed to address its storm water requirements using a majority of mechanical instead of landscape based measures. Staff concluded that this could result in costly and unnecessary project delays for those project applicants in those projects and that fundamentally this appears to encroach on the local test land use jurisdiction. At the end of this list here we see trash. We believe that everyone agrees that trash is a visible and important problem to address but the provision as it's currently drafted in the tentative order is unchievable. Staff has no way to address the level of cost as it's currently prescribed and so in all of these areas we have offered alternative solutions and we're working with other agencies to come up with constructive ideas on how to refine the permit language to make it successful. In closing, our next steps are to submit the comments to the water board based on your direction today, to work with the mayor's office to identify appropriate participation in the public hearings and representation, and because we know that trash is a concern for so many stakeholders, to seek your guidance in engaging other stakeholders so together we may come one a provision that meets everyone's expectations, and reaching problems that are important in a way that is successful to the community. I've included dates related to our submittal comments and the water board hearing. That concludes our presentation, we're happy to answer questions.

>> Mayor Reed: Let's see if there are any questions from the council. I do not have any carts from the public to speak to this item. Are there other questions on staff presentation? We have a motion to approve the staff presentation and the recommendations with the actions to be taken. We got enough, we

do have a quorum, yes. All in favor? Opposed? Six in favor, that's good enough. That's what it takes. That's approved. We're down a couple of councilmembers because we had some illnesses. Our next item is item 8.1, actions regarding the San José police substation. And there will be a staff presentation on this.

>> Katy Allen: Good afternoon mayor, members of the council, Katy Allen, Public Works director. We have a very short presentation, we want to give council some additional background information on our recommendation. I'm going to go to the second slide. And also give council information about the status of the project. Here is a picture that was taken yesterday, if you want to go back one. The project is in full swing, well over construction, over 100 trades are working on the site. And we're moving forward very quickly. However, there are some design issues that I want to talk about our recommendation in those terms. The project is about 60% complete. We do plan to be done a year from now. We are targeting silver certification. A lot of subcontractors are out there framing walls, putting in mechanical, electrical and plumbing. There are challenges along the way and we have encountered a fair share of those. However we do have a plan for going forward and we are making a recommendation to add additional funding to this project midway. It is never enviable to be in this position on this project however considering all of the options before us of how to bring this project to completion, we feel this is the best approach to move forward. I also want to mention to council and I think it's important to note that this project is not compromised in any way. At the end of the day, we will have a facility that will serve our facility for decades. It will be a facility that we'll be proud of and will be efficient to operate. With that I'll turn it over to Dave Sykes who is going to cover some elements of our operation.

>> Dave Sykes: Thanks Katy. As we indicated in the staff report, we are estimating that the cure to the design deficiencies is between 4.5 to 6.5 million. We are requesting 4.5 million. 3.5 will be going to contractors and subs. Any design to correct the issues is done by the RDC, architect of record and that is done at no cost to the city. The money we are asking today is going directly into the project to correct the deficiencies. A good example of this is some of the work with the exterior walls, the fix for that is extra structural members being included in the project. RDC is the one that did the design for the facility, at no cost to the city. The money is going to the contractor for the time materials and labor cost to do that work. The remainder of the funding request is going to our own staff, and this is to help deal with the extra challenges in the project. Gilbane is helping us analyze the cost coming in from the contractor to make sure we're paying a reasonable price for those. The recommendation to name consultant agreement with RDC is purely to extend the term of that agreement so they're on board through the full duration of the project, that is a no-cost extension. Strategy for moving forward. First priority is to minimize delay to the project. The contractor out there working is entitled to compensation when there are owner-caused delays and that is what these are considered. We want to minimize delay. On a project of this size and complexity, the delay cost are about \$5,000 per day. We need RDC the architect to do a good job in coming up with design solutions in a quick manner. As I mentioned we're getting help from Gilbane to analyze the cost from the contractor to make sure they're reasonable cost and the important thing for the city is to make decisions in a timely way so we can issue the change orders and keep the project moving without much delay. The reason we're here today and making the request for funding today is that we have enough of the change orders ready for execution, and we need the authority and the funding to execute those change orders so the project keeps moving forward. I do want to mention that RDC, the architect does play an important role. They are the most knowledgeable about the design and they are in the best position to make the corrections as quickly as possible. If the city were to take that on or another consultant were to take that on it would take a longer time to make those corrections. And just as important, RDC is responsible as the architect of record, they are committed to staying on the job and doing those in a timely way. All of our focus, the whole team on the process, is to ensure the building gets done and completed in a safe and functional way. Funding strategy, the source of the funding is coming from the driver training project. I know that the language in the recommendation may have been a little confusing, the reason for that is that most of the money in the driver training program is in most fiscal year, so that money is being held in the ending fund balance but I assure you that all the money we're requesting today is coming from that particular project within the program. Any additional funding that we may need, we would come back and make that request to the council and update the council on the status of the project. If that were to happen it would probably be in the August-September time frame. And I think we're here ready and able to answer any of your questions. Councilmember Kalra.

>> Councilmember Kalra: Thank you, Mayor Reed. First of all I want to thank the staff for taking the time out to go over the concerns that I had, not just in the recent days but also when I had the opportunity to

tour this site with the with Ed Shikada and others. In regards to the promise of this project as well as some of the problems that have occurred, particularly in regard to the design flaw. And it's certainly very frustrating to encounter those types of problems. And I think at this point, I'm -- I'm confident that the correct course of action is to continue moving forward, regardless of what has happened before. And one of the key questions I had, that you referred to right now, is keeping the same parties that we feel it is liable for much of the cost overruns, as part of the solution, so to speak. And that that question's been answered to my satisfaction, although again, it adds to frustration. And so one of the issues that I want to make sure we don't lose sights of and not make any kind of conclusions as to legal liability at this time, but I do want to make sure that we preserve any of our legal remedies as we move forward. And right now folks want to get the project done but make sure we don't lose sight of and don't lose the opportunity to pursue legal remedies at the appropriate time. So I'm comfortable at this time to put forth a motion to support the staff recommendations. And I would just ask if we could add one more recommendation, essentially -- essentially such that we preserve any and all legal remedies, based upon the performance of any of the contractors or subcontractors during the course of the construction of the project. And with that, Rick, would that be acceptable --

>> City Attorney Doyle: I would suggest if it's any of the consultants, it's primarily right now, the architects, that's the primary concern but we should have a reservation of rights against anyone. So it really is the architects that we're concerned about.

>> Councilmember Kalra: Then rather than limiting or being so detailed as to who we may pursue, just a general statement that we preserve as we move forward with these recommendations, as staff moves forward with the project that we pursue any and all legal remedies against any parties that have been involved with the construction of this project.

>> Mayor Reed: Okay, that's a motion, we have a second. So we have a motion on the floor. Councilmember Pyle.

>> Councilmember Pyle: Thank you. I'm glad that you were able to come up with a solution for this. I truly am. But I wanted to get some sense of what giving up the driver training component is going to do. I mean, to give that up is not something I'm sure you wanted to do. But can you tell me the effect outside of losing it, is there an alternative place or is there some other plan? Chief?

>> Rob Davis: Yes, currently what we're doing is using the Moffitt field naval air station driver training area out there. Some assistance we've got to try to extend that site. But at some point we'll have to move out of that site. As far as our academy training, most likely that's going to move us to the Salinas area, Salinas airport area, I believe, that will incur us more cost because we have to pay for that facility and the expense that goes with it. That's currently what the backup plan is at this point, until we can locate a facility here and eventually get one built.

>> Councilmember Pyle: So it's a big loss, there's no question.

>> Rob Davis: It's a big loss, we are potentially missing out on revenue, to the extent San José can develop the EVOV facility, you are mandated to do high speed driving and we have to absolutely do that. To the extent we're able to do that, we had opportunity to recover costs from other agencies but we are losing out on opportunity costs if you will.

>> Councilmember Pyle: It disturbs me, due to unforeseen circumstances, but it does basically say, there was a big mistake somewhere in the architectural plan. Was this reviewed beforehand by someone that understands how to do that?

>> Katy Allen: That's a great question, Councilmember Pyle. Because I think that gets to the question of where is the accountability on how this came to be. And we find ourselves in the position of having to ask for additional funds. Over the course of the design of the contract, we ask for credentials, similar project size, this is what we did there. We put the picture of the project up there, it is a fantastic design, it has a lot of unique aspects to it. But that doesn't relieve anybody of the professional responsibility that they have to give us a design that can be built. I will say, when we go into projects of this size, and this order of magnitude, there's always going to be some constructability issues. Those are resolved and keep the project moving. I would say in this project, design deficiencies are above what we normally see in projects of this size. We want to focus on building the project but at the end of the day, we have the responsibility to manage the project. We also have the responsibility to keep code issues current and code compliance implemented. We do look at the documents, there is a review and submittal process but at the end of the day, the are official that puts them together has some responsibility there.

>> Councilmember Pyle: Thank you. That's it for me. I do know, though, just from context, from people that I stay in touch with in Washington, that that is not -- the possibility for using that same place is not

going to be -- well, there's other uses that are in minds and they're coming to a quick realization. So I don't think you've got more than a year. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, Mayor. Ed, I think this question may be for you or the chief, I'm not sure who can take it. We had a conversation about the community policing centers. And I know there was a report that was supposed to be done. And at the direction, I believe, on the approval by the full council, was for that discussion to come to the full council on whether we move forward with funding community policing centers, or whether we look at another avenue, because they may not be as valuable to the city. And that was a discussion that we had. So my question is, there seems to be some inconsistencies in this memo, per the direction that the council had taken, January 13th. And I'd like to be able to understand why, and understand at what point in time will that discussion come to the issue come to the council for a policy discussion? First of all, we need to have a policy discussion, about the philosophy of where we want to go and then go to the budget discussion. Throwing it in this mix kind of confuses the process.

>> Rob Davis: Yes, thank you Councilmember Campos. I don't think there's any intent to try to create any confusion from the process. When we're talking about the policy issues for what we're going to be doing for all the CPCs, the problem we find ourselves in with the budgeting process, that throws us in limbo with regard to the budgeting process. We've looked at the CPCs, we see which ones are the most effective and which ones aren't, how we can leverage the ones we have, how we are reducing the A time we have them open, et cetera. I think what we're actually saying is the budget process itself, until that gets finalized, we are not going to make the policy decisions until we get that thing resolved. There is no intent to create any solution, we're trying to see where we're going based on the budgeting issues we see.

>> Councilmember Campos: For you it's the budgeting that will drive the process around the community policing centers?

>> Rob Davis: Which ones can we keep open, how many hours can we keep them open, should we be trying to expand them, are there others that can be closed because of other avenues of use in the other facilities. We think there is huge value in doing that, I know you're interested in what we can be doing on the east side. I think we share those concerns and those desires. We can't say here is exactly how long we can keep them open until we know what the staffing is going to be, we don't know which ones are effective, how we have to react in terms of our operations, it's just all blended into one big discussion. I think that's the reason that the memo is written the way that it is.

>> Councilmember Campos: So chief when I had this discussion with you and I had put it in my memo or in the motion, it was based on the philosophy that you had expressed to me about you weren't sure whether there was value to continue opening more community policing stations, centers, excuse me. So why I left it so broad and so open was because I was under the impression that your office was looking at a study to analyze whether we should move forward with this, and that's a council decision. So I hear your explanation. But it's not answering the policy question. I want to understand whether they are -- I hear that they create some value but you're not sure whether they're effective or whether we can staff them. That's not the question I'm asking. The question I'm asking is whether it's something that we should move forward on or even have a discussion whether they bring value to the City of San José, citywide. And I think that what I'd like to be able to see is, having that policy discussion, it doesn't mean if there's no funding then it means we can't move forward. But unless we have a policy discussion, I'm concerned about how it's portrayed in this memo. And that's what I'm trying to pull them -- they shouldn't be tied together. One does not drive the other. It really is a policy discussion. And I think that the full council should have the opportunity to have that policy discussion, based on the fact that you had expressed to me that your staff was working on a report to be given back to the full council.

>> Rob Davis: Right. And that work has been done. Captain Noel was doing that work. We had come back with that information internally, I'm not sure if that detail is in the January memo or in the process of being discussed.

>> Ed Shikada: Perhaps I could add to that chief. Couple of pieces of information. One is, Councilmember Campos, as you noted the reference in this report, the staff report that relates to the substation does have a description of our staff, I guess you call it expectation, that we would be bringing forward that analysis as a part of the budget process, for '09-'10. Understanding what you just described as having or a desire to have a policy discussion separate from the budget, that quite frankly, the way that we've been looking at the issue is that the two are linked and really, might be in a scenario of perhaps

unlimited resources that certainly, this would be the kind of service that we would want to do at highest level, but again, recognizing that there will be some difficult decisions ahead for us, that we had seen this as coming forward as part of the proposed budget. Now, that said, if the council would prefer to have those two pieces come forward, at a different time frame, then I think we could do some work to look at how best to do that.

>> Councilmember Campos: Thank you for that. So I would ask the maker of the motion, and what I'm looking at is, I want my colleagues to understand, is it's more of a policy discussion. I understand that one drives the other in your mind. But I think it would be helpful to understand whether they do serve the community or they do not. I'm not wed Ed, I'm very open what works for the city and what is best for the city. But I think that I'm still reflecting on the conversation that we had chief about you weren't sure whether they were serving the community in the best, of the City of San José. And so for me I'd like to be able to look at it from your analysis on whether this is best model. Then we can attach it to the budget. If it is not the best model, maybe we should look at it from a different perspective. I don't want to take something that's not working and put it to a budget. If there's no need to do that we shouldn't be doing that. I want to understand from your expertise as your staff was look at it whether this is the best model and have a policy discussion.

>> Rob Davis: We're happy to do that.

>> Councilmember Campos: So with that I would ask the maker of the motion if you would be willing to accept a friendly amendment that the -- the discussion of utilization of community policing centers in a comprehensive citywide strategy for future utilization of these centers be brought to the full council on a separate discussion.

>> Councilmember Kalra: And just for clarification is it your suggestion that prior -- your suggestion that prior to the \$590,000 being vacated for that purpose and --

>> Councilmember Campos: I'm not wedded on whether -- for me it's more about having the discussion, so I'm not saying that the money can't move forward but I think it's important for us to be able to have that policy discussion.

>> Councilmember Kalra: Prior to the --

>> Councilmember Campos: To the budget.

>> Councilmember Kalra: Yeah, and is there a time line, I guess the budget coming within --

>> Councilmember Campos: The chief mentioned that the report's done. So I think it's fair --

>> City Manager Figone: Let us go back and take a look at where the staff work is and the best way to bring that policy discussion forward.

>> Councilmember Campos: Thank you.

>> Councilmember Kalra: I'll accept that amendment.

>> Mayor Reed: I forgot who had the second. Councilmember Pyle. It's okay with the America and the seconder. Anything further Councilmember Campos? Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just had one question about the construction, I appreciate all the -- I think it was you Dave who answered the questions from our team. We had several questions about this project and I wanted to follow up on one of those which was, when we know we've had challenges with a particular architectural or consultant, it appears from the responses you gave is there is no black list out there, we preclude them from being involved in other projects. I also know there is not a lot of room for subjectivity when we're doing these RFPs. So it raises in in me a concern that we could be beating our heads against the wall by going back to the same consults or architects that have caused us problems on other projects. This project is a problem, a seven-figure problem. What policies or procedures do we have in place to make sure that we're not going back to the same people that are causing us these challenges and headaches?

>> Thank you, councilmember. I think it would be good to explain the process we go through to hire professional services. So this is a qualification based process, it's not fee-based, it's purely based on their qualifications. And their performance on previous jobs does in fact play a significant role in future decisions to award consulting contracts to them. So I do believe that there are the necessary checks and balances in place, that the appropriate questions would be asked about their performance, and their ability to perform all the requirements of the RFQ or RFP.

>> Councilmember Liccardo: How good is our institutional memory when we're dealing with contracts? I mean how many years back do we have records about who did what and how well? I mean in general, I'm not asking for --

>> We don't throw anything away. We keep our project files and certainly when we go through a selection process to select a consultant of a project this significant, we do do a significant amount of research. This particular architect is somewhat renowned for work on Public Safety buildings and has done a lot of that type of project. Also in terms of the due diligence, this type of predicament that we're in right now is something very unusual for them, as well. They've never gone through the process of designing a are project and having it come to where there's so many deficiencies in design. This is something unusual. We do go through the process to make sure we're getting as many best quality consultants on board as possible.

>> Councilmember Liccardo: So our process enables us to avoid if necessary going back to folks who may have created costs for us previously? That's what you're saying?

>> Absolutely.

>> Councilmember Liccardo: Great.

>> City Attorney Doyle: Councilmember, I just want to add as part of the RFP process it really depends on your criteria in which to look at, to bar somebody or prevent them from participating in a future deal is a due process issue, requiring you to have a hearing to make those determinations. So that always makes it complicated and I know Public Works has done it with respect to a contractor at least once, I don't know about an architectural firm. They do a good job at screening professionals, as part of the RFP process. But if you're going to limit somebody's ability to compete it's a different process.

>> Councilmember Liccardo: Okay, I appreciate there may be due process issues that come up. I certainly, if we don't black list a particular contractor ever some kind it would be nice if we could make it really, really hard for them.

>> City Attorney Doyle: For the record, we don't black list.

>> Councilmember Liccardo: Right. So I just, you know, like to assume this isn't A.I.G. but I'd like to assume that A.I.G. isn't going to be next on our list when we're dealing with bond money, for instance. But anyway, thank you very much.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Actually I wanted to ask the same question as Councilmember Liccardo so I'm just going to follow up with one quick question. On page 5 of your memo on the top it states that there are subsequent conflicts and changes to the system throughout the project. And it states that all the amounts have not proposed in this memo, so does staff anticipate that you'll come back for additional changes with this project?

>> Katy Allen: Councilmember Nguyen, yes. So we do know, in fact on page 4 just across from page 5 there is a recap. And we thought our best strategy at this point was to request the \$4.5 million to keep the project going. We do need these dollars today. We do have pending approvals that are needed. But we do have a range of funds right now based on the best information that we have and that is, the need to come back to council with approximately \$2 million more request. I do want to mention, it is a lot of money and I think I understand the concerns and the care that council has on this request. I will say that the contingency for this project, it is a \$60 million project. Our normal approach would be on the recommendation of the construction award to ask for a \$6 million contingency. We asked for something short of \$3 million. And so not trying to explain away where we are today, the contingency on this project was always very light. So what you're approving today gets us back into a normal range, and coming forward, in the August-September-October range with the additional dollars once we have confirmed what we need. So we will be back.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: I have one request from the public to speak on this item. I'll take that now. Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. Do you feel what I feel right now, the ghost of former Coleman Williams now, when he was asking for that artwork? That was cheap. We should have gone ahead with it. I don't know if he lacked vision or not. But nonetheless, there are certain words that the taxpayer does not like to hear. One phrase, I should say, is cost overruns. That's one. And then another phrase is this: Tax increase. Okay? That's another one. Oh, by the way, I'm almost forgetting another one, grand prix. Oh, I tell you that one there, you go to the maple leaf doughnut hole, that still stands out pretty well. Nonetheless, you know what you can do, you can't stop the building. Look at that time big thing. This is the first time I've seen the picture, an explanation, I couldn't explain it either. But nonetheless it's a big building. When a building gets that far, if you want to call it a building or a disaster, I

don't know which, you can't stop the process now, it's on its way and it's there. Unless you want to Jim Lehrer report and put a foreclosure sign on it.

>> Mayor Reed: That concludes the public testimony. Any additional council questions or comments? We do have a motion on the floor by Councilmember Kalra as amended by a friendly amendment by Councilmember Campos. All in favor, opposed, none opposed, that's approved. Good luck. Let me just give you all where I think I am in the agenda time wise. We still have several more items to get to. We're going to take up next the budget message then open forum then housing authority agenda then redevelopment agency agenda then noted under orders of the day on the RDA bond cap and plan amendments, we will take testimony but we will not take action, we'll continue the hearing for two weeks, at the request of the county. So I have about a dozen cards of people who want to speak. So I have high hopes of getting out of here by about 6:30. We'll just keep pressing on and get the agenda done. Dinner will be a little bit later. The next item then, is item 9.1, this is a joint city-redevelopment agency consideration of the Mayor's Budget Message. For FY '09-'10. We held a hearing on this, some things have changed, most notably, a memorandum from our staff indicating that the sales tax revenues had come in even worse than the bad expectations. Budget shortfall this year, that isn't good news, it is what it is. And we had quite a bit of testimony and discussion last week. I want to open this up, again, for public testimony as well. Let me first see if there are any council questions on the message before we take the public testimony. We'll come back to that, then. Please come on down when I call your name. So you're close to the microphone. It was not the ghost of Forrest Williams you were perceiving but it was Forrest Williams. So former councilmember Forrest Williams, sister Marian Fahey and Paul Higgins.

>> Forrest Williams: Good afternoon, mayor and councilmembers. I'm pleased to be here to see your smiling faces. I'm here to speak about a work group. For the eight years I spent here I know what you're facing. The difficulties of competing interests and putting those interests and concerns together, to have a budget that best meet the needs of the City of San José. Over that time, I learned one thing, that the community has a significant say, and they help us to make those decisions. Because they make things clearer to us. We discuss those things, and we come to a conclusion, as to what the budget ought to be. So I was asked to chair a community budget working group. I'm retired, but I agreed. I said, fine. Because I want to make sure that the community gets an opportunity to participate. The working group is a group that wants to engage the public. We want to debate. We want to do those things that are necessary. We don't have -- two minutes is not enough to debate the issues regarding the budget. We had streaming video where people could call in online and ask questions and we could debate those questions. Not only did we talk about the question we educated individuals about the budget and what the process was about so they could understand their issues when they were debated. So we're saying, some of the things that they came forth with is they wanted to make sure that council looks at leveraging, in other words, nongeneral Fund money that comes into the council, leverage that in the sense that projects that may come forth, give them priorities because they could help the General Fund. Or we could charge fees for city services that we have to other departments, et cetera that would go into the General Fund. The other idea would be to --

>> Mayor Reed: I'm sorry councilmember Williams, I got to inform you. We did have a written report which we appreciated giving.

>> I know. Thank you very much.

>> Mayor Reed: Sister Marian Fahey, Tony Higgins and Tony Nguyen. Ross Signorino, Dan Fenton.

>> Ross Signorino: Mr. Mayor, members of council, I'll try to be brief. I just came to tell you, how wonderful, early in January when you had the audit come up here and present, whatever that lady presented on the financial status of the city and so on, or at least our credit rating, I think that's what it was, the credit rating, I think it was with standard and poors doubleA plus, Muni high rated, I think it's commendable to mention that again what these dire things we're going through, as far as the budget is concerned, I think you've done a good job in trying to keep at least the standard of the city as far as creditability goes, with the rest of the financial world. Thank you.

>> Mayor Reed: Dan Fenton. That's the last card I have on the budget. If you put in a card I don't have your name.

>> Dan Fenton: Thank you, Mr. Mayor, members of the council. Just want to reiterate to encourage the council to safeguard the dollars that are allocated to critical sales and marketing efforts for the Convention and Visitors Bureau, which ties to the results of the activities, to drive the downtown economy how important that is. We look forward to a project that will be one of the largest public projects in the last several years. We want to manage and come out of that successful and ready to go for the future. So I

urge limiting the reduction of the Convention and Visitors Bureau sales and marketing funds. Thanks very much.

>> Mayor Reed: That concludes the public testimony on the budget message. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I have a few comments but I'd like to start by making a motion to approve the -- approve your budget message 2009-2010.

>> Second.

>> Mayor Reed: Motion and second.

>> Councilmember Kalra: I think these are good goals but I know this has been high priority for you as well as the rest of the council. To whatever extent possible, I know some of this is mentioned in further detail, I know the administration, the presidential administration has offered other programs, including programs that haven't been active for several years, to potentially add more police officers to the streets particularly in urban areas. So continue to seek out those funds, and also look at ways we can shift potentially administrative duties and particularly those that are doing administrative duties in the -- in City Hall or other departments to fill in those roles that now are being used by sworn officers. The second thing is, in regards to the City Manager continuing to work with the bargaining units trying to find creative ways to cut back on cost as much as possible. And I want to thank you, mayor, for including the essentially services preservation fund, as a way of funneling some money in a more organized manner to priorities that are important to the community, and also, I also appreciate the idea of setting a goal to commence a meaningful discourse regarding how RDA funds can be used to support General Fund priorities. Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, I would like to chime in and thank you Mayor Reed for your leadership on the budget message. I think you're right in some of the public comments you've made over the last couple of days, we really take into consideration the community's input in regards to how you come up with the message. So I'm very grateful for that. I have a clarification question in regards to the possible reduction in the CVB funding. And I'm reading this over and over again. I still don't have a clear understanding. So my question is, is the reduction in the CVB funding just limited to similar restriction as other nonpublic Safety areas are receiving?

>> Mayor Reed: Well, that's what I'm suggesting although it is really up to the manager to try to put this together. That's an important consideration. We have to look at the total marketing dollars that are available and our \$2 million subsidy is only part of it. But I'm suggesting that the reduction ought not to be more than what the other departments are taking or their reductions.

>> Councilmember Nguyen: Glad to hear that. I hope the City Manager really considers this as moving forward, again to reiterate my comments from last week, you know, we don't have too many facilities that are generating revenues for the city. And I just feel this is one of the facilities that continue to generate revenues for the city. So as part of a policy body we should look at these facilities trying to provide as much support and limit as much reduction as we can as we move forward. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. And mayor, I guess this question is probably maybe for the City Manager, I'm not sure how -- who to direct this to. But my question is around the convention and visitors bureau, I know that as we move to try to balance the budget, figure out how we consolidate marketing efforts. If we take away any -- if we reduce any of the marketing dollars to the convention and visitors bureau, does that mean that the City Manager will also come back and look at the standards of the benchmarks that are currently attached to their performance, and so my question is, are they separate, are they together? How do we address that? Or do we?

>> Mayor Reed: I think that's part of the analysis of how much reduction can be achieved, or tolerated or recommended. Because we have to -- do have to look at what we expect them to deliver by contract, and the performance measures as part of that analysis. And that's why I'm suggesting that the reduction ought to be limited in nature and not say well, it's two million bucks, let's take the two million bucks. That's not what I'm suggesting at all.

>> Councilmember Campos: Okay, that is helpful.

>> Mayor Reed: City Attorney, have a question for you. I had forgotten, I just got reminded by people whose job it is to remember all these things, that last week we had a motion on the floor, we did not vote on it, to approve the message, and we continued the hearing to tonight. So then Councilmember Kalra has made another motion. So I'm not sure who's got the motion. Since we have a smaller council meeting tonight in terms of people that are here, it may be that we need a new motion by Councilmember Kalra.

>> City Attorney Doyle: Yes -- I don't know if the original maker of the motion is here tonight. But I'm looking at the --

>> Mayor Reed: I think it was Vice Mayor Chirco.

>> City Attorney Doyle: I'm looking at the synopsis, it's not reflected in the synopsis. So it might be best to take it up as a new motion.

>> Mayor Reed: Okay, the new motion on the floor, unless council observe, is the new motion made by Councilmember Kalra. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. This is for Jennifer Maguire, our budget director. The impact of our forecast dropping more than forecasted, and even though we forecast conservatively on that, that is is going to add our deficit. And then come May I think we're going to hear more on the property tax drops that people will call Larry Stone and say hey, I don't think my property is worth that much but then in June another property tax update. Any range of guesses where we're going to end up with?

>> Jennifer Maguire: Jennifer Maguire budget director. Very hard call in these hard economic times. With our property tax we are constantly in contact with the assessor's office. In March we were telling us the roll would be about 2.5%. But as they're looking at about 42,000 properties that have been sold and look at potential reassessment of those we are lowering our growth estimate to around 1%, and that's the most recent amount we carried in our February budget estimate. When we arrived at the \$61 million deficit, we were at minus 5% next year, we were at minus 3% to be more conservative. Due to this most recent performance, sales tax which we are waiting for the components of it, to find out if there are one time adjustments which sectors performed worse than others, we'll evaluate that but it could be as the mayor said up to a \$3million deficit for next year.

>> Councilmember Oliverio: Thank you as always for the hard work of the budget office.

>> Mayor Reed: There is hardworking in the budgets office and you figure out wild variables. I just want to point out at mid year, we made an adjustment at mid year, a 1% adjustment Compared to where other cities were, that was a very good job by the staff to try to figure out where we're going to be in advance of what we know when we don't need or don't have all the information we need to know. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, just very briefly, I concur with all the comments you just made. Although I was not here last week, I did have an opportunity to review all the comments and concerns of my colleagues. I want to reiterate support for the sentiment that Councilmember Nguyen, I believe she expressed it last week and again today, regarding CON-VIS. So thank you.

>> Mayor Reed: We have no additional public testimony. Any additional council questions or comments? We have a motion on the floor to approve the budget message. All in favor? Opposed? None opposed, that's approved. Congratulations staff. Now the hard work begins. How long do you have? Five weeks? The City Manager and staff have five weeks to figure it all out and get it back to us. Next is the open forum, this is a joint agency forum. Anybody wishes to speak? I have two cards at this opinion. Ross Signorino and Pat Pizzo. Please come on down.

>> Ross Signorino: Thank you, Mr. Mayor. I'm sure I want to express the same feelings that you all have in regards to the four fallen officers in Oakland that was killed. But you know at the same time we must have some compassion and understanding towards the family of the perpetrator of these crimes, here, too. They are suffering to see what their son did and that's something we should not forget. And at the same time, we should not commit the same sins that we committed during the second world war, when we locked up Japanese citizens in this country because Pearl Harbor was attacked by Japan. We must not forget that at the same time. And we must not say, now, look how bad the city of Oakland is. We must be understanding, realizing that Oakland is a great community. And let us not commit the same things that we did during the second world war regarding the Japanese. Again I say that. But now, let us have understanding towards the families of these fallen officers and everything they tried to do for us, it was tragic. Thanks very much.

>> Mayor Reed: Pat Pizzo.

>> Mayor Reed and councilmembers, my name is Patrick Pizzo I'm a lifelong resident for San José. I'm here to express concern by the direction taken by envision 2020 task force as defining future. Jobs creation and housing, scenarios that will then be evaluated for environmental impact. In an accompanying document the March 9 community feedback of 2008, the state specified park space standard of 3.5 acres per 1,000 residents was challenged, and a new standard based on proximity and function was suggested. As you know, the City of San José is just at the 3.5 acres per 1,000 resident standard and the

Parks, Recreation, and Neighborhood Services people have pointed out that 2,000 new acres of active park are required just to hold to this standard considering 2040 projections. It is not already a -- if it is not already a part of the EIR process I ask that the council request active park space projections for the various scenarios being evaluated by envision 2040, projections that meet or exceed the state standards at 3.5. It is my perception that envision 2040 will, with its present momentum, perpetuate San José's role as bedroom community for the Bay Area. Let's ensure more park space for our residents. Perhaps the neighboring cities will fulfill the park space.

>> Mayor Reed: That concludes the forum. We have one item on the Housing Authority agenda, item number 2, we'll take that up. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Mayor, I wanted to move the staff recommendation with one amendment. And that relates to deleting activity number 4 which is described on pages 20 and 21. And the reason why I request this deletion is to ensure that all project based section 8 vouchers are allocated on a competitive basis to ensure that all of our nonprofit and affordable housing developers are given equal opportunity to be able to obtain project based section 8 vouchers as the housing authority of Santa Clara County. That would be my motion.

>> Second.

>> Mayor Reed: We have a motion. Leslye Krutko.

>> Leslye Krutko: Mayor, if I could, the -- I wanted to explain what our recommendation is. I want to make it very clear that we're recommending that 1/3 of the section 8 vouchers be designated for chronically homeless persons, vouchers that turn over, new vouchers and project-based vouchers. So with whatever action the council takes today with any additional recommendations that it may have, we will be taking this forward and putting it in a letter to the housing authority to clarify this. Because it's important to us to make sure that all three of those types of vouchers turn over, and that 1/3 are set aside for the chronically homeless. I also want to indicate that public comments are due on March 29th and the housing authority will be taking its final comments. This is a one-year plan and that's what we understand the housing authority needs to approve but while this recommendation is only for this upcoming year, it's our desire that this arrangement be continued indefinitely until we have addressed the community's housing needs for chronically homeless people. So we can't in the plan say that it's longer than a year but we'd like to at least go on record that that's our desire.

>> Mayor Reed: Okay. We do have some requests from the public to speak on this item. Do I have anything further? Councilmember Liccardo.

>> Councilmember Liccardo: Mayor, may I ask for some clarification? Leslye, I didn't want to by my amendment say anything inconsistent with the recommendations in supplemental regarding a set aside of a third of the vouchers. I hope I haven't.

>> Leslye Krutko: No, you didn't. I wanted to make sure I had some rashes that I needed to make to clarify as well what was in our memo, what was clear so I wanted to make sure I did that.

>> Councilmember Liccardo: Great, thank you.

>> Mayor Reed: Take the public testimony on this at this time. Dan Woo, Carol La Mont, Katherine Mason. Please come on down if you're able to last the length of this meeting, it's time to talk.

>> Hi, I'm Dan Woo, I'm with charities housing. I wanted to stay in support for Councilmember Liccardo's suggestion that we would have this project based voucher be available to all affordable housing developers. It's a very valuable resource, we can leverage additional outside funding, that would make our affordable housing project that much greener, provide better services for the residents. So it's a great resource and we hope the council will make that amendment Thank you.

>> Mayor Reed: Carol La Mont and Katherine Mason.

>> Hello, I'm Carol La Mont. Destination Home is a new public-private collaborative formed to end homelessness in Santa Clara County. To achieve our goal it is essential that a sizable and continuing number of section 8 vouchers be set aside for people who are chronically homeless, have multiple barriers and tend to be the most underserved by affordable housing in the city and county. We ask the San José housing authority board of commissioners direct the housing authority of the county of Santa Clara to set aside at least 200 vouchers on direct referrals to those who are chronically homeless. Destination Home has already raised a significant amount to expand the availability of intensive case services for the county for those who have been homeless for extended periods and have disabling conditions. Through our coming home program we aim to help those who are chronically homeless, to get them into homes and help them rebuild their lives so they can remain stably housed. We cannot reach our goal without subsidies. The section 8 voucher program is the best tool available for

those with little or no income. We recognize the forecast of the housing authority about forecasting the availability of vouchers. If 200 cannot be committed, we ask that one-third of all vouchers, one-third made available through turnover and those made available on turnover basis, be directly available for those who are chronically homeless. In addition to the 200 vouchers committed by the housing authority for the chronically homeless in 2009 and priority in the allocation of these vouchers should be given to those with disabling conditions and those provided with intensive case management services to help them access and remain stably housed. With the adoption of --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Katherine mason.

>> Kitty mason had to leave and she gave me her written comments.

>> Mayor Reed: If you will give those to the clerk they will become part of the written record. Sorry she couldn't wait. That completes the public testimony. Let me speak in support of the staff's recommendation as well as the co-chair of the destination home effort, this is an important piece of what will be necessary to end chronic homelessness. But we do have a plan. It's feasible, in fact we have most of the money available to it. But there are elements of it, we have to fill in gaps and these vouchers are an important piece of that. But we can and we will end chronic homelessness in our city and our county in collaborative effort with the county and this is one piece of it. There is a lot more to it. We don't have time to talk about all the destination home efforts but I want to thank Leslye Krutko and her staff, an their work on getting us that far. I would support the motion. Conversations, discussions, debate, there's a motion made by Councilmember Liccardo. All in favor, opposed, none opposed, that's approved. That concludes the work of the housing authority. Now we're going to take up the work of the redevelopment agency. Let staff have a chance to change positions. We'll take up first to the consent calendar of the redevelopment after we all get to the right place in the notebooks. We have a motion to approve the consent calendar. Are there any requests to pull things off the consent calendar for discussion? I have no requests from the public, newspaper from the council. Motion is to approve the consent calendar. All in favor, opposed, none opposed, that's approved. Item 5.1 is approval to submit an application to California Department of Housing and community development to participate in the infill infrastructure grant program. We have a motion to approve, asking somebody else for money.

>> Harry Mavrogenes: Yes, sir.

>> Mayor Reed: Rarely controversial. Motion is to approve. I have no cards from the public. All in favor, opposed, none opposed, that's approved. 5.2 is another approval of an application to the California Department of Housing and community development to participate in the T.O.D, transit oriented development program. Motion is to approve. All in favor, opposed, none opposed, that's approved. 6.1, approval of purchase and sale agreement for purchase of 601 autumn court. City Attorney.

>> City Attorney Doyle: This matter I believe has to be deferred. We'll come back on August 7th. It is a CEQA issue.

>> Mayor Reed: August 7th?

>> City Attorney Doyle: I'm sorry, April 7th.

>> Mayor Reed: If it was August 7th we'd already finished all this budget stuff. All in favor, opposed, none opposed, defer that one. 6.2, approval continuation second agreement with can Leddy needham architects. All in favor, opposed, that's approved. Items 8.1.to 8.3 are joint items with the city council. 8.1, audiovisual sound system project, we have at least one question, Councilmember Liccardo.

>> Councilmember Liccardo: I just wanted to thank a lot of folks who have been involved in this effort. I know Bill Ekern, Dean Monroe, I think this is fantastic and it's really going to make civic come alive and this is a perfect timing for us to be investing this money, at the time we are signing a promoter who is going to get us some acts that is really going to make the downtown hop again. And this will sparkle like a jewel. I just want to thank everyone's involved. Motion to approve.

>> Mayor Reed: We're going to have Dan Fenton come down and share the good news. Councilmember Pyle you had a question.

>> Councilmember Pyle: Just a quick one. What is the general life span of this equipment? I know technology comes and goes, life spans are not all that great but I'm just curious.

>> Mr. Mayor, members of the board, probably five to ten-year range.

>> Mayor Reed: All right, Dan, comment on the Nederland contract.

>> Dan Fenton: Mr. Mayor, it's really been great, we brought the Niederlander team on. An architect that is world renowned as it relates to theaters and that kind of thing, with community members there at

the table, we're not only talking about this but all the things that are coming. In the conversations with the Niederlander company, there is already concerts booked. Things are going to be happening in May-June, about ten rows up in the middle, John Siula. So a lot of new players are involved. We couldn't be more excited and thankful for the team that's working on that and certainly encourage the sound system on future projects that we conned to move forward.

>> Mayor Reed: Congratulations on the Niederlander, lots of people coming in to use the civic auditorium. We have a motion to approve. Further discussion? All in favor, opposed, none opposed, that's approved. 8.2, report to the council on the amendment to the redevelopment plans for the merged project area tax increment limit and bonded indebtedness, limit increases. As I mentioned on the orders of the day, we will take public testimony, we do have cards, we'll not take public action, but continue for two weeks at the request of county. I believe there will be a staff presentation and then take testimony.

>> Harry Mavrogenes: Mr. Mayor, members of the agency board, I'm pleased to bring before you the proposed redevelopment proposal to increase the increment. From 7.6 to 15 billion, setting one limit on the amount of bonded indebtedness that may be outstanding at any one time to 7.6 billion and limiting the list of eligible improvements. We have agency staff that may be able to answer questions that you may have. Susan Appey, the agency has been engaged in this process since November 2007 and during the past year and a half we've achieved many significant milestones. We've completed our initial blight study in April, 2008, in December 2008, the preliminary report was completed, the preliminary report documents, the extent of the blighting conditions, and the nexus between the project needed and the resources required to derive that blight. The report was posted on the agency's Website and distributed to taxing entities and the state. In January of this year agency staff invited community members to an evening meeting to learn about the comment of the proposed amendment and on the February 11th the Planning Commission made a finding and recommended the plan amendment is in conformance with the general plan. Finally on February 17th a notice of public hearing announcing today's hearing was mailed to the effective taxing entities and to over 75,000 households within the merged project area. While the agency has made progress in eradicating blight, blighting conditions remain throughout the project area. On the screen you see some photos documenting the blight. Of course the recent foreclosure crisis has zeroed in on some of our neighborhoods within strong neighborhood area. And so a lot of work needs to be done. Raising the tax increment limit will allow the agency to continue elimination of this blight by investing in public and spaces, affordable housing, transportation projects, remediation of hazardous materials, and by prioritizing community needs, just as important raising the tax increment limit will allow the agency to stimulate the local economy by creating much needed jobs, critical economic benefit during these turbulent times. With that we're available to answer any questions. Thank you.

>> Mayor Reed: I think we'll take the public testimony on it at this time. Please come on down when I call your names so you're close to the microphone. Eric Shanehauer, Mark Johnson.

>> Good evening, Mayor Reed, members of the city council, my name is Eric Shanehauer and the Shanehauer company represents W.T. Weis corporation. If we want to provide adequate city services, touchtone for our residents to work and prosper thus avoiding dependence on council social services. Redevelopment funding allows us to invest in community infrastructure that lays the foundation and facilitates private sector job growth. Nowhere is this more evident than the envision San José plan, transportation, schools, neighborhood improvements will ultimately result in tens of thousands of new jobs, an expanded tax base and greater overall opportunity. The envision 2040 San José plan cannot happen without an increase in the spending cap. Although this issue is contentious, we hope in will drive you to resolve your issues in your relationships and that you will increase the spending cap. On a more personal note as a former member of the SNI PAC and the 13th street NAC I think the success in the future opportunities in the SNI program speak for themselves. Thank you.

>> Mayor Reed: Ted Johnson, Mark Avenante, then Joan Rivas Cosby.

>> Ted Johnson long time resident in east San José 47 years in 95122 area code which was up on your screen just a few minutes ago. Looks like somebody shot with it a shotgun. It's true, across the street from me I have three vacant houses, two of them have been destroyed basically because of the tenants not taking care of them. Redevelopment funds are really needed to support the Sni. I look at the item for the speakers, for the auditorium or convention center. I think with that million dollars we could have bought five, maybe six homes in my neighborhood. And we could have put people in those home. We could have possibly did something like habitat for humanity where we let people reconstruct the homes because they are destroyed. More homes -- they're not going to sell. We've got to think about how to rehabilitate these homes. And make them worthwhile. So maybe redevelopment funds to buy these

homes, and then we take our students that are dropping out of school, and teach them a trade like electrician, plumbers, roofers, whatever is needed, to work in putting these highways up, with the help of the unions, possibly as training programs, and helping our youth, we've got the highest dropout rate in the whole area. We've got more kids in truancy programs. We've got more broken homes in our area because of the poor employment benefits. We've got a disaster. The highways across the street, the grass is growing up. You know, another month, it's going to be brown. Another few days, somebody's going to throw a lighted cigarette in there, and we're going to have a fire.

>> Mayor Reed: I'm sorry, your time is up.

>> I have comments from another group.

>> Mayor Reed: Okay, if you'll give those to the clerk they'll get into the record and get to us. Mark Avante, Joan Rivas Cosby, Jeff bird. Jeff, you're next. I don't see anybody else moving.

>> Thank you, Jeff bird with legacy partners. I'd say we've been partners with the city for the past 30 years and over the last 20 very actively involved in the redevelopment in the redevelopment districts. The redevelopment agency has been the most successful agency we've seen where we operate in the western United States, but the job is far from done. As you can see from the information that's been provided, we're here in support of the increase in tax increment and the pertinent bonding. In order to do those things. I really wanted to speak about one specific case that maybe we can all dial back to a year ago. But a year ago we had a number of millions of dollars invested in a proposed development to build 500 housing units in North San José or at least the first phase. We had received a \$100 million bond allocation from the state had a equity commitment and the school district which was in panic to see how they were going to finance the future school needs threatened a Mello-Roos district that was going to cost \$90,000 over a 30 year period for every house in the district, which killed that project and put every other project at risk. Due to the great efforts of staff, I Mo that Mayor Reed was involved in coming up with a resolution, a resolution that was identified that could solve that issue and avoid a 10 year development in North San José. Unfortunately that resolution canning consolidated and finished without this additional tax increment and you know, that's just one little example of the kind of infrastructure that we desperately need to be able to handle and hopefully these dollars will do so. Thank you.

>> Mayor Reed: Doug McNey, Yolanda Reynolds, Rita Torrez.

>> Doug McNey, current president of the Silicon Valley taxpayers association. I'm here to speak in opposition in this increasing of the tax increment. The -- I'm concerned about the serious impact that the redevelopment agency is having on education revenue. I object to this increase of doubling it from 7.6 to 15 billion. The current rate is already robbing education and badly needed revenue and I summarized in a letter that I've already submitted to the clerk's office and I'll give another copy to the clerk the numbers. But the current number according to the county tax rate report is a little over \$90 million that's in the San José redevelopment agency's diverting from education. Otherwise would have gone to education if it wasn't for the San José redevelopment agency. County wide, the number is a little over \$1 gay million. Doubling the tax increment cap will only make this worse and facilitate more borrowing by the redevelopment agency increasing a legacy of debt. My grandchildren the oak grove elementary school students will have to pay in the future. Until this issue of placing redevelopment above education, when it comes to the allocation of property taxes, is resolved, I'm opposed to any increases in this tax increment. Thank you.

>> Mayor Reed: Yolanda Reynolds, Rita Torrez, Chris Kober.

>> Good afternoon. First of all I want to tell you thank you for postponing a decision on this issue tonight. Because I think I was one of the people, one of five people who attended the meeting that was called by the redevelopment agency to discuss this increase in the indebtedness. And there were five people there, four of us were adamantly opposed to this proposal for a number of reasons. One of them is the economy I think it's a wrong time to consider even going for more indebtedness because you discuss it briefly, but I think that there's even more properties that are going to lose value. And we were told that oh, well, we'll refinance. Well, the state of California has refinanced and now has a very poor rating. We could be in that same situation. The other thing, the gentleman that spoke about parks, and there's now the schools and we have our libraries and so on. Our streets are a mess. All of us are incurring huge yearly cost because our tires hit, our cars are constantly going over potholes. Those are costs that you're throwing upon us. And I would like to make a recommendation. And that is that redevelopment money, and you have some extra money, I'm sure, could go better to help those people who have had, or still paying on their homes, their mortgages, both members of the family have lost their jobs. I think you could find a way to try and keep those people in. People talk about new housing. Let's keep those people that

have made a commitment to San José in San José in the homes in which they chose to live. I don't anticipate and you cannot say that we're going to be out of this mess any time soon. I'm afraid that all the promises, we've been made these promises constantly, jobs, tax.

>> Mayor Reed: Your time is up.

>> I'm going to be dead before you realize it.

>> Mayor Reed: Rita Torrez, Chris Kober, Pat Dando.

>> Good afternoon mayor, members of council, my name is Rita Torrez. I'm here to support the increase in tax increment limit. I'm the current president of the Spartan Keyes NAC. I've spoken in support of many different projects in the past years. I've lived in the Spartan Keyes neighborhood in the past 28 years. I've seen the support of the redevelopment of the NAC who has been driving some of the projects, things that we have seen have really changed and transformed our neighborhood and we're hoping that the next five years that we've just renewed our priorities with a new plan of attack, new activities will continue with the momentum that we started. It took a lot of time to develop neighborhood unity, a sense of identity, how to work neighborhood resources, neighborhoods that are blight often don't know how to work because there are a lot of low-income, the problems ever having blight, unsafe neighborhoods Problems with traffic, they're really overwhelming. So it's taken a long time to learn how to operate and work with the city. I would hate to see them stop. We have lots more to go but we have several projects including developing more open land, to keep calming the traffic that zooms through our neighborhood to increase the safety of the neighborhood. There have been some shootings and other incidents in the past year that have really alarmed us but we have learned to work with them, our resources, we want to keep moving forward with that. We have had a wonderful neighborhood center that is really going to be the focal point of away we do in the next year. It's not a community center but a neighborhood centers --

>> Mayor Reed: Your time is up.

>> Thank you for your time.

>> Mayor Reed: Chris Koberg.

>> I'm Chris Kober, president the castle group. I'm here to speak in support of the cap limit. One of the ways we support the redevelopment agency, we've done it many times in particular in a project north San José in conjunction with equity residential we're well into a \$500 million investment into the city, quite frankly wouldn't be possible without all the work we've done to date with the redevelopment agency and will continue to do with them. In particular as the previous speaker mentioned, the Cisco, Novellus, the San José school district, we were able to craft a way in which quite frankly a modest investment by the redevelopment agency can allow a wonderful North San José project, series of projects to proceed. And our project alone is a \$500 million and we are but a fraction of the total investment up there. So billions of dollars of new economic growth of new projects, thousands of jobs and the key point I really wanted to make is, with a small amount of public investment, an enormous amount of private investment can be made in this city. And you know, we really hope that you are able to both support this measure but also work out the difficult issues with the other agencies to pass this, because this isn't just my project or an economic issue. Silicon Valley is going to lead this nation out of our economic woes and we need to be ready for the future so I hope we can all make that happen. Thank you.

>> Mayor Reed: Pat Dando is our last speaker.

>> Pat Dando: Good evening mayor and members of the board. It's a real privilege for me to stand before you and support the increase in the tax increment. I have to say that over the past 25 years of watching our city go from a blighted urban center to a thriving exciting downtown is something that we should not all forget. With the sucks that redevelopment has had I considered the quality of life that has been brought to neighborhoods, as well as facilities that have been built, the children's discovery museum, the arena, the tech, the number of affordable housing that has been made available by the redevelopment agency and the thousands of jobs that have been built because of this agency. This is an opportunity to continue to leverage public dollars with private dollars. The public-private partnerships that have been developed over the last 25 years have been remarkable. Any time that can you take a dollar of public money and leverage it, 9, 10 of private money, that's a good deal. And to turn that down today would be absolutely foolish. I'm also fully aware that it does take time to remove blight in a community. But it takes a board that's willing to stay focused and to bring good programs and strong jobs and good partnerships in order to make that happen. The private sector has been very involved and understands the importance of this partnership. And as you heard the previous speaker, we are leveraging millions and millions of dollars that will lead to billions of dollars in economic delivery. This is not the time to back away, this is the time to stand, be bold and move forward. Others are wondering

what they can do to help stimulate their economies. You have it right before you. I encourage you to increase the spending cap, to move forward and let's generate more jobs and more housing for our families and for our community. Thank you.

>> Mayor Reed: Thank you. That's all the public testimony at this point. We're not proposing to take action this evening, but we can certainly discuss it. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to address the concern that was expressed by a gentleman about the notion that somehow another redevelopment is stealing money from other worthy purposes like education. You know, if you look at for instance the neighborhood that Rita Torrez is from, she just spoke a little while ago, that Spartan Keyes neighborhood, that SNI neighborhood we don't draw a single dime of increment from those neighborhoods. But because of our investment and eliminating blight in those neighborhoods, we see enormous growth, in a period of five or six years, 2001 to 2007, we saw 100% growth in property values which was faster than the rest of the city. These were neighborhoods in my district, and in other districts around the city, that were previously deemed to be -- have a greater percentage of blight than any other neighborhood in the city. So the transformation there I think has been considerable. Because of the growth in property values our schools do better because they obviously get more tax revenue as does our county and the rest of the state, as well. I think also you look at the investment we've made in schools through redevelopment, Horace Mann here downtown. I know Councilmember Campos recently came up with a proposal for investment on the east side, a charter school. There has been a lot of partnership between the redevelopment agency and our schools. The pie can get bigger without our feeling that anyone's piece is being taken away from them. And I think the critical piece in all of this is looking at the increasing the cap is understanding how much work we still have to go. I think the report was very telling. We have identified over 2200 parcels containing blight in redevelopment areas and that's plenty of work still left. And the most telling statistic I thought is when we looked at the zip codes where we saw 17% of the households, I understand, are covered in redevelopment areas. But those 17% of households, I'm sorry, 17% of the city that's covered in that redevelopment project area, contains 80% of the city's foreclosed properties. There is clearly no question there is a lot of work to do in termination of blight. Those challenges are ahead. The agency has proved it's done a good job for the city.

>> Mayor Reed: We have no action to take on this item so I think a motion to defer for two weeks, continue it for two weeks, I guess. Councilmember Liccardo, seconded by Councilmember Nguyen. Motion to defer April 7th, take this up April 7th, finish the hearing and take action presumably then. All in favor, opposed, none opposed, taste take this up in two weeks. We have one item left on the agenda. That's a request to remove Naglee park from the SNI project area, item 8.3. I have a motion to approve. I do not have any cards to speak on that. All in favor, opposed, none opposed, that's approved. I believe we're done unless the clerk tells me otherwise I think we got the whole agenda done. They say yes, we're completed, we're adjourned.