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City of San José city council meeting. [Gavel]

>> Mayor Reed: Good afternoon. I'd like to call the San José city council meeting to order for March 16th, 2010. We will start our meeting with the invocation. Which will be introduced by Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. The Brenda Lopez folklorico group is a nonprofit organization that provides dancing classes for free under the leadership of Nancy Lopez through the community at the Washington United Youth Center as well as the Gardner Community Center. Nancy Lopez is the younger sister of Brenda who in the Lopez family is something of a legend in the Washington community for the extraordinary public service they have been continually offering to the community in so many ways. Mark, their brother, has also been a community leader there. They are expanding their program to other sites, we look forward to that as well. This has been in existence for over ten years. Was started by Nancy's sister, Brenda, who passed away in December of 1999. There is a park that commemorates Brenda's work in the community. Among us are dancing Robert, Elizabeth, Valaria, Sienna, Antonio and Carla. With that I welcome the Brenda Lopez folklorico group. [¶music¶] [¶music¶]

>> Mayor Reed: Thank you. We'll now do the pledge of allegiance. We have some special visitors that will help us with the pledge of allegiance. Student from Anderson elementary school from District 1. Everybody stand. [pledge of allegiance]

>> Mayor Reed: Thank you. I'm guessing those were third graders, is that right, Anderson elementary school? Third graders, thank you for coming. Our first order of business, are the orders of the day. Any changes to the printed agenda? I have none requested. I need a motion on the orders. We have a motion to approve orders of the day. All in favor? Opposed, none opposed, the orders are approved. Closed session report. City Attorney.

>> City Attorney Doyle: Yes, the council did meet in closed session. There is no report.

>> Mayor Reed: That takes us to the consent calendar are there items councilmembers would like to pull for discussion? I have a request to pull item 2.3 (c). Any others? I have a motion to approve the balance of the consent calendar. All in favor? Opposed? None opposed, that's approved. Item 2.3 (c). Mr. Wall you wanted to speak on that item.

>> David Wall: Good afternoon to you all. I am here to speak on this issue because once again, these reports list my testimony as comments. And that is -- well, that chafes my hide to some degree. In reference to the public entertainment ordinance, comments were made concerning the -- that crime or lawlessness associated with the night clubs or the entertainment zone was down. Well, this is a truthful comment that was made. However, it's down because the San José police have been basically ordered not to arrest people who are drunk in public. Unless of course the individual beat cop has to call a supervising sergeant or lieutenant to witness the fact the person is drunk, vomiting all over the place or on a person and then arrest them. So this comment was not accurate in this report because that was my testimony. Also received an admonishment for such testimony. Now, we'll go to the habitat, the Santa Clara Valley habitat issue that was part of this report. Now, it is true that I do support the concept of habitat planning but my comments were cut short on this report because this Santa Clara Valley habitat plan is so flawed that any attorney, even bad attorneys as I testified, could make a profit off of this. This is strictly a very bad program. And on defense of the lord's fishes, I don't see how anybody who has a Green Vision can accept removal of fish from the covered species list. That is rather troublesome, getting rid of fish out of the Guadalupe River and Coyote creek for a habitat plan. I really think there should be form of accurate recording of these specific testimony points in future. Thank you.

>> Mayor Reed: This concludes the public testimony on this item, is there a motion on item 2.3? Motion to approve item 2.3. All in favor opposed none opposed, that's approved. We're going to adjourn today's meeting in memory of Lindsey Wolf. City Manager has some comments.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. First of all I would like to begin by acknowledging Greta Muller, Lindsey's partner, who is here with us today. Lindsey Wolf, the long-time and highly valued communications manager in environmental services, died on Saturday, March 6, of ovarian cancer. Lindsey was the city's first citywide public information officer. Hired in 1986, by former City Manager Jerry Newfarmer, she served for four years in the office of mayor Tom McEnergy. That was the start of a extraordinary 22-year career with the City of San José. When mayor McEnergy left office Lindsey moved to the environmental services department. There she was instrumental in the successful rollout of recycle plus! and numerous other environmental programs helping to solidify San José's reputation as an environmental leader. Though she worked in environmental services she played a

significant citywide role as well. Emergency communications was an area to which she brought a special passion, an extraordinary level of experience, and a deep knowledge. Over the years she helped keep our residents informed through the Loma Prieta earthquake, three floods and numerous lesser emergencies. There was no one else you would rather have at your side during an emergency. She had a calm, confident demeanor, and she knew how to bring order out of chaos. When the going got hot, Lindsey kept it cool. Lindsey always understood the importance of having an informed and engaged community. She worked tirelessly to further that goal and to help city staff improve their communications skills. She was one of the city's most seasoned communications professionals. During her career she taught literally hundreds of employees how to improve their writing and marketing skills. As a result of her high professional standards, Lindsey received statewide and national recognition for her contributions to the field of public relations and public information. For the recycle plus! campaign, the public relations society of America awarded her its silver anvil, its highest professional recognition. She was also named a fellow to professional association and received the Paul B. Clark award from the California association of public information officials. Both of these awards recognize a lifetime of professional accomplishment and service. While those recognitions came from her professional colleagues across the state and country, what we will remember about Lindsey is her commitment to San José, her distinctive style, direct and to the point, a wicked sense of humor, and the highest professional standards. She was always willing to share and teach and talk through the professional challenges of the day. Lindsey retired two years ago, but even after her retirement she continued her commitment to the city, staying involved with communications planning and disaster preparedness. She was a role model and a friend to many of us, and she will be greatly missed. Thank you, mayor.

>> Mayor Reed: Thank you, City Manager. Lindsey will be missed by a lot of friends and all of us who worked with her. We thank her for her service. Next is 3.1. Report of City Manager.

>> City Manager Figone: Thank you mayor. I have two areas to report on. First of all I did want to alert the mayor and city council that an information memo from housing director Leslye Krutko was distributed to you by my office late yesterday. As you know, our housing department administers the city's CDBG program and so this memo highlights the preliminary 2010-11 CDBG funding recommendations along with information about the projected CDBG budget and the selection process used to make the recommendations. I won't go into great detail, because the memo is in your offices, but I did want to highlight that we received many requests, and of course as you can imagine, certainly with not enough funding. And due to the City's critical budget situation, we are looking at some of these funds to meet city infrastructure needs. So the CDBG staff has informed applicants about funding recommendations late yesterday afternoon, and the list of those applicants was attached to the info memo. There is an appeal process which the applicants were also informed of. The full list of recommended projects will be presented to the housing and community development commission at a special meeting on March 24th and the funding recommendations will be presented to you as part of the draft consolidated plan on March 30th for final action on May 4th. So if you have any questions please direct them to Leslye Krutko. The second report is on our retirement contribution rates. I did want to provide a brief update for you. We will have an information memo out either later today or tomorrow. As you know, retirement contributions are a significant part of our budget. We now know that the contribution rates for fiscal 2010-11 will be very high. Unfortunately they are significantly higher than they were for this current fiscal year. Just to give you a sense of order of magnitude, in 9-10, those costs were approximately \$138 million. What we're looking at for 10-11 is approximately \$198 million. 92 million for the federated plan and about \$106 million for the police and fire plan. This is anticipated to be the first of several very significant increases in the contribution rates. This does highlight the need for pension reform and, again, I'll be issuing a memo to you either later on today or early tomorrow. Thank you.

>> Mayor Reed: Our next item is item 4.2, actions related to the 2010 San José cycling classic which will happen around the tour of California. Paul Krutko.

>> Paul Krutko: Oh, thank you, mayor. Just advise the council that we are, once again, a host city for the tour of California. We have built some events around that event. As you know, this is a statewide event modeled after the tour de France which has got tremendous coverage worldwide. This particular action allows us to enter into the contract with the promoter of the event, AEG group in Los Angeles. It also identifies that we've raised significant sponsorship dollars and establishes the appropriation for that sponsorship. Be happy to answer any questions the council has.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Paul, thank you for bringing this forward. Obviously it's exciting to have this program come back to San José. It's an extraordinary event and it sounds like certainly from everything we see in the memo it's getting bigger and there's more and more to it each year which is fantastic, particularly the cycle and Bela Villa event. I had a question about the cost, I'm looking at page 5 and sort of guesstimating from the dollars coming from the sponsorship gifts, appropriates and so forth, I'm estimating that the sponsorships and everything else and whatever city contribution will be in there as well will be paying around \$150,000. And I'm wondering, do you have any sense about how much of that is policing staffing cost?

>> Paul Krutko: I would ask Tammy if she has that. Go ahead. So Tammy Turnipseed is our staff member who works on events across the entire city. So Tammy will have that information at her fingertips.

>> Councilmember Liccardo: Great, thank you. Hi, Tammy.

>> Good afternoon. The answer is about \$70,000.

>> Councilmember Liccardo: Okay, so about half.

>> Yes.

>> Councilmember Liccardo: Thank you, Tammy. The reason why I raised it is, I know we have been in ongoing conversations about various events downtown trying to do what we can to and I really appreciate your efforts to cut costs downtown. And frankly, the policing staffing costs have been killing us, and they are killing event producers, and it's costing everybody an enormous amount of money. And it means a lot of events aren't going to happen. And I think that's a huge loss for the city. And so I'm hopeful that -- I know in the last budget cycle that council approved, and frankly, I wasn't as aware as I should have been, that there was an additional fee attached for TEU for on-duty staffing cost, even though there is no additional deployment, we're still charging those as well. I'm really hopeful that we're going to find a way to contain these costs more significantly going forward or we are going to see the end of events in the city.

>> Paul Krutko: Councilmember we are bringing forward to the CED committee a series of recommendations on how we can reduce the costs to support the various event. You're correct, there's a particular fee. We're evaluating that in budget, we've led the budget office now in terms of can we make a recommendation in the upcoming budget round to modify that fee. That's something that came to our attention and we're working on it.

>> Councilmember Liccardo: Appreciate that, and appreciate the hard work of the OCA office on this effort and with that I make a motion to approve.

>> Mayor Reed: We have a motion to approve. I have a follow-up question to the question about the cost of the police. When you look at that you should look at how many officers are on overtime or reserve officers who are not on overtime. Because I know that can make a difference in the total cost and there's an opportunity there with how we structure the staffing to save the promoters, you know, a major expense.

>> Paul Krutko: Yes, mayor. And in this instance, the cost did go up by double. And so we need to figure out why that was. Particularly since it's an event during the regular workday.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. First of all, Paul, I was going to vote to oppose this. I wanted to articulate why I'm not going to be supporting this. I was a great supporter in the past when we were in good times and I know this is a great opportunity for the city to continue to be part of this. But I know that you're very much aware that the city is faced with a huge deficit. And I'm finding difficulty in supporting something that is going to need public funds for anything besides what we're going to be looking at cutting, whether it's police, and looking at closing down fire station. So I just wanted to articulate that to you, and to the other supporters out there, that I just cannot support this this year, and I'm hoping that in the future I can be a much bigger advocate for spending money towards this right now. So thank you.

>> Mayor Reed: One more question. Direct revenues for hotel tax, and sales tax, have you calculated those that came as a result of this event that ultimately come to the city?

>> Paul Krutko: Yes, mayor. We, if you look out on page 3 of the memo, we had, as you know, we have a model that the council has seen where we do intercept surveys of people during the event. The last time -- we didn't do this last year, in the -- well, actually we didn't do it in the last two years. We did it in '07. And at that point in time there was a \$1.9 million impact, and the incremental tax impact at that time from sales and hotel taxes was \$42,000. The point we would want to make to the council was that they've made a dramatic change this year in scheduling. They moved it from February to May. In the last two

years, the weather has been pretty bad. And so they've moved it so that there will be much more tourism opportunities tied to the tour. So we're anticipating that we'll achieve this number and more than that number given the shift that the event has made.

>> Mayor Reed: Another question about the ancillary events. I gather from staff report that if sponsorships don't show up to support some of these ancillary events we can just sort of shrink down a little bit in terms of the scope of the activities so we're not committed to moving ahead with these things that don't directly -- aren't directly required by the tour.

>> Paul Krutko: That's correct, mayor, we heated up that way. However, I will point out that the sponsorships have risen from the prior year and the ancillary events that you are seeing here are things the sponsors are very interested in. So we do believe that those dollars will come forward, and staff is shaking their heads on that.

>> Mayor Reed: Thank you. I just want to know if that means the competition for the king of the mountain title is going to be tougher this year, or whether Councilmember Liccardo is going to sweep again for all elected officials. I did win my category, though, even though Councilmember Liccardo beat me up the hill by a wide margin. Because I came in first in the category, big city mayors over the age of 60 riding blue bicycles.

>> Paul Krutko: Yes, mayor. And I understood that -- I watched you do that, and I was very much appreciative that you did it early and on your own. Because I usually follow Councilmember Liccardo up the hill. What will be interesting this year, mayor, just to highlight, is that we are making a change there, as well. Based on feedback from riders and sponsors, that event will actually occur almost an hour before the professional cyclists go up the hill. So we are not doing it a couple days before, we are doing it the day of the event. That saves money because we're not closing the road twice. But we also think it will be people who enjoy the opportunity to do the ride, be at that time the top of the little, and the professional Pelaton will be behind them about 45 minutes or so.

>> Mayor Reed: Some of is will need a bigger head-start than that.

>> Paul Krutko: I will, mayor, definitely.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. I think this is a great event and great job Paul and your staff for moving this forward again. Again I think I missed how much activity do we think will be generated out of our \$137,000?

>> Paul Krutko: Yeah, councilmember, make sure that I'm being very clear with you here. The -- if you look at the appropriations, 137 is the new appropriation for sponsorships. 77,000 was in a prior account from prior year sponsorships. And the money is coming from last year, we have an allocation for this kind of event \$71,000. So the city's investment is the \$71,000. We on page 3 were making an estimate on performance of the tour from 2007, which is the last time we did intercept surveys. And what it shows there is that we generated documentable \$42,000 in revenue that came in. What I was pointing out is, what is the held the third week in February, incredibly bad weather. Now moving in May we feel it will be significantly better weather.

>> Councilmember Herrera: I would also agree with that. I wanted to just highlight, the opportunity, I'm sure it hasn't gone unnoticed to really leverage all of our partners in transportation, for like when CalTrain and capital corridor and all the other entities to really promote people to use public transportation to come out to this event. And I know that I sit on the capital corridor board and they're very interested in partnering with us to get the word out to their folks that might want to travel down here for that. So I think there's a real opportunity here for tourism and getting money for hotels and restaurants and everything. So it's a great program.

>> Mayor Reed: Thank you. I'm going to support the motion even though we're not quite break even on the direct revenues. There's a substantial benefit way beyond the direct revenues at a relatively small cost. We'll of course have to continue to look about it for next year. Maybe next year we can restructure it again save some money here and there, cut down the cost and strive for a break even production. It looks like it's very close this year. Councilmember Liccardo.

>> Councilmember Liccardo: I just wanted to odd to Paul's point, last year when we got to the top if I recall correctly, last year or year before there was actually snow at the top. It was a infringed, infringed event. I think everybody if they were not already miserable from climbing the hill, were miserable when they got there. This will be a huge boon for later on in the year and have much more revenue.

>> Mayor Reed: Can we have a fair weather surtax to charge? It's going to be much better now. We have one request from the public to speak, I'll take that now, Ross Signorino.

>> Ross Signorino: Thank you, mayor, members of the council. Congratulations Mr. Mayor in your great accomplishment in this regard. You know, what I'm really gratified to hear you, not all of you I'm sure are involved in this and mentioning the cost of this, that you're conscious of the budget. Councilwoman Campos said she can't support this although she did in the past because of the budget necessities in this regard. And it's good not to hear that tired phrase, I'm so excited about this, oh, my goodness throw caution to the wind and spend money regardless. I think it's good that you are conscious of the budget, it should be consciously on your mind, it should be because it's on the mind of the taxpayers, the people who live in this area, that the budget is a very important thing. Of course we should have these events, promote these events that come here and enjoy them. Thank you.

>> Mayor Reed: That concludes the public testimony. Is there any additional council discussion, we have a motion to approve the recommendation, made by Councilmember Liccardo. All in favor? Opposed? One opposed, Councilmember Campos. So that is approved. Taking us to our next item, which is 4.3, the Google fiber for communities request for information.

>> Paul Krutko: Thank you, mayor. It's an item that I'll be covering as well. Paul Krutko, chief development officer. We are proceeding to respond to the RFI that Google has distributed nation-wide, for an investment that they intend to support, that would provide and test in a trial way high speed broadband at speeds that are unheard of, something on the level of 100 times faster than the speeds that we have now. They are proposing to do this in a small number of trial location across the country. If you've been looking at your e-mail list servers that some of you participate in about what other cities have been doing you can see that this is something that many, many cities across the country are gearing up to respond to. So we are, as well. We have put together a team that includes OED, Public Works, information technology and the city attorney's office. We are responding to the elements that are contained in the Google RFI. We are making our pitch to be one of the selected communities. The key elements here, though, is to understand that Google, as they are in many ways, these days, is in charge of this competition. So we are putting our best foot forward we think by showing them that we have a variety of diverse types of environments in San José that it would be a good test bed and it would be close to home. And we're hoping that they will look favorably on a local proposal as opposed to a proposal from someplace else in the country. One of the elements of their solicitation is asking for the communities to demonstrate community support for the initiative. So we've developed, and it's the lead flash element on the City's web page. If you would pull it up at this moment, it's designed to encourage the community residents and community groups to communicate to Google why they think San José should be selected. We have distributed this out to -- through your office through the neighborhood commission and other approaches to encourage people to respond. Our response is due on March 26th. So we wanted to make sure that council was aware and was supportive of the staff's effort to respond to this RFI. Thank you.

>> Mayor Reed: I have a couple of questions. First, is there any role that our existing conduit that got laid with the purple pipe at least in some sections of the city could play in this? Because I think -- of course, I know very little about what Google is actually planning to do, but if we have conduit that could be used, that's got to dramatically decrease the cost of whatever it is they're trying to do.

>> Paul Krutko: Tim Borden will respond.

>> Tim Borden, deputy director of public works. Yeah, we are aware of the potential of the potential of being able to use the purple pipe. We have been looking for uses for it for some time, so we've -- that's in our inventory. We'll be happy to promote that as a place where we could facilitate their uses, especially in north San José.

>> Mayor Reed: Is this conduit every place we've laid the purple pipe or just in North San José?

>> This is more in North San José.

>> Mayor Reed: I don't suppose there's any way of calculating the value that to put it on the table, that's got to have some cost to them. The cost of tearing up the street and putting down, of course Google's got a lot of money but putting something on the table would be important.

>> We have marketed the purple pipe in the past, we had a value on that so that's something we could reestablish and use that as something that is available you know for free rather than in the public right-of-way.

>> Mayor Reed: Couple more questions, Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Thanks Paul, for putting this up and encouraging residents to respond. I know that in Evergreen we are getting a lot of inquiries about it and interested

groups wanting to participate in this. We have purple pipes going maybe not to the extent in north San José but there is some purple pipe infrastructure out there as well.

>> Paul Krutko: What we're trying to do councilmember is really put as much information forward that shows that we have a variety of diverse environments that they could test this system, and we think that's a distinct advantage. But again it's a tremendous competition. I do wanted to just -- on this element of the campaign, if you go to that link you'll see we're encouraging people to are very creative as we describe it, that Google is an unorthodox company, so we're asking them to be creative. There's suggestions from the team working on this that they create a Youtube video, compose a song, write some code, or anything else to really intrigue them. I understand a mayor in another community jumped in a frozen lake, somehow that was connected to this effort, mayor, I don't know if there's something like that you could do. But --

>> Mayor Reed: If there are any frozen lakes in San José would I consider it.

>> Councilmember Herrera: We have Lake Cunningham, not frozen but --

>> Mayor Reed: Anything else on this? This was just information for the council. We've already I think taken any action we needed to take but this is an update. I would suggest that we make sure that we get an electronic version of this to the councilmembers' offices so we can all put this in our newsletters and help push this out. Our next item is 9.2, that's a staff response to the council referral from February 8th regarding economic development incentives.

>> Paul Krutko: Thank you, mayor. Let me tee this up. As the council will recall, we presented, as a part of the economic development policy update, the strategy update, study session. As a part of that presentation, at the sort of the back half of it, staff did make a recommendation about some incentives that could be employed to implement the policy recommendations. There -- council did pass a memorandum that was authored by the mayor and several council, the staff memo and the mayor's memo, there was an additional memo from several councilmembers that suggested some alternative approaches. And we were asked to go and analyze those other approaches and provide some analysis about them. And the two that were very specific, they were in regards to incentive around downtown park, and an incentive around business tax suspensions. So there is a memo that's in your packet from staff, that outlines our analysis. And Scott Johnson is here to present the analysis in terms of the business tax suspension. I think that's the first one. And then Jim Ortbal will take up the park incentive and then we will be available to respond to council questions. We do -- there is a -- as you are all aware there is a memorandum from several members of the council and the mayor on this item as well. So we'll be prepared to speak to that. So Scott.

>> Scott Johnson: Thank you, Paul. On this slide we show the impact related to a business tax suspension program with several alternatives. And this first slide, in the first column, this is based on the revised memo from the mayor and the council memos. Where we'd be limited to the first 1,000, it would be focused on those businesses that renewed their leases, which had 35 employees with the company. And so they're either new businesses or all businesses, existing businesses. So based on the analysis, the loss potential business tax revenue would range anywhere from \$150,000, that's just basically the math, 1,000 businesses at a minimum of \$150 per business tax certificate, up to \$636,000, and that's based on the maximum. If you are a company in San José and has 35 employees, that company pays a business tax of \$636. Then staff identified two alternatives, based on the original memo from the mayor and the council. And one was based on same concept related to leases of property where the businesses would renew their lease, new or renewed leases, and the version was based on eight employees where there would be lost tax revenue anywhere from 832,000 to 4.2 million depending on what we were assuming. Because that program did not anticipate a cap on the number of businesses that may apply for this suspension. And then the second alternative was similar situation, but it was only for new leases, and for those that were limited to eight employees for the particular business that entered into a new lease within San José. And the potential tax revenue loss there was \$475,000.

>> And in regards to downtown and parking incentives, in light of the recent memo from the mayor and three councilmembers, there are more similarities between that proposal and the staff proposal, essentially for new businesses we have a very attractive and I think aggressive set of incentives that would provide up to two years of free parking for any new business signing a new lease in one of our downtown buildings. The -- one of the key elements of that is, that it would be -- the amount of free parking the business would receive would be half the term of the length of the lease that they do sign. For example, if they sign a two-year lease they would get a year of free parking. If they signed a three-year lease they would get 18 months, the maximum amount of free parking would be up to two years. The

mayor and councilmember proposal identified a maximum of 50 employees or spaces per business. Staff is fine with that. Important in this proposal, these are parkers that we don't have today so there is no revenue impact to the revenues of the parking fund today. In terms of existing businesses, with the latest proposals from the mayor and councilmember, it is up to two years of free parking in the memorandum. The staff proposal is up to two years at up to a 50% discount. The amount of discount or free parking would essentially be based on the term of the lease. You would get half that amount, so both proposals manage that issue in the same way, in terms of the maximum of 50 employees or spaces or business, that applies to the mayor or councilmember proposal. In terms of a cap in terms of how many spaces we would make available in this program, the mayor and councilmember proposal has up to 500 spaces, and the staff proposal initially recommends the cap at 200 spaces with the flexibility to go up to 400 if we find that we can afford that at the point in time we got to the 200-space cap. The cost difference probably is the major difference between the proposals. The way in which we calculated the mayor-councilmember proposal, it could have up to a \$1.2 million impact on the parking fund, approximately over the next two years, and the staff proposal would be up to about \$250,000. That, we believe, is a critical issue. The park fund, as the mayor and council know, at mid year we had to balance the fund to the tune of \$1.5 million because revenues are on the decline. We did have to loan moneys to the redevelopment agency to handle the debt service for the 4th and San Fernando garage. Our interest revenues are on the decline and we anticipate losing parking lots next fiscal year for potential development purposes so that fund is finding itself into a negative fund into next fiscal year. So we will be bringing into the City Manager's 2010-11 budget significant reductions to try to get that fund into closer balance. Overall many similarities particularly on the new business program but on the existing business program we believe the most we can afford is a 50% discount for those people that are already in our parking facilities because we just can't absorb that large of a revenue hit. And with that I'll turn it back to you Paul for questions to the council.

>> Paul Krutko: Thank you. Mayor, we're available for questions at this point.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. I had an opportunity to have good conversation with Jim Ortbal last night and this morning as well which we talked quite a bit about impacts on the parking fund. I think Jim more fully described projected revenues which I think haven't been really discussed at council level in terms of what we're looking at over the next five years as well as various impacts that obviously the park funds we all know is currently bearing with regard to assumption of responsibilities from the agency. So with that in mind, I'd like to offer a revised recommendation, one that's revised from the memorandum that the four of us put out on the 12th of March. Specifically revising paragraph 2 and then I'll make the motion. So paragraph 2, as I suggested be revised would be that we would adopt new park incentive program for free parking for any tenant who signs a new lease for spaces up to 50 spaces for 50 employees, that is. For a duration equal to one-half the term of the lease, up to the maximum of facility space availability. With regard to paragraph 2.4, for lease renewals, the proposal would be for a 50% discount for the same term, terms of duration, up to two years or half the term of the lease, with a cap of 500 total spaces, and that staff would come back to council within 120 days, either to discuss the progress of the program, or if the staff is particularly concerned about the rate of usage, then to come back with any proposed modifications. So I would make that motion with those modifications in paragraph 2.

>> Councilmember Herrera: Second.

>> Councilmember Liccardo: If I could just speak for a moment to that.

>> Mayor Reed: We have a motion on the floor.

>> Councilmember Liccardo: Thank you, mayor. I wanted to first thank staff for their efforts in terms of helping us understand the various implication of variations of this policy. I wanted to thank in particular folks in the business community that we've been talking to and asking for advice from certainly Pat Saucedo, chamber of commerce, Mike Seifert with Decarta, Fies Real Estate Group, Ritchie Commercial, Sleepy Hollow Management, Scott Knies with the downtown association who has helped us quite a bit with outreach, and speaking with various commercial brokers in the area to help us understand what they most want to see. I appreciate that. I've had an opportunity certainly to speak to various business owners. I see Greg sellers here among others who have urged the city to do something. What we're facing right now is a real concern about the vacant store fronts that we're seeing throughout our neighborhood business districts, the downtown throughout the city, and certainly, this is a tale that we see throughout many cities. But the reality is, there is nothing that spells trouble more for a neighborhood, or

for a community, than a lot of vacant space which inevitably over time becomes neglected, blighted, and contributes to a real downward spiral in any community. And so it's really critical for us to take some affirmative step. I think we're all conscious of the budgetary constraints within which we work here. I would like to ask a question, though, about -- regarding the business license tax suspension estimates, Scott. Your estimate, the range that you gave from \$150,000 to \$636,000, that top figure, doesn't that reflect an assumption that every single business would be 35 employees?

>> Scott Johnson: That's correct. So basically I was giving you the range of the lowest to the highest.

>> Councilmember Liccardo: Okay. And it also reflects that 1,000 of those 35 employee businesses would be renewing or getting a new lease by June 30th of 2010.

>> Scott Johnson: Right.

>> Councilmember Liccardo: Based on your knowledge of -- well I know that you handle business licenses, you don't handle lease renewals. But it's fair to say that it is probably unlikely we're either going to hit the 1000 number and very unlikely that our average number of employees per business are going to be 35.

>> Scott Johnson: Councilmember, we actually do track the commercial based businesses and based on the history from the database that we have in our business tax system approximately 80% of those businesses do renew their business tax certificate each year.

>> Councilmember Liccardo: Sure.

>> Scott Johnson: So we do see -- we're seeing about 9,000 new business accounts each year. And roughly that same amount, that dropoff. So roughly 20% do not renew their business tax certificates for various reasons, they might go out of are business or they choose to go someplace else.

>> Councilmember Liccardo: Right but we're really dealing with that very small percentage that are actually going to be having new or renewed leases coming into City Hall and they have to have 35 employees or fewer, is that right?

>> Scott Johnson: Yes.

>> Councilmember Liccardo: Is it fair to assume that almost certainly we're going to be at the low end of this range?

>> Scott Johnson: I would agree. I looked at our database and on average we only receive about \$180 on average per business tax, from all the businesses on average.

>> Councilmember Liccardo: So that would, an average roughly of about ten or 11 employees, if you were to do the math? That's across all businesses?

>> Scott Johnson: Right. Yes.

>> Councilmember Liccardo: Okay. And of course we're capping it here so in fact our average would be even lower.

>> Scott Johnson: Yes.

>> Councilmember Liccardo: Okay, thank you very much, Scott.

>> Mayor Reed: I think City Manager had a comment at this point.

>> City Manager Figone: Yes, and staff can correct me or jump in here, but to the question in the most recent council memo, item 3, to advise you of what source we would use, staff has advised me that we were planning on bringing to council a one time source that is a closeout of some assessment districts in the finance department. And what we would have to do is in April, just bring to you a technical adjustment in order to appropriate those funds to cover any losses.

>> Councilmember Liccardo: Thank you very much.

>> Mayor Reed: Thank you. While it's important to remember that these things cost money and part of the recommendations of course come back during the budget process when we're looking at money across the board for looking at the impact, not just in this fiscal year but in the next fiscal year, so that we can assess that, and knowing the value of these things and having some idea of what works will really be important as we decide what to do with incentives for next year. Because we do have a host of other incentives that the staff has identified that are potential that we're not yet ready to fund. And we'll consider all that during the budget process. But I'm going to support the motion as put out by Councilmember Liccardo because I think it's time to try to get some movement in our -- especially in our downtown with what we've outlined here. Hopefully, this will be effective, have an impact and it will be a great success but we'll wait and see. Vice Mayor Chirco.

>> Councilmember Chirco: It's probably self-evident but on number 1 where it says lease or lease renewal, I think some of the most complaints we've had are from people that do small businesses out of

their home. In homes and in apartments that are on lease basis. So if we could do maybe retail or commercial leases.

>> Councilmember Liccardo: That was certainly the intent. I assume -- yeah, I'm happy to modify it. I assumed that that was understood by staff as well. But I could be mistaken.

>> Councilmember Chirco: Unless staff can clarify that is not a problem, I want to be sure that is in our retail and commercial space.

>> Scott Johnson: Councilmember and vice mayor we actually track home based businesses so we're assuming this is on the commercial side commercial retail side as opposed to be home based businesses.

>> Councilmember Chirco: I want the intent to be honored, thank you Sam for clarifying.

>> Councilmember Liccardo: Thank you Vice Mayor.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Councilmember Chirco just asked my question. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I'm supporting the memo and I signed the memo. And I think it's very important to help new businesses, existing businesses. This suspension of business tax has worked in other areas as is outlined in the memo, increasing by 33% new business and registration over time in other areas where this has been tried. So I think it's time we do some of these things to really try to incent businesses to grow and also, the park fee, from talking to other businesses, I think it really would -- could be an incentive for a company to locate in San José and that we definitely need to move forward on that so I will be supporting this memo.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: First of all staff, thank you for the two slides that you gave us. It was very helpful to be able to see your perspective comparing alternative 1 to the mayor and councilmembers' memo. Some of my questions have been asked, so it's clear that this is not just for -- this is not just for new businesses, this is also for existing businesses, is that correct? Or is this for new businesses?

>> Paul Krutko: Councilmember, it's for both.

>> Councilmember Campos: For both, okay.

>> Paul Krutko: All businesses.

>> Councilmember Campos: And then the other question I have, when looking at this, you talked about that this would hopefully help generate future revenues, is that what the intent of this proposal is?

>> Paul Krutko: Councilmember, we -- the staff's recommendation was to proceed with the park incentive. Staff didn't recommend proceeding with the business license suspension. So we'll answer your question I guess --

>> Councilmember Campos: Okay, let me ask it this way. So I see -- so you had an opportunity to read the --

>> Paul Krutko: Yes.

>> Councilmember Campos: The memo by the mayor and the council. So in your expert advice, and I see you gave us the two slides, the incentive to remove or suspend the 150, is not something that you would recommend at this point?

>> Paul Krutko: Councilmember, we were working in concert with the budget director, we are very cognizant as you pointed out on an earlier item of our financial circumstances. And we wanted to carefully think about the type of incentives that we would bring forward to make sure that it -- you know, the purpose of an incentive is to have a desired outcome. And so the outcome, in most instances, is that you realize new capital investment, or job creation or a location decision in the community. And the reason we weren't recommending this is we were concerned that the incentive wouldn't accomplish those things.

>> City Manager Figone: If I could add though councilmember to just add, I think the revised proposal is one because it only goes through June 30th, as I understand it, mitigates the concerns that at least were raised, if you look at alternative 1 and alternative 2, the lost tax revenue, especially in alternative 1, was more significant. And so that was of brave concern at the time that staff originally reviewed the first proposal. So that's what I would offer in addition to what Paul did.

>> Councilmember Campos: Thank you, City Manager. Paul, I have a different question, perhaps I'll ask it a little bit different when I'm looking at the proposal by the councilmembers. In your expert opinion, is this more about trying to get retail space or I should say space leased out in the downtown? Vs. that would encourage people to lease space in downtown?

>> Paul Krutko: Councilmember, we do believe and I think Jim and I agree, in recommending this to the manager to bring forward, that the parking incentive does have the potential to help with downtown leasing activity. What Jim and I both recognize is that parking's a perishable product. We have parking spaces in our garages, to the degree that we are not realizing revenue from them now, and a business will choose to locate in downtown, and respond to this incentive, we've used it before. Jim can outline that we've had similar types of programs, not just -- not exactly like this one but others spurring specific kinds of companies that have resulted in locations.

>> I can add to that, Paul. You're right, we have three different existing park incentive programs today and we've been able to sign up about 400 employees in terms of spaces in our garages. So they have been effective. We work with the downtown association, we work with office owners in the downtown to evaporates these incentives to help them and package with their incentive packages to try and generate more leases, more businesses and more employees downtown.

>> Councilmember Campos: So the parking is more of an incentive than suspending the tax license of \$150? That seems to be --

>> I don't know that we're comparing necessarily, just as it relates to downtown, certainly the parking incentives I think are a more direct incentive for downtown office and retail leasing. I would maybe let Paul talk about the --

>> Paul Krutko: Councilmember, Scott could respond. We have had a business tax amnesty or something like that in the past during my tenure here. You can explain that. What we're suggesting is we do have experience with the parking incentive. By offering the park incentive we had companies who signed leases and brought employment to downtown. That's why we're confident that that one will result in potential lease egg activity. Scott do you want to talk about the business amnesty?

>> Scott Johnson: Sure. You know the city to my knowledge has had two business tax amnesty programs, one in 1998. The most recent one we had council may recall was in 2006. We generated about \$1.3 million. The good thing about that program is because we spent a number of years in working with the business community and educating them to make sure that we have compliance. Because we work on a number of leads throughout the year in our revenue management group. In this case we were successful where we brought almost 5300 taxpayers into compliance with the City's business tax program. So I do understand that this proposal for paragraph 1, in specifically relates to lease agreements, and the other thing that it does, it requires that businesses that qualify have to bring current all past due fees and obligations to the city. So that's good because as we're trying to get folks in compliance, and last week we talked about our collection efforts, any way that that we can incentivize folks to become current on any obligations due to the city it's a really good thing to bring the cash to the city as well.

>> Councilmember Campos: So how does this before somebody who has signed a lease and they will actually come back, bring proof that they've signed a lease and get the 100? I'm not seeing this as an incentive for somebody who has already signed a lease or existing lease so if you can help me understand that.

>> Councilmember Liccardo: Since it's my proposal or the proposal of the four of us perhaps we would be better equipped to respond since we're the ones who wrote the proposal, Councilmember Campos would like me to.

>> Councilmember Campos: That's fine.

>> Mayor Reed: Why don't you try that Councilmember Liccardo.

>> Councilmember Liccardo: The notion is that with both incentives For renewals of leases, they would only be effective if in fact there is an extension of the lease. People are right now business are coming out of a very long, cold winter and they're make business decisions and location decisions and hiring decisions and there is a lot of very, very cheap space out there in cities all around us. And if we have an opportunity to take away the very first impediment they think about when they're thinking about where they're going to move which is getting a business license in that city, and we can say, come here to San José, this obviously it's not a huge price tag. We understand that. But it's a clear message to them, combined with other incentives we already have, pollution these incentives, the parking, the chamber is willing to offer membership and parking and so forth, says we're a business friendly city, we want you here and although we don't have a lot of money to give we're happy to do what we can.

>> Councilmember Campos: So from what I'm hearing, it's more of a symbol that we're business friendly and we want to you stay here?

>> Councilmember Liccardo: Well I think for Anaheim, Kurt Pringle was player of Anaheim when they introduced this in 2005, they saw a huge boom in business license applications, businesses registering with that city. Over a fairly short time, 100 days that registered in a very small city, Anaheim, relative to ours. The result is those businesses are on the rolls. We are not spending tens of thousands of dollars as Scott is forced to do every year chasing down those businesses on the rolls. We already know where they are. And so there is future revenue, obviously, the city can earn through that process. And any business that qualifies, of course, as Scott pointed out, has to be brought current. And I know that's an ongoing challenge for us as well.

>> Councilmember Campos: So you mentioned Anaheim. Was that program tied to a lease agreement within the city or it was just -- did the claim get people to --

>> Councilmember Liccardo: It was solely the business tax which in Anaheim was \$68 minimum, I think the average business tax for businesses that took advantage of the program was \$133. And it was a 33% increase in new business applications there.

>> Councilmember Campos: So I guess my final question, and since Councilmember Liccardo, you're taking the lead on this, why wouldn't we bring this particular item, number one, to the budget discussion when we're thinking about -- I mean you can look at the revenue that we would be losing in the proposal that you and councilmembers are bringing forward. Is there a reason why we wouldn't bring it to the council during our budget discussion, so that we could actually be able to weigh it against all the other cuts and the deficit? Is there a reason why you're not bringing it to that discussion? And I'll share with you. That's why I'm having a little difficulty because as I stated earlier, we're going to have to look at cutting police, we're going to have to look at cutting -- making choices whether we move forward with fire stations and libraries, and every little bit counts. And so I'm just wondering why we would not have this particular, number one, in the contents of our budget discussion?

>> Councilmember Liccardo: I appreciate those concerns Councilmember Campos and they're very real I think for all of us as we look at the budget coming forward. I'd say two things. The reason why I urged for us to move, actually, I think many of us have been involved in these conversations for several months about how we can get out there and make a strong statement to business, is because we're losing businesses by the week. And the empty store fronts continue to expand throughout this city. And it is, although certainly the macroeconomic indicators are slightly improving, we're starting to see marginal improvement out there nationally, the reality is people are hurting badly and they've been waiting a long time for this city to do something that clearly indicates that we want to proactively do something to try to change the tide, at least locally. You know obviously I'm cognizant of the fact that there are macroeconomic factors that are far bigger than anything we can control. They're going to have a far bigger say in what happens. But it seems to me that this really isn't the time to be waiting months and months and months. If we have a clear sense of what the costs are likely to be, and I'd submit to you that there are very likely to be at the very low end of that range of 150,000 on up, then we should have a pretty good sense of the cost. And I'd also say that there is another issue here, which is understanding a static model of cost versus a dynamic one. We understand there are one-time forgone revenues here. But if our goal here is to pull ourselves out of what is going to be a long term fiscal mess, as we know we're in for the next half decade at least, then understanding how we can bring businesses here to create revenue over that long term is critically important. And occasional foregoing short term revenue for ongoing increases in revenue seems to me is a good and sound tradeoff.

>> Councilmember Campos: Well, thank you for your explanation. I think one of the other things that we know that as we go through the budget process, one of the things that the mayor has made a very standard procedure is that if we're going to cut taxes, or cut spending somewhere, to gain something else, that we need to be able to come to the table with a matching proposal on how we're going to balance that. And I think that we're moving forward on something. And I hear your comments, Liccardo, and there's no need to -- I'm one vote, but I think it's important that if we're going to be coming to the full council with different proposals that we'll actually impact the budget, and not enhance reducing the budget deficit, in a snapshot, without showing a proposal that will actually balance it and be able to generate other money in a clear document, or so that not only I can see, but also, the public could see, I'm having difficulty supporting this. But I hear your argument. It hasn't convinced me or moved me. But like I stated, I'm one voice that is just bringing a different dynamic to the table. And I know that when we go through the budget, it is very, very important for us to be able to show how we can provide matching funds or matching proposals somewhere else that would alleviate adding to the deficit. So with that, no need to respond. I just will not be supporting it right now. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just want to say, too, and I'm very concerned about the budget as well, and the decisions that we have to make. But I really believe we need to send a signal to the business community, a handout, extending a handout that we want business here, that San José's open for business that we want to see jobs created here, and because most of all we need jobs to come to San José. We need to see job creation. That's what's really going to lead us out of this recession and we need to see that with the high unemployment rate we have in San José. This is -- part of this is a token gesture in some sense but it's in extending a hand out to these businesses. And I've talked to a lot of these small businesses, the retailers, and they are struggling and they're trying to decide every day whether they're going to stay in business one more month or whether they're going to fold up their tent and go away. So anything we can do to support keeping them here, incenting new businesses and helping our economy grow we have to do that. We have to look at the top line and growing ourselves out of this as much as we have to look at cutting.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I have some questions, and I certainly find the park incentive program intriguing, something about that staff has put forward in some form. And I'm certainly in more agreement with the amendments to what's on the recommendation now. And part of the reason why I'm certainly thinking that can be helpful is part of what Councilmember Liccardo said, is that being able to bring businesses, the downtown has a disadvantage that other parts of the city don't have because of some of those costs like parking costs. I think if those parking spots aren't being used right now, we're not really losing too much. And my only hesitation would be to be able to have the flexibility to make sure that, as we lose capacity downtown, and as we do start to fill some of the spots, that we're not somehow disadvantaging some businesses over others who are able to take advantage of the program. So I think in the short term, there may be an opportunity to let companies with new leases, or companies that are moving in, let them know that we're willing to do something serious that's going to have a dramatic impact on their ability to move into the downtown. On the business tax suspension, I have some questions on that. And they revolve around some of the comments you made Paul, that it was not necessarily create jobs. I know that there's a sense that maybe you can help prevent businesses from closing. And in just looking, and I don't know too much, I had heard in the past about the Anaheim proposal. And I don't know too much about it. But the fact that it's not tied to a lease agreement but furthermore, it's hard to compare, given the fact that that -- since it appears, apparently applied to all businesses and it had nothing do with any new or renewed lease, plus the time it occurred was in 2005, the information that 2000 new businesses registered during the 100 day window and it's a 33% increase in new business registration that's good to hear. But that information is not so valuable about hearing a year or two years later how many of those same businesses were in business. If it didn't cost anything and wasn't tied to anything, anybody could get anything, a business permit for a holt dog stand or a restaurant or anything they were interested in doing. Without the follow-up information it doesn't give so much value to how or a connection to what's being proposed here. And I certainly am not, you know, I think that there are some really valuable things like the parking program could be some very valuable that I don't believe is a token gesture, I certainly don't think we should be doing any token gestures at the expense of the General Fund. My question is are we logs out on other opportunities that are more valuable by waiving this tax at a time when certainly, every dollar is extraordinarily valuable. And the ability for San José to be able to attract business in the long haul is very valuable, as well. So I guess back to the original thoughts from the staff as to the problems or at least the issues with the business tax suspension. There are other ways that you think this money could be used that could be more valuable in terms ever attracting new businesses and actually creating new jobs?

>> Scott Johnson: Councilmember, let me try to respond to that and to help put it into perspective. In San José we have approximately 75,000 businesses. Approximately 10% of those businesses qualify for hardships or exemptions. And what we do notice in looking at our business tax database is that for the commercial businesses, that those businesses that do participate in leases, there is a lot of turnover. And there's a lot of work from the business tax staff working on the compliance. So I think that this is, from my perspective, it is really a hybrid that the mayor and council are proposing, where there definitely could be some benefits with those businesses that are leasing space because we do see a lot of turnover with those businesses, we is a that in our database. In regards to the amnesty as I mentioned earlier, we did have an amnesty program in 2006. It was very successful. We put additional businesses on our business tax database. We collected \$1.3 million. So when we're comparing to what Anaheim did to what San José

has done, we had participation of over 5300 businesses in San José. So one of the options, if you'd like us to look at, would be, would it be prudent to look at an amnesty program overall, the last time we did it was in 26. And prior to that it was 1998. The risk there is that we frequently have amnesty programs, then folks are less asked to be compliant because Thayer going to wait for the next amnesty program where fees would be waived or taxes would be waived. If that's something that the council would like us to look at through the budget process we can certainly look at that as a strategy to generate additional revenue to the city. Because as I mentioned we are very proactively working on the business tax compliance and we're always receiving leads of businesses that aren't registered in San José. So that's definitely something that we can explore.

>> Councilmember Kalra: What is the program, the amnesty program, from 2006?

>> Scott Johnson: 2006, we had a two-month holiday where we did a major marketing effort. We advertised on the radio, and local newspapers. We sent out 26,000 letters. There were almost call center for the amnesty program. And we -- you know there was contact with over 8300 customers. And we had about 5300 businesses that complied, that added to our business tax roll.

>> Councilmember Kalra: And the revenue came from fees that three were in debt to the city that they hadn't paid? Or was there some discount? Where you know if you owe a thousand we'll give you a discount, that's become -- if you straighten out your balance sheet?

>> Scott Johnson: In this case we waived some interest and some penalties. And we had over 3,000 new businesses that registered with us through the amnesty program for that two-month period. And -- but this was citywide. It didn't -- we didn't restrict any particular type of business. It was all businesses, we basically gave them an opportunity to come forward, and we did some significant marketing to let them know that the opportunity was available to them.

>> Councilmember Kalra: And the -- in looking at the chart, it assumes 10% of existing commercial businesses would -- are up for renewal. Is that a general -- is that based upon an educated guess or based upon what you see over the years?

>> Scott Johnson: That's basically what we've seen over the years. Last year we saw about a 20% renewal rate. So we were being conservative in our estimate of 10%.

>> Councilmember Kalra: Okay, so the renewal rate could very well be higher.

>> Scott Johnson: Right.

>> Councilmember Kalra: Are there any indications that businesses over a certain size tend to renew more often than less or is that something you can't say?

>> Scott Johnson: We have tend to renew more often, they tend to be more established.

>> Councilmember Kalra: And so, is -- the 35 employees, 35 employees or less, is that -- is that a fair share of -- is that a majority of the businesses? It sounds to be most of the businesses in the city. But is that just an unfair assumption?

>> Scott Johnson: I think that would entail a majority of the businesses. We did our analysis based on eight employees because the business tax, the \$150 is based on up to eight employees. Beyond eight employees then there's an additional tax of \$18 per employee. And historically we've defined, the City of San José has defined small business as 35 or fewer employees within a company.

>> Councilmember Kalra: Okay. And so by waiving the business tax of \$150, the hope is that there will be folks that may be in arrears to the city that will come forward and balance up just so they can save the \$150 for the following year?

>> Scott Johnson: And councilmember, the \$150 is based on the smallest amount that a business would pay. And in this proposal if it was up to 35 employees that business would be paying about five -- excuse me, about \$636 for business tax. They'd receive a waiver of \$636 if they had 35 employees. If they had eight or fewer employees it would be \$150.

>> Councilmember Kalra: And so it could be anywhere in that range they would be spending for their size?

>> Scott Johnson: Absolutely.

>> Councilmember Kalra: They could spend \$150. In living to this, I go back to some of the comments you made earlier Paul, is this incentive something that will actually increase capital investment or create job creation? I'm not convinced that it would. On the flip side of that, the amnesty discussion especially in these times that we know many small businesses are struggling and may have lapsed on their business taxes or other fees to the city, maybe something I think could be of great value. And I also have the opportunity to speak to a lot of the businesses particularly in my district and the two issues that come up the most on the smaller businesses is just the economy, you know obviously the numbers are down and I

would imagine if they're falling behind that would be a great incentive, some kind of amnesty would be a great incentive. On the companies on a little bit larger side, still over 35 is the health care cost and I know more recently, the county with working partnerships, has the incredibly valuable to those companies. On the park I can definitely, I mean it's very clear to me that that's an incentive that can definitely bring companies into downtown, or some of the newer tenants into the downtown, they can save significant amount of money we certainly want those newer tenants to be some in the downtown. As to the business tax, again without further information, I'm much more interested in an amnesty because I think that's where the greater need would be right now just based upon the current condition of the economy. Comparing it to Anaheim, again, it's hard to compare because it looks like two different things that are happening, two different proposals here. So more information on the long term effects, in Anaheim which I hope were positive, would be helpful. But also 2005 is very different than 2010, in terms of the climate. So if the -- if we voted on the separate items, at this point I'd be supportive of the parking. As to the suspension of the business license I'd rather not vote on that, and look and have more information on an amnesty program and see which one is the most effective thing for the city to do particularly because the amnesty program would bring revenue into the city and not cost the General Fund.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. I really appreciate councilmember Nora Campos concerns with regard to the suspension in the business tax. If you look at just the charts we have up here, obviously the lost tax revenue definitely outweighs any kind of incentives that we're trying to provide right now. But having said that I really -- I'm going to support the motion. I think this is a really creative way of helping small businesses both new and existing, thrive. Obviously we all know that small businesses represent the backbone of San José economic, financial situations, and so I do have concerns about the suspension of the business tax license but at the same time with the sunset date of June 30, 2010 so those businesses who want to renew their license I think that's a really good move so I'm glad to see that in the revised memo. But what really sold me is what Councilmember Rose Herrera said about giving the difficulty we're facing right now with our economic environment I think we should do all we can to provide a helping hand to small businesses. And let them know that we're here to help them, we're here to make sure that the city is willing to extend a hand and that we're here to help them to 75 and also to thrive. And -- to survive and also to thrive. hearing that a lot of the comments that my colleagues have made, I absolutely support that so I'm going to be supporting the memo.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor. amnesty program that Councilmember Kalra brought up. Just have a question, and we're back to the business license tax suspension. I understand that the city's definition of a small business is a business who has less than 35 employees. And I question to the maker of the motion, would you be willing to reduce the number of employees to eight employees? Because I believe that those smaller companies, you know, company with less than eight employees, can really use that little incentive, you know, \$150 a year, for people that have 35 employees their probably annual revenue is up to \$1 million. \$150 will not go too far to them. So that would be my friendly motion.

>> Councilmember Liccardo: Your point is well taken Councilmember Chu. If I could just respond briefly. Based on the conversation, the interaction that Scott Johnson and I had very early in this conversation it's reasonable to expect average company size here is going to be somewhere around ten or 11 employees or less. Almost certainly less because we're putting a lid on it at 35 whereas he's comparing citywide data, which includes Cisco and many other companies. So the reality is the average company we're going to be helping here is I'm guessing somewhere around five to eight employees. And so I didn't want to put the cap at eight, just because it just seems to me that most of us look at a business with a couple dozen employees as being a small business. And I'd like to have as broad a message as possible. I think it's important for the city to be able to put out a strong message without a lot of qualifications and limitations.

>> Councilmember Chu: If eight is too low for you, would you consider 11, 12 or 15? I just wanted to really give the smaller business the advantage, you know, to really make good use of this program.

>> Councilmember Liccardo: I appreciate the intention and believe me I'm not religious about where we end up whether it's 35 or 25 or anywhere else. It just seems to me that it ought to be something without the kinds of constraints on it that would tell most or many businesses, we don't fit. And so that's why I'm not willing to sling it to that size. But I appreciate the intent.

>> Mayor Reed: Councilmember Liccardo, you were next on the talk list here.

>> Councilmember Liccardo: I just neglected to thank several other folks, Jasmin Tiser over at Fies Real Estate, Jerry Wong and Mark Ritchie at Ritchie Commercial and Dale Green at sleepy hollow management. We have gotten feedback from those folks and wanted to thank them. I had a quick question about the amnesty, because I know we've talked about this in the past. Is there a suggestion that the tax amnesty would be a job creation measure? Because the question from Councilmember Kalra was about other things we could do to create jobs and I understand why we engage in tax amnesty but I never saw it as a job creation measure. Is that the suggestion?

>> Scott Johnson: I'm sorry if I misunderstood the question as far as the job creation measure.

>> Councilmember Liccardo: Okay.

>> Scott Johnson: It's more about generating dollars that provide services from the city.

>> Councilmember Liccardo: Which is certainly a worthy aim and I know we've supported it in the past and I'd be open to seeing us entertain that idea again. Thank you.

>> Mayor Reed: Thank you. Before we get do with this I want to disclose in preparation for this item I talked to a bunch of people, not just the things we've been talking about but the topic generally in front of us as well as the staff recommendations. I or my staff have had conversations with BRE Essex property trust, Trammel Crowe, Sobrato Development Company, Mission West Properties, Barry Swenson builders, Irvine company as well as some others. Along the general topic of incentives. Which staff continues to work on and we will take up again during the budget process. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I have a general question and it could be answered by city management or mayor. In general, when any councilmember, councilmembers team up to do something with spending, I do hear the thing about the budget process so kind of invoking what Councilmember Campos was talking about. But if I'm clear it's pretty much if there's a council majority on any given day, movement can happen on any particular issue with any amount of money, within as much threshold. So I guess I just wanted to -- you know, for the consistency sake where do we stand on any given day when somebody comes one a memo?

>> Mayor Reed: We always need to identify where the money is going to come to pay for it and staff has identified a one time funding source for this small piece of it and we direct them to come back in the May budget process or look forward to next year, when it could be a much larger number but ultimately if we can identify are where the funding can come from the council does have the power to move ahead on things. We have policies and practices to try to keep it in the budget process and we have that budget process. This started in the budget process and we're unable to deal with it in the redevelopment agency budget. So this is a trailing from the -- that redevelopment agency budget hearing. So it's a little bit out of the process. We just weren't able to get the information processed in time to take it up back on February 23rd. So this is a little bit of left-over business from then.

>> Councilmember Oliverio: Can I thank the City Manager on that, or any from the mayor's column?

>> City Manager Figone: Yes, absolutely. On any given Tuesday, appropriately agendized you can make budgetary actions, assuming you have a source of funds.

>> Councilmember Oliverio: Well, that's pretty key to remember, because I think there's been multiple times that source of funds has been offered, but it takes the majority of the council to do that so I just want to remember that so thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. First of all Scott I appreciate your discussion with Councilmember Kalra around amnesty. And I had forgotten about that since that was -- feels like so long ago. And I think that if we're going to create a gesture, I think it should be something that's concrete and it's really going to help our businesses be able to succeed in this valley. So I would encourage my colleagues to really think about maybe looking at the amnesty program versus just a gesture in moving forward on this particular memo. I can support to on, but not one. And I think if we're really going to send a strong message to the business community that we want them to stay here, we want them to thrive then we should be looking at something that will really benefit them which is the amnesty program. With that I will not be supporting the motion, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. Just a comment, I know Councilmember Liccardo was referring to the comments I made about job creation. The question was if we were going to look at programs that were expending other resources are there ways that we can do it that we are more certain than creating jobs. I see the park incentive. I think the way it's framed I can definitely see that

constructively you know without doing much analysis. You know what that makes sense that can definitely create jobs. I just don't see it in the same reaction as the qualified where they brought current in all past due fees and obligations to the city. Well, I think a business tax amnesty is much more likely to get those funds in. And to say that it doesn't create jobs, I think it's just as much of a job creator as a business tax suspension because Scott, you were mentioning 1.3 million was brought in to the city. So the assumption is that we must have waived some fees and interest to those same businesses in order to give them an incentive to come forward. So there must have been -- do you know what the savings were at that time to the businesses? Off the top of your head?

>> Scott Johnson: I don't have that information in front of knee. I can provide that in an info memo if you'd like.

>> Councilmember Kalra: Yeah, that's fine. More perform, it serves somewhat the same purpose without expending the same amount of city funds. Because really what the business tax suspension is going to be able to do more than anything of value, is allow businesses to get some savings in order to renew leases, certainly for new leases as well, but an amnesty program can certainly save jobs by making sure that these companies -- by getting these companies whole again with the city. And so it can certainly be the difference between the company or a business staying in business, especially a small business as councilmembers reared to so it's not I wasn't suggest it by itself was a job creator but I think it can have just as much of an impact maybe a little less of an impact with a little bit revenue I wasn't trying to suggest itself this is revenue generation that's why I'm favoring it, I think it has dual purposes which can be similar of the purposes of the tax suspension without the same expense.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. You know, I question to Councilmember Liccardo, would you consider breaking your motion into two parts? One to address the parking and the other one to address the tax incentive? I'm having a hard time to believe, the tax nerve to a company hiring 35 employees, with a revenue more than 600 or really a million dollar a year would really incent them, or unless we limit to it a real struggling company I would not be able to support the first part of the motion but if you would like to break your motion into two parts I'd be supporting the parking.

>> Councilmember Liccardo: I appreciate that Councilmember Chu, I think everyone has expressed support of the parking and I understand that. The concern I have is most restaurants that we know of, particularly the downtown, are going to have more than eight employees. They may be not full time but they're going to have more than eight employees. I'm concerned that those streetscape vibrant again are going to be the same folks who would be cut out. So I'd like to just have an up or down vote. We can certainly modify it if this vote fails.

>> Mayor Reed: Before we get to the voting I want to take public testimony which would be right now. Call a few names. Please come on down. If you're close to the microphone when it's your turn, Kevin Fitzpatrick, Scott Knies, Greg sellers.

>> Hi, Kevin Fitzpatrick, I'm with legacy partners, and I'm the general manager of legacy civic towers located at 75 East Santa Clara and 4 north street. I'm here to talk about the parking portion of the proposal and I wanted to voice our support for that. We are directly tied to the city garage at the third street garage and we have had numerous instances with lease negotiations that park has become a very significant part of that decision for the tenant to decide to either stay in downtown or go elsewhere. So I think that would be a great incentive to grow business and keep business and provide other opportunities to generate additional revenue sources for the city through sales tax revenue. Also, you know, whenever a business does renew in an office building, there are other related items that could generate fees. There are usually some sort of tenant improvements that go on. Those would generate jobs for other people in the construction industry. And also, generate permit fees. So I think there's other ways that this type of program would help to generate fees for the city, not just directly related to parking. So I would ask you to support it.

>> Mayor Reed: Scott Knies, Greg sellers, Doug Fies.

>> Good afternoon, Mayor Reed, members of the council. Scott Knies, executive director of the downtown association. It seems lately most of our discussions have been around take aways. It's refreshing to see the City of San José bucking that trend today. Not all our tools in the tool box need to be all about dismantling and cutting. I know this council really understands that spurring growth, creating more tax revenues, particularly from the private sector, is a way that we're going to help get out of this. Your business retention, package today, is a step forward in that direction. It's been described as a modest proposal. I've heard people call the federal stimulus package modest also. And I think we all know

that great tree can grow from a single acorn. You just heard from Kevin Fitzpatrick. He represents two buildings downtown, 400,000 square feet. I think you're going to hear from Doug Fies here, 300,000 square feet. This is leasable space, the parking incentives in front of you are going to make a difference. I'd like to thank Councilmember Liccardo, Councilmember Herrera, Pyle and Reed for putting forth the original memo back in January and City Manager Figone and her staff for doing all the work getting up in front of you today. Good work everyone.

>> Mayor Reed: Greg sellers, Doug Fies, Pat Saucedo.

>> Thank you Mayor, councilmembers want to address you here this afternoon. Come to you today as a business personal. We have a business burnham energy. What we do is provide services for the solar energy industry. Whether we were deciding how to grow we had a variety of things we took under consideration. Our desire was to be as close as we could to this building here because we o few numbers out to you to give you a sense of what we were looking at. One is 50% which was the vacancy rate that we saw in many of the buildings that we looked at which gave us quite a few options. So in assessing the situation we wanted to see where we could be, we had quite a few to choose from not just in the City of San José but throughout Silicon Valley. The next one is 25% which is the amount, the percentage that we were looking at of additional cost for parking if we were to locate in the downtown area. That number really doesn't exist in any other, even in other parts of San José much less in other communities. Most of our park and business parks obviously is part of those buildings so it was a cost that we were looking at incurring by being downtown that we wouldn't incur outside of the downtown area. And the third one I wanted to mention though was once we decided we made a tentative decision and went to our home office in Chicago that was a significant factor in look at continuing to look at the downtown. And once we made a decision, the agency that we work with, the company that was -- owned the building made a commitment to build -- to spend upwards almost \$50,000 in improvements. So we were seeing a significant investment in the community that was going to come directly as a result. We did our own analysis and looked at what our impact would be. We think that between the additional folks coming to our office, and using the park facilities, along with our own sales tax revenue that we'll be generating as a business through all the interactions we'll far offset the hundreds of dollars we will be potentially saving in parking.

>> Mayor Reed: Your time is up.

>> I want to encourage you to support that this afternoon, thank you.

>> Mayor Reed: Doug Fies, Pat Saucedo, Ross Signorino.

>> Good afternoon first of all I'd like to thank this city and the redevelopment agency for their outstanding work in paper with us in building up community towers image and occupancy over the past three and a half years, they are truly fantastic and a good partner for us. Speaking the proposal I completely support your proposal. It helps landlords, basically meet that gap of what tenants are looking for. And being on the ground basis as a broker and as a landlord I can tell you exactly what the tenants keep complaining about, it's park and I've also heard business tax incentives helped us, we've got Cario technologies and subwise that was allowed to come downtown and the true incentives were the incentives at the time, better economy. Now the economy has taken us a down slide quite a bit so if we can keep those incentives dropping down with the landlord's rates being competitive we can keep those businesses staying in the downtown and bring more into the downtown and it would help landlords get back on track. For example having a 50,000 square foot tenant right now I'm working with that we're basically trying to stall the deal along and see what's happening with parking because it's going to be essential for their use downtown. Another thing I'd like to talk about, some kind of an expediting business for C.U.P. for businesses that don't have the exact zoning to expedite tenants through to meet their deadlines. If we could get something like that on the track as well we'd really help the city as well as help ourselves into bringing businesses downtown and that's about all I have to talk about but I appreciate all your help and support.

>> Mayor Reed: Pat Saucedo, Ross Signorino, John Althoff.

>> Mayor and council, Pat Sausedo, San José Silicon Valley chamber of commerce. I'd like to thank councilman Liccardo, Herrera, Pyle and yourself, mayor, for the modified recommendation before council this afternoon. I think where we're at right now particularly for downtown is retention. And it's retention of the jobs and the employees that we have and not losing any more during this downturn in the economy. I think in the long term, the hope is with these incentives, we will continue to build and attract new tenants and businesses, into the downtown, and into other appropriate areas of San José. There's no question, and we've heard from legacy now, there is no question that if somebody is looking at their lease coming

up right now, there is much to be competed with for Downtown San José. In outlying areas that do not have to have their employees, let alone their customers pay to park. So I think this is a critical issue and one that is absolutely appropriate this afternoon. On the business license tax, no, it's not the end of the world. You know \$150 or \$600-something for 35 employees but I think right now businesses struggle so much and lost so much just like you, the city, they need to see something that San José wants them. We want them in San José. So I applaud taking this step. And I'd also like to thank the administration because we'd like to see much more and hopefully as you go through the budget process and see the numbers and so forth we'll be able to continue it potentially grow it a little bit. Because I think in the long run it will help San José, in its business development. And then finally let me say the chamber looks forward to partnering with the city in our membership program and businesses that renew or come to downtown are in our incentive areas. We really want to work with you to bring business to San José, grow business in San José. And we're really pleased to be able to do that and appreciate the opportunity. And then finally, to get the incentives, keep the process simple. For what they have to show, to get the incentive. Thank you.

>> Mayor Reed: Ross Signorino and then John altoff.

>> Ross Signorino: Thank you, Mr. Mayor members of the council. One has to really appreciate what the staff is trying to do for San José here. Increasing business, and coming up with ideas of parking, and fees and amnesty and all that sort of thing. But you know we've been working on this downtown thing for years and years and years, since the time of Tom McEnery when he built the pavilion here, and that's gone bellied up and couldn't get the people down here. And then of course there were so many other things, the light rail and now we have the arena, still the downtown is in trouble. And maybe we'll be getting a ballpark here, too. Still, the downtown I believe would still be in trouble. You know, maybe you're trying to think too much about the downtown as opposed to other areas in the city. You take for instance, Santana Row, what they've been doing, how well they've been doing and they have plenty of parking there. Now I'm just wondering regarding parking, they're trying to bet people downtown here, if the land that you have or we may have or buy cheaply in the north part of San José, build parking, build parking lots there. You have the light rail that runs right on front of that. And maybe that's the way the people that work in the downtown area can communicate down here, and that's the way they would get in and out. Of course you'd have to make some sort of an incentive as to parking, cost-wise, and maybe you'd have to arrange something with the VTA as to make more frequent runs in that particular area in order to boost the economy here in the downtown. There are ways but you have to stop thinking when the business that parking has to be strictly speaking in the downtown area to get people here. Thank you.

>> Mayor Reed: John altoff our last speaker.

>> Good afternoon, I'm John altoff, a new, prospective new business owner I'm really happy to be here, and I'd really like to thank Yolanda I want to be downtown. I am a -- I'm going to be bringing insurance, and financial services downtown, I hope to employ up to eight to ten employees. I have a lot of alternatives. But I really want to be downtown. I want to serve the people that live here, that work here, that study here. And I want to be within walking distance of this facility here. So anything that can be done, to alleviate the park situation which is really a huge issue for me, I greatly appreciate it. Around am furthermore -- and furthermore my customers would be coming from downtown. I have a wide base of customers coming from Mountain View from south valley from Milpitas and they will be coming downtown and they'll be probably coming downtown to spend money so you I want you to think about that. They'll probably go to a show, they'll probably have dinner. Just take that into consideration and I hope this will pass. Thank you very much.

>> Mayor Reed: That concludes the public testimony. Is there any additional discussion on this? City Attorney.

>> City Attorney Doyle: Mayor, members of the council I just want to clarify a couple of points. First, the business license tax suspension that's proposed. That, in the original memo, submitted by Mayor Reed, councilmembers Liccardo, Herrera and Pyle, contemplated a January 1 date. And so this would have to be done by ordinance. The ordinance would not come back to council until April. And with the second reading. And so it would probably not be in effect until 30 days after the second reading which would be late May in the earliest. So we'd have to make it retroactive until January 1st. I want to make sure that's understood because it's only a six-month issue and the understand it. The second part the park will be done by resolution and we'll bring that pack in the motion passes.

>> Mayor Reed: Further discussion on this? We have a motion by Councilmember Liccardo for all the items, 1 through 5, of the memorandum from March 12th. All in favor? Opposed? Opposed Kalra, Chu,

Campos, so that passes on a 6-3 vote because I think there are nine of us. We have Councilmember Pyle is out sick, Councilmember Constant is in Washington at the league of cities meeting. Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. Just on the vote, you know again I think there was pretty clear consensus, everybody thought the parking was good and the public supported that. There was some discussion on the amnesty. I don't know when the profit time would be at least that can be explored at some point. So I think this suspension proposed by you mayor and other council could be helpful but I'd like to continue to explore some of the other opportunities as well.

>> Councilmember Liccardo: I'd be happy to make a motion to bring that back to CED if that's appropriate.

>> Mayor Reed: Well I think we should send it to the City Manager as part of budget process that we're in now to look at the amnesty as a revenue generating based on past history.

>> Councilmember Kalra: Okay, thank you.

>> Mayor Reed: That concludes the item. I was wrong about 4.3, we do need a motion on 4.3, that has to do with the Google initiative. Motion is to authorize the City Manager to take some action to participate on that. Is there any further discussion on that? All in favor, opposed none opposed, that's approved. Taking us to open forum. We have no cards under open forum so we're going to recess until 7:00 p.m. City of San José City Council of city council meeting, evening session. [Gavel]

>> Mayor Reed: Good evening. I want to call the San José city council meeting back into order for the evening session. Please have a seat. We're going to start our meeting this evening with recognizing the D-9 stars and I'd like to invite my Vice Mayor Chirco and the D-9 stars to join me add the podium.

>> Councilmember Chirco: I have to say, of all the many things I get to do, this is one of my very most favorite. So I'm so pleased to recognize the following people that will be receiving the district 9 star, D-9 star and they are April bowen, Pam Foley, Heidi golab and deAnna Pursai. Over the years through service on the Cambrian school board and now on the San José city council, community members have shared stories about talent and heroes in the Cambrian park and district 9 area. These stars and their stories fueled my decision and desire to serve in public office. This program recognizes people who live, work, play, and learn in District 9. I feel that they are thoroughly honored since they were nominated by their fellow community members. The intent of the District 9 stars program is to learn more about the extraordinary students, teachers, employees, employers, athletes, musicians, activists and parents who add courage, compassion and comfort to our community. I look forward to honoring more District 9 stars throughout the year. I am proud to recognize these volunteers as stars that make D 9 shine so brightly. And so I'd like to ask April bowen if she would step up here. And I want to tell you a little bit about her. First I would like to ask family, co-workers and any friends of April bowen to stand so that we can also honor you. I see some people that need to stand. Every Monday morning, April has a mission to walk around her neighborhood and take down all the leftover garage sale signs and put them in the recycle bin. Our antilitter people thank you. She also keeps her neighborhood beautiful by picking up the litter at the Guadalupe Oak Grove park several times a week. She is a pragmatic environmentalist in her own backyard. April was nominated by her daughter, heather learner who wrote that her mother taught her to see the humanness inside everyone and not to judge people. Good parenting. But she also said, be sure to pick up your own trash. And take down your garage sale signs or you will be judged. [Laughter]

>> Councilmember Chirco: So April, I'd like to congratulate you on being a D-9 star and because being a D-9 star is just a little bit sweet, we do give a chocolate star to each of our honorees. So thank you so much. [applause]

>> Councilmember Chirco: A round of applause. [applause]

>> Councilmember Chirco: So now I'd like to ask the family, co-workers or any friends to stand as we recognize Pam Foley. I see a daughter and a husband. [applause]

>> Councilmember Chirco: Pam is honored for her tireless volunteerism and passion for public education and children. Pam has been a trustee with the San José unified school district since 2004. Where she has advocated for programs to support the whole child. Her volunteering also includes the student leadership enterprise conference as a Rotarian, fundraising for her neighborhood library and supporting her daughter's involvement with the children's musical theater. We are congratulate Pam Foley for being a District 9 star. Pam was nominated by heather learner, a fellow parent volunteer, ever since their children were in kindergarten several years ago. That's what our community is made up of, is long-term relationships working together to make a difference, and a chocolate star goes to you Pam.

>> I am not worthy. [applause]

>> Councilmember Chirco: Our next star is heather Golab. So I'd like to ask family and friends of heather to stand. Jeez, it says here Heidi, you think I could read. Heidi, come over here. We're sharing the limelight today, kid. Heidi has been the second at Nauden elementary school. And we all know who makes the school run. School secretaries. For the past four years and has won the respect and admiration from students, parents teachers and administration. She works tirelessly to help all members of the Nauden community with an eye for detail, heart of compassion and an unwavering calm and grace while doing her job. The Heidi Golab that we have here in front of us was nominated by if principal of Nauden school. Congratulations to you, Heidi, AKA heather.

>> I do like that name. [applause]

>> Councilmember Chirco: Thank you. And we have one more district 9 honoree, certainly not least. I'd like those that are family, co-workers and friends of Deanna Pursai, see, I'm always linguistically challenged. In 2007 Deanna was inspired by her sister angel to found the angels on stage theater troop for children and youth with differing abilities to participate in a positive theatrical experience. This past weekend, the 90 actors performed the jungle book. And what was your daughter in that -- no, the --

>> Two daughters were monkey and jungle girl. Woo hoo!

>> Councilmember Chirco: It was performed to a sold out audiences for all six performances with rave reviews. I am proud to have a venue that these children and all of our children can shine in. And I'm doubly honored to meet you because friends of ours that I have known ever since Daniel was three has been in your angels on stage. We congratulate Deanna and her entire theatrical group and encourage you to seek out on their next performance. Deanna for all your work and because it's extra sweet, we want to give you a chocolate star.

>> Thank you.

>> Councilmember Chirco: A round of applause for all of them! [applause]

>> Mayor Reed: The first item of emphasis tonight is item 9.1, the fiscal year 2010-2011 May Mayor's Budget Message. We will day that up and then we will get to the rezoning matters, we have two of them on the agenda after we'll take up after the budget message. This hearing tonight on the budget message is an opportunity for the public to comment on my recommendations for how we frame the budget that the City Manager has to put together to deliver a balanced budget on May 3rd. This year is particularly difficult, although it is the ninth year that we face the significant budget shortfall. This year's by far the worst. This year we face a budget shortfall of about \$116 million, which is more than the combined budgets of parks, libraries, recreation centers, community centers, more than all of that. It's a very significant-sized number. But it's not even the end of it, because even if we can balance the budget this year with ongoing solutions, we still have another \$20 million or so in following years with a cumulative total of \$222 million projected shortfall over the next five-year period. We're finding, again, that our expenses and our commitments and our obligations exceed our projected revenues and expenses are growing faster than revenues, in fact revenues in several categories are going down. The biggest part of the deficit for this year is the approximately \$53 million retirement plan cost and \$9 million for the federated fund and \$43 million or so for police and fire retirement funds. That's an increase in the payments that we have to make on top of what we've been paying in previous years. So those are the things we have to grapple with. We will come up with a balanced budget. We have no choice. It's required by law. It's required by our charter. It doesn't make it any easier but we do know we will ultimately balance the budget and we will go through this process in a public way. And we've started it not tonight, this is not the first time we've talked about the budget. And this budget message based on several sources. My state of the city speech, the community survey that we did to find out what our community thinks about our priorities, the five-year forecast documents that the City Manager's plus lots and lots of ideas from residents, employees, neighborhood associations, budget workshop, neighborhood association workshop and all the outreach effort we've already done go together to try to put together this budget message with the objective that when we put together the message we put together the values and priorities of our community. Having reviewed all the surveys and the ideas from the residents and employees, as well as comments from my colleagues on the city council we've tried to produce a budget message that reflects the council's priorities, the community's priorities and all the ideas that people have come up with. We know that our community has pretty strong opinions on how we should deal with the budget because we've surveyed them in a scientific surveys, several years now, most recently we know that 41% of our people think we should reduce employee compensation and retirement benefits is the first thing we should do. 25% are in favor raising additional revenues. 21% are in favor of reducing existing city services as the first choice. Back in November the council gave direction to the manager and the staff to

seek to resolve this year's problem with a one-third one-third one-third method. We had hoped to get one-third of the gap covered with alternative service delivery models and savings, one-third from new revenues, and one-third from concessions from our employees. Unfortunately, we've fallen far short in all those categories and so we're now facing \$116 million with not much in the waive new revenues, alternative service delivery models or reserves and transfers. And we have yet to achieve any concessions from our employees. But we're not out of time. We still have a little bit of time as we work through this. But we know that it's going to be a very difficult gap to close and that we're faced with a choice between concessions from our employees and layoffs. It's not that we will not have layoffs if we can get some concessions. It's just for every dollar concession that we get, we can use that to avoid additional layoffs. I have recommended in my budget message that we seek 10% concessions, wages and benefits from our employees. Not because I think they're not doing a good job, because they're doing a great job. Not because I don't think they work hard because they're working very hard. They've been doing more with less for years now. I'm asking for those concessions because the alternative is layoffs. I've recommended 10% concession. That's the aggregate number that helps us close this gap. Those concessions take a variety of formats and could be done on a sliding scale of some kind that we could negotiate. There's a lot of different ways to do it. I've made some suggestions for areas the manager can seek to do that but ultimately it will be what we can negotiate with our 11 bargaining units that determines the scope of the concessions that we can get. It's clear to me from talking with our city labor alliance that one of the problems in agreeing to any concession is not knowing how the savings will be used. There's a great reluctance for a federated union member to agree to a concession that will save the job of somebody in the fire department or the police department. That's just a fact. It's their concern. And so I'm recommending to the extent possible we try set up concessions so that if they're given or granted, that those concessions can be used to save positions, either in sworn position or nonsworn positions, so that the bargaining units can see directly what concessions would be used for, if they were to agree to them. I've also recommended that we delay some of what we call committed additions. Those are previous instructions that the council has given to the manager, that includes the addition of 25 new police officers, opening of the south police substation, and in other new projects. Because they will all cost us in operating dollars. I've also recommended that we look further ahead, knowing that next year we're not out of the woods, we need to start preparing for next year by doing some things this year that will put us in a position to take advantage of some opportunities to save some money. So I've recommended we take a hard look at that time Hayes mansion, the golf -- one of our three golf courses, municipal water, and the E lot which is up where the old City Hall used to be. Those are opportunities to save millions of dollars every year to avoid layoffs and service reductions, not in this coming fiscal year, but the fiscal year after that. We also have to look at the airport, and I'm asking the council to direct the manager to come back with a plan to ensure the airport remains competitive in our marketplace. That will require some work with our stakeholders, and a business development strategy in order to get there. So we have a lot of work ahead of us. We've already been working for a long time on this. It seems like budget is now a year-around process. Just because it's been so difficult, and every time we think we get it sort of straightened out either the economy gets worse or the state of California takes some money from us and we sort of get to start all over again. But that's where we are. And tonight is a chance for people to comment on the budget message. We will take it up for council action next week on the 23rd. Tonight I want to give people a chance to testify that are here. I know that everybody could not be here tonight so we will continue this hearing to allow people next week a chance to testify if they couldn't be here tonight. So this is the opportunity for the public to weigh in on this. I know that people have opinions. We've already done all the easy stuff so everything in front of us is difficult. And most of it is unpleasant. But that is the problem that we face. And so at this point I'm going to start the public testimony. Please come on down when I call your name so you're close to the microphone. And if you want to speak, please do a yellow card so that I don't forget you and your request to speak. And it helps me keep traffic control as well. So I'd like to start with Linda didis, Sal Ventura and Ray Simpson.

>> Next time I'll sit closer. I'm Linda Didis. I'm business agent for AFSCME which represents the MEF and CEO bargaining units. The city manager's identifying policies that might be impediments this year, and I'm stunned that one of the most recently enacted is on the the list. Last year when the council discussed the need to update the competition policy, policy changes were well informed. Union leaders business leaders nonprofit leaders and city staff all spent a great deem of time participating in these countless meetings. Everyone worked hard to craft an effective policy, one with a great deal of flexibility, there were

provisions for streamlining the process when there was fewer than four employees that would be impacted, there were creative approaches on how to look at the service delivery models and changes and how taxpayer dollars are spent and the quality of services that they received . The City Manager's staff led the craft policy business about leaders time nonprofit leaders time and union leaders time including my own was spent with input all in good faith that we were all working together to put together some -- the best policy for the city. If this policy's now suspended the only message that the City Manager is sending is one of bad faith. In addition to moving forward without a much needed policy please consider the message it would send to the city the union and community stakeholders if months after their hard work that this policy was suspended. Thank you.

>> Mayor Reed: Sal Ventura, Ray Simpson, Nancy Ostrowsky.

>> Good evening, mayor and councilmembers. My name is Sal Ventura, business manager of loam 332 since we're in mediation I'll hold back from that but let me talk a little bit about an idea. This is going to be a tough year and I appreciate the fact that you mention how tough it is Mayor Reed but we already see what you've outlined in your last budget message and how the target that you have for city workers so I have a question. Is there going to be any serious discussion and for all city vendors? Your budget message mayor says that a 10% reduction in employee cost would result in savings of \$63.9 million for the city, total expenditures for the city budget this year taking out reserves et cetera is \$892 million. Now bear with me, I know this is very simplistic, but using your math, employee cost represent \$639 million of the total \$892 million. That leaves \$253 million of expenditures that are not personnel related. If the city had a target of reducing that by 10% that means a nonpersonal expenditures? The city of Oakland has asked their contractors to do their part as I understand it many contractors are coming back to the city and taking a reduction in contracts resulting in real savings. So shouldn't the City of San José be asking everyone to contribute to solving this problem and that includes private contractors, all private contractors, including the chamber of commerce who I believe has a contract with the redevelopment agency. Thank you.

>> Mayor Reed: Ray Simpson Nancy Ostrowsky and.

>> Architect and engineers association. Speaking on the budget your opening discussion you know scale up and said that we are not giving you any concessions back yet and I believe our organizations have been working towards coming up and shouldering the burden with everyone in the city. What I find disheartening is, you come back and you say that the citizens want 41% to reduce our benefits, but look at the way you present the question. Hi, citizens, would you like to reduce their benefits? Would you like to lose services or would you like to increase taxes? Kind of disheartening the way you present that. What choice do they have? I know when you hired me I came on right after the last recession. You came out, I'm a professional with this city. I'm a professional. I get all the benefits that you offer me right now in the private sector. You had to come up and you were 20% short to hire me under -- after the last recession. I came here for a better lifestyle. I don't have to travel a third of my life again staying in the city. What are you going to offer people? You need to start looking at the fact that your goals at one time were to make this a workable, living city. Thank you.

>> Mayor Reed: Nancy Ostrowsky, Judy purchasington, Susan Bailey.

>> Good evening, Mayor Reed, council, staff people. My name is Nancy Ostrowsky, representing AEA and camp my comments are brief we have been here before and we have also said to you in your office and publicly and CLA is that we know that we will be willing to address your concerns and the workers' concerns of the city. We should be doing it together. It's all about trust. Trust is needed to work together during tough budget times. And how the actions and words of city management have not really successfully built that feeling of trust, we have gone into our bargaining sessions, our -- in the past feeling that the proposals are cookie cutter, for all of you that have been watching the Websites now, you should see that they're cookie cuttered. Everyone is getting the same proposals. There's rejections. There's always a last, best and final. That's not where we want to be. That's not where we want to go. It appears your direction is already to not meet us as the mayor wrote on page 7 to require discipline. Collaboration and creativity. That's built on trust. And allow us please to be creative because we will come up with solutions. We are the professionals in the city both AEA and camp have June 30th expirations. Please give us a chance and please do not cookie cutter proposals across the board and predetermine outcomes thank you.

>> Mayor Reed: Susan Bailey Jerry Mungai. Or Susan Bailey can go first. Judy is here. Thank you.

>> Good evening, mayor and councilmembers, I'm Judy purchasington, I live in council District 2. Some of our friends have been spending time sitting outside our community library and talking to members of

our community about how they feel about the budget. And that's one of the things you've asked the community to speak up and say what they're thinking and of course our community members want adequate police and fire and other protection but they also say that especially in these economic times they more especially need their libraries, they need their parks, they need to be able to have these services, and they need them more than ever. And many people have said they need more of those services than they need during other times. So I ask you that, as you're looking at the budget, I know you don't have an easy job of this, but that you take a look and you find the way that the services that are important to the community are saved for the community. Thank you.

>> Mayor Reed: Susan Bailey, Jerry Mungai, Pat Saucedo.

>> Yes, reading your budget message, one of the things that you mentioned was that the economic recovery you felt is underway, I do not feel that it is. I don't think we've seen the worst of things yet. Jerald Falante with trend research institute back in 2008, I listened to him. And my husband and I put our things that were in the stock market into CDs and therefore we didn't lose any money. The city needs to protect the money that it has, and not spend it on anything that isn't absolutely necessary. Remember that the return of your money is more important as the return on your money. The city retirement investments which are into the billions really should not be our problem. We don't have any control over what is done with these funds. City pension plans were established by the city charter, and we need to do something to amend the city charter. I think the voters should have a voice in this. Because we simply cannot afford the wages and benefits of public employees and, in particular, the Public Safety unions, anymore. I wish we could. But we can't. And we need to face that. That is reality. And another thing that you mentioned in your budget plan was that contribution rates will increase dramatically. I would like to know why. We need to cease union contracts, put wages more in line with the private sector, which would mean reducing them by upwards of 15 to 20%. And have the pension and medical benefits be 1/6 of what they are now and that would be in line with the private sector.

>> Mayor Reed: Sorry, your time is up. Jerry Mungai is the next speaker.

>> Oh, I'm sorry, I didn't hear you say what the time limit was.

>> Mayor Reed: It's two minutes tonight. Jerry Mungai, Pat Saucedo, and Linda Spencer.

>> Thank you mayor. Appreciate the process you're going through. We are told if we don't have concessions of the unions, we will have closing of fire stations, shuttering community centers and cutting branch library hours to two days a week. In other words these are all the services that we all the citizens enjoy. So we are at the mercy of the unions because of state law says that a promise given is a promise kept so we have to change it. So we are really at the mercy of our servants. It reminds me of prerevolutionary France where the second estate, the nobility refused to be taxed and the third estate had to can be changed, when the public safety is at risk. Nothing is mentioned about or very little I should say, about the programs the city has that consumes significant taxpayer dollars, particularly services associated with affordable housing. These are housing programs to allow people to live here who could not live here on their own without taxpayer support and they also have access to numerous services to help them to stay here. And we also have subsidies for property owners too to enhance the value of their properties. We shouldn't have to pay for that. These make individuals dependent on government so that is all I have to say. Thank you for your time.

>> Mayor Reed: Pat Saucedo, Linda Spencer, Alex guy.

>> Pat Saucedo. San José Silicon Valley chamber of commerce. Mayor, council, first I'd like to thank the mayor for a very comprehensive memo this evening outlining the challenges before you. Just a couple of comments on a couple of key points in the memo, first I would like to comment on the airport. I think it's important and the chamber thinks it's important over the next couple of years that the council takes the necessary steps to keep the cost low, reduce the airport's cost competitive handicaps and engage to get nor flights and passengers. The General Fund cannot be seen as a fall-back financial bailout for the airport. Redevelopment. The convention center expansion, the chamber sees the convention center as a key economic development investment, disperse jobs, drive T.O.T. and investments, and community in our downtown. contracting out. Expanding the total number of FTEs per program, eligible for the alternative service delivery would accommodate allowing noncore services for the city and programs being maintained for our local businesses and residential communities. It would drive economic development in the private sector, and reduce the short term and long term expense of operating the City of San José for our taxpayers. Reduction of per-employee cost. I believe and the chamber believes it will take a combination, a difficult combination, deferring step increases and required contractual raises, implementing a minimum 10% across-the-board pay reduction to enable the maintenance of all core

services and programs required by the city at a level of service that will continue to attract driving industries and an educated workforce to want to invest and live in San José. And implementation of a medical cost benefit containment strategy for all employees. These are difficult. The private sector has had to step in and do all of these things over the past 18 months. And they're painful. We acknowledge that.

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

>> But you will be able to maintain your core mission of running the city. Thank you.

>> Mayor Reed: (saying names).

>> Hi, I'm Linda Spencer representing the friends of the Almaden library. On the past two Saturday afternoons, I sat at a table outside the Almaden library and community center for about two hours each Saturday plus an hour this afternoon after school. Beside each table stood a poster that said, did you know? The library may only be open three days. People walking from the parking lot into the library, would look over, see the poster, veer over to the table asking, what do you mean? Is this true? They had heard nothing about that it might possibly happen. So I said the problem is the San José budget for this coming year. Each branch library may only be open for three days. And they looked shocked. They said that's no good, that's terrible. No one had heard that the libraries might only be open for three days, starting this next fiscal year. And they would say, then what can we do about it? How can we help? So I had on the table in front of me a bunch of orange postcards which were just given over to the clerk. Hopefully they can go to Nancy Pyle and and she can read. People would write their name and some comments about why they really needed the library open more than three days for themselves, for their children, for their neighbors, many different reasons. When I said that I was coming to the city council this evening to talk, they all wanted to fill out postcards. The only people who didn't stop and fill one out were people late running in for a class at the neighboring community center. Some of the comments, they come to the branch library for books of course. To pick up a reserve book or to use a computer, to use a computer for searching for a job or to learn how to fill a new job. To take a class on a job. Many of the parents were worried about their children who needed a library any day of the week, on certain days of the week --

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

>> Thank you very much.

>> Mayor Reed: Alex guy, Susan ably, Teresa Wies.

>> Mayor Reed and fellow councilmembers, I'd like to thank you for the opportunity to be able to talk to you. It's an incredibly impressive building and you guys look exactly like you do in the papers from the photographs that I see. But I've got to bring something up. I am actually one of the people that Linda did stop this weekend when she filled me in for that information I felt like it was about time to step up to the plate and start talking to you guys about how we feel. According to the information I found and this is one year out of date, from 2008 to 2009 about 50% of the employees of the City of San José out of 9,450 made over \$100,000 a year with one person making \$433,000. 37.5% of that was overtime and other compensation. It's not stated what compensation that is whether retirement or what that is. In the terms of employment. It would actually be the other way around. And I was very encouraged earlier when you mentioned your 10% overall reduction that you're looking on in cost but it's going to have to be probably considerably more than that. Libraries and other social services are vital to our communities. Overtime pay is not. And that's basically all that I wanted to put in. There has to be an adjustment. You guys have to get real. This isn't just a welfare system. Thank you.

>> Mayor Reed: Susan ably, Teresa Weis, Luis Franco.

>> My name is Susan ably, I'm a district of District 9. I'm asking you not to cut library hours. Great cities have great libraries. Because libraries spark learning it's that simple. When we learn we understand, when we understand we are better people, better parents, better neighbors. Learning is a commodity that is too important to be jeopardized by budget cuts. Libraries are not just for children, they're not just for those who can read. They are for everyone. About 15,000 people walk into library branches each day and we are a better city because of it. The last thing we want to do is reduce access to something so valuable. In difficult economic times people need their libraries more than ever. Residents seeking jobs and new industries need the free tutoring programs for reading, writing and computer skills. Young adults putting college on hold for financial reasons use the library's collection to keep learning. And those working two jobs to make ends meet rely on the library's six day week schedule so they can visit too. During an economic downturn the library is actually a place that needs to be open more hours, not less. 15 million items are checked out each year from libraries so the community's need is obviously

there. Now when library services began in San José in the 1800s the player led the way by donating four years worth of his salary to build the book collection. Ever since the support of city leaders has always been a constant, please don't reverse the course. Thank you. [applause]

>> Mayor Reed: Therese Weis, Lee Franco and Josué Garcia.

>> Hi my name is Therese Weis, I live in District 2 but I use libraries all over the city. I know budget time is tough all year. I've done precinct walking for bond measures and I've called all of you guys at some point or another. So I really appreciate the challenges. But please please keep enough money in the budget to at least maintain the currently staffing levels. Libraries are so important to our community for all ages for all economic levels, thank you.

>> Mayor Reed: Luis Franco, Josué Garcia, Antonina. I don't see Luis, Josué, go ahead and go first.

>> Good evening, Josué Garcia with building trades council. Good evening and thank you for allowing me to speak before you tonight and I just want to tell you that when you look at the budget, to please, don't look at cutting wages for the workers in the city, and early wages workers are having a hard time right now, hard time. Just to give you an idea construction workers are working one to two days a week and to cut their prevailing wages is making like half a day's worth of salaries. So it's very hard and whatever you do don't look at the workers to solve the problems. There are things we can work with you to fix this issue but don't touch the workers, it's hard, hard for the workers. I would like to extend an invitation for you to come with me to union halls in the morning so you can see the stories of the families that are going through it's very hard. Thank you.

>> Mayor Reed: Antonina, Luis Franco, Lourdes Nuno.

>> Good evening, mayor and city council members. My name is Antonina, I'm pardon save our neighborhoods. Our group platform is that we do not want any more services cut. The services that have been cut for the last nine years hasn't worked out to balance the budget, and continuing to cut these services don't provide a lasting solution. Your data reflects that. Now we realize we are not going to get away with zero cuts but we want to have -- but we have endured previous budgets balanced by cutting neighborhood services in excess. What we want to have the city save our neighborhoods services because many of them truly are public safety. The -- you've heard about the libraries being closed and aquatic centers being closed, our lights in the neighborhood being shut off to save the electricity, the community centers being closed. All these places are places where people want to go to, kids want to go to. With that said we are requesting the city take a different approach. We're asking that we must balance this budget among all stakeholders and not just reductions in city services. Thank you so much.

>> Mayor Reed: Lourdes Nuno, Alicia cough Ginsberg and.

>> My name is Lourdes Nuno, I have been working with the city for 12 years in the convention center. I want you to know that what Team San José is proposing, they are proposing mid year cuts, 80% or our facility attendance, 70% of custodians and 63% of security officers to be laid off in mid May. Why we are being treated different from the other city employees? I support the mayor's salary reduction. To protect city employees jobs. The convention center employees should be treated fairly and not laid off until negotiation concludes. Thank you.

>> Mayor Reed: Alicia Koff Ginsborg, LaVerne Washington.

>> Good evening, mayor and council. I'm Alicia Koff Ginsborg with working partnerships. I've been fortunate the last two years to be working with the wonderful stakeholders engaged in the community budget working group last year the group presented you with over \$10 million with ideas to save services. We're pleased to see that in the Mayor's Budget Message some of the more creative ideas like pension bonds and pricing reductions in contracts are there for analysis. We're looking forward to getting the information that staff produces on that, and I'd like to invite everybody here to be part of the community budget working group and part of the discussion. Our next meeting is going to be on April 6th from 6:00 to 8:00 p.m. at Tully library and if we all work together on this we can all make San José better. Thank you.

>> Mayor Reed: LaVerne Washington. That's the last card I have on this item.

>> Good evening, mayor and council. My name's LaVerne Washington. I'm president of AFSCME CEO. Part of the budget proposal includes a two tier pension and benefit system which is being driven by a white paper published by the league of cities. There is absolutely no evidence that implementing a two-tier system has any short term benefits for the City's current budget woes and no analysis or data has been provided regarding the long term savings or benefits of a two tier system. The city should look at strategies that are fact and evidence based. The two tier pension and benefit system will produce two classes of employees. Those that have greater pensions and those that have lesser. This will not benefit

the city and may cause hard feelings between the City's employees. A push for the two-tier pension and benefit system is ideological, and next inequities in their facts or thank you .

>> Mayor Reed: That's the last card I have to speak on the budget tonight. We will have another opportunity a week from tonight before the council takes action on the budget message. I have one more card.

>> Sorry about that mayor.

>> Mayor Reed: It's okay. Please come on forward.

>> Silvia Wies with SEIU. United Service workers west. Thank you mayor and council for giving me the opportunity to speak on behalf of workers who couldn't come here tonight because they are working at our airport making sure that the customers are well served and for those people that are traveling, our passenger service workers get them to their airplane on time if they are handicapped or disabled, who are wheelchair attendants. Our members there, our workers take real great pride in their work and the services they offer at that time airport and make sure they have a smile on their face when people come into San José and the reason they do that is because they're respected through good wages and health care. It was a policy that you as a council put forward last year to make sure that workers at the San José airport had a living wage and health care so they could provide that good customer service that brings people to San José. We know that SFO is the competing airport with us but there's living wages and good health care at SFO and if we want to compete with other airports in the area we need to make sure that we are respecting our workers treating them right and you as a city council have that ability to stand up for what San José values making sure that workers and community members are well respected through good jobs and wages. Thank you.

>> Mayor Reed: You want to speak on the budget?

>> I do.

>> Mayor Reed: Okay, we're going to get to soccer in a little bit.

>> Totally about the budget. So I'm a local taxpayer, taxpayer in the City of San José I also lap to manage the pension plan for one of the local tech companies. As a taxpayer I can tell you that at my company we do have two classes of employees and there is no hard feelings for the employees who have vested in the older richer plan as we cut back benefits make sure we pay a competitive wage. We do not pay wages based on a living wage but on what the market will bear. As a taxpayer in the city I expect you as the city council to manage my money as best as possible and get the best ridiculous the benefits that our union employees get in the city and I think we need to do the same things the private sector has done to bring our employee cost in line with the realities of today's economy. That's it. [applause]

>> Mayor Reed: I think that's the last speaker on the budget. Okay, anybody who didn't get a chance to speak tonight will have a chance next week to speak before the council takes action. We may have some council questions at this time. Councilmember Campos.

>> Councilmember Campos: Thank you mayor, and I'm glad that we had an opportunity to hear the concerns from the community. I think this is more of a process question that I want to understand. In your opening remarks you alluded that we would be hearing comments. Is the council to wait for, I believe, is it not the next time we have a public hearing but the following time before we can ask questions or are we allowed at this time to be able to ask some questions so the staff can come back with some information? I'm trying to understand your process for the council.

>> Mayor Reed: We need to vote on the budget message next week. So that's agendized for action next week. However, tonight we're here for a hearing, and we can have council discussion if the council wants to discuss it. Ask questions. It's really up to the council how much work we want to do on this tonight. If you have questions now is the fine time.

>> Councilmember Campos: I have a couple of questions just for information that would be helpful for us as we deliberate. I know that there was a speaker that talked about overtime pay and I think that seems to be an issue that we are hearing a lot. And I would just like to know from the City Manager if she can -- the City Manager's perspective on overtime. From what I understand, overtime is not something that an employee can impose. And I thought it was something that was by the manager, or someone of -- more of an authority to approve overtime. And I'd also like to understand, that if we could reduce overtime, what does that mean to your ability to be able to keep costs down? I mean there's a reason why some employees have overtime. And I'd like to understand why, from your perspective, certain employees are over -- getting overtime. And I think that that's more from police and fire, is that correct, that we're seeing more overtime?

>> City Manager Figone: They are by far the largest users of overtime but there is overtime across the city.

>> Councilmember Campos: So sit possible for you to articulate why they are having overtime versus us having an employee take on those responsibilities? And I know that you had explained this to us, a couple of years ago, why you were asking people to work more hours than they're required.

>> City Manager Figone: Sure. I think what we could do during the budget discussions is bring back a discussion of overtime. But I think that generally there are different reasons for overtime. Sometimes it's assigned by management. Sometimes it's required in a bargaining contract for those who are on stand-by pay for example for after-hours work, and then there's oftentimes the ability to instead of being paid overtime, receive compensation in the form of hours that can be taken off, it's called comp time. So there are various rules within our bargaining contracts, and I think during the budget process we could come back to you with a discussion of overtime.

>> Councilmember Campos: And could we also understand how we could reduce overtime? What are the options for reducing overtime as well?

>> City Manager Figone: Absolutely.

>> Councilmember Campos: Okay, that would be helpful and I think that would answer some of the concerns that some of the speakers brought up about overtime. The other question I know in your budget message, mayor, you talked about, or giving direction to the City Manager, I know she stated that she's going to have to look at reducing 100 positions in the police department. And I know you gave her clear guidelines of where you would like for her not to reduce services in the police department. And what I'd like to understand is, I know that one of the things we took on in 2008 was to make sure that we continue to be a safe big city. And I know that you made a commitment to increase police officers by 100 officers over the next, is it five years or ten years? Five years, and we're coming up to that in 2011, and then we are now looking at a budget to says to reduce officers by 100 employees or bodies that would service our community. I would like to understand what does that -- what impact does that do for the quality of life and the safety of our city if we reduce 100 officers?

>> Mayor Reed: I don't think anybody's really in a position yet to know what that is. It depends on how the reductions take place. We do know that we had an audit, we have 88 officers serving in positions that don't require a gun and a badge. So there are civilianization opportunities that could put some of those officers, not all of them probably but some of them, certainly, back on the street. And there are specialized units and there's patrol. And what I've identified in here are areas to stay away from are those areas that in our community work and our scientific survey were identified by the community as the most important areas. That still leaves lots of areas in the department that the manager's going to have to look at to come one the savings necessary in order to deal with it. We cannot ignore the police and the fire departments because they make up nearly two-thirds of the revenues go into police and fire. And if you don't look at police and fire that means you have to close everything else down. And I don't think there's a lot of community sentiment for closing the libraries, community centers and parks in order to close the gap. So we have to spread it around.

>> Councilmember Campos: And I hear you. I think before I make the decision on cutting anything I think it's important for me to have in my deliberation a clear picture of what that impact would be. So if it's directing the City Manager to look at those 100 positions, whether they're sworn or nonsworn in the police that would help to understand the categories that she's looking at and how many bodies that would entail in the police department and what their areas of service would be. So I understand your direction, but it would just be helpful to know -- have a clear picture or some insight to the -- to what we're looking at.

>> Mayor Reed: We will have the details of that of course when the manager presents her balanced budget May 3rd and we can look exactly where she's recommending where the changes be made.

>> Councilmember Campos: And those are all my questions, and I'm looking forward, in I guess in some way, to be able to understand what direction we'll be taking. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Just a couple, a comment and a question. First of all, I do appreciate everyone coming up, in particular the folks from the friends of the library. I know I've seen you Judy and others of you out there I know you all take a lot of time to do that and we all appreciate it and I want to thank you for that. In regards to the policing issue that Councilmember Campos brought up in terms of staffing and so on, and I know mayor, in addition, it refers to the police substation. And I don't need to get any clarity now, chief, I know you're in the audience, for next week in regards to how the police department is looking, both at the potential of not being able to backfill those positions, as well as a

delay in the opening of the substation. And kind of as a game plan going forward. Additionally, as much as I think it's important that the community's priorities are upheld in terms of where we keep our resources, I think it's more important that the police department's priorities, they know more about where to keep those resources in being able to deter violent crime in addition to the priorities that we're well aware of maybe some comment on where the chief feels the department's resources are best used as well. That goes both to the reduction of officers as well as to a potential delay of opening of the stays and how that plays together on the surface not being able to reduce the number of officers, may lead to the need to delay the opening of the substation anyway. But I just would like a little clarity on that, and discussion on that next week. Thank you.

>> Mayor Reed: Okay. Any other questions? We're not going to close the hearing because we'll continue the hearing next -- into next week. So people who weren't here tonight have a chance to testify. But we will continue this to the 23rd. It's on the evening agenda. And everybody is welcome to come on back. But that does conclude our work tonight on the mayor's March budget message so we'll now turn to the two land use items we have on the agenda. We will take up the first one, the second one relates to soccer, the first one is a rezoning, item 11.2, rezoning of real property on the north side of Auzerais avenue between bird avenue and royal avenue. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. I don't know if the applicant or any members of the public to speak on the item.

>> Mayor Reed: Well, we have a lot of people here. Hopefully they don't all want to speak on this item.

>> Councilmember Oliverio: The applicant approaching.

>> Mayor Reed: Before we get the applicant to talk is there going to be a staff presentation on this, on this particular item?

>> Joe Horwedel: Thank you, Mr. Mayor. Joe Horwedel director of Planning, Building, and Code Enforcement. The question that was raised was, what is the ability of the city to regulate offsale of alcohol with the rezoning. And that the City Attorney did prepare a memo that analyzed the constraints that the city does have with the ABC state preemption on regulating offsale alcohol. I think the basic conclusion from that is that the city cannot outright prohibit alcohol. We can put requirements such as we have for conditional use permits and the policies that we use to decide yes or no. But an outright ban in an otherwise commercial area is not something that the state law would allow the city to do. It confirms I think the basic conversation we had at the previous council meeting that with the PD zoning we could not say no to alcohol at a place where we allow other commercial type uses, where alcohol is allowed.

>> Mayor Reed: I think that's the staff presentation. Do you want to hear from the applicant? On rezonings we give the applicant five minutes. En and then we take public testimony. Although at this time we have no public testimony on this. Go ahead.

>> Good evening, on behalf of sunny Goyal, we have a wonderful project, it will service the community it has great improvement and we think it should be approved. And if there is any questions I'm here to answer.

>> Mayor Reed: Okay, thank you. Let's see if there are any questions for the applicant first. None, thank you.

>> Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Yes, thank you mayor. One month ago or the last planning meeting at nighttime when we heard the item we had just rejected an offsale liquor sales lines in district 5. Six months prior to that we rejected an offsale liquor license about two blocks from this in district 3. At the end of the day we are trying to behoove grocery stores to come to our area. If we continue to have offsale of color at gas station, we will never get grocery stores. We already have 455 places you can buy liquor. Offsite liquor being sold in walking distance of that unless it's with a restaurant or a grocery store. So you know and I understand that someone could say I don't want to serve alcohol but as soon as that building changes hands it will have the opportunity to serve alcohol as offsite and not return to the council. So with that said I cannot support this planned development. I would encourage my colleagues to support that. We'll have other appropriate uses of offsite liquor but they should be reserved for grocery stores and not gas stations. So my motion is to deny the planned development, if there's a second.

>> Mayor Reed: There is a motion and a second so we have a motion on the floor. Discussion? Councilmember Liccardo.

>> Councilmember Liccardo: Just a couple of questions. Joe, so I understand the process. I think you know I certainly share Councilmember Oliverio's concern about allowing offsite alcohol at gas stations. I

don't support it and I think it was a mistake for council to change its policy back in 2005 to allow it. But my concern is that that's not what's before us. And it seems to me, well, I guess it would be helpful to know, any applicant who is at that site, that wants to get an offsale permit has to go through the standard C.U.P. process, is that right?

>> Joe Horwedel: On the site today, yes. Because it's not a planned development. I think the difference is, is that once the site is zoned planned development, the decision of alcohol would move to the city staff in deciding that rather than the Planning Commission and then appeals would be to the Planning Commission rather than the city council. We do have a little bit of -- I think it's part of the angst that's going on is should the council always be involved in the decision on alcohol. And the council or the Rules Committee did talk about some prioritization of our ordinances and alcohol is one of the ones that went to the top. So we would be dealing with that issue when we bring the alcohol issue back to look at the ordinance. But I think the simple answer is that this site with this PD zoning that most of the alcohol question would move away from the city council and Planning Commission, and be with the staff.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: And I believe there's a concern about that.

>> Councilmember Liccardo: So we go to director's hearing.

>> Joe Horwedel: Correct.

>> Councilmember Liccardo: In your recollection have you ever supported an offsale permit at a gas station?

>> Joe Horwedel: We have, in the past. It's one of the things, council may remember last meeting when we went through a number of offsale of alcohols was tried to explain where staff is going with offsale. We met today with the managers of our department and our phone and counter staff to follow up on that conversation of us, the department, not supporting offsale alcohol other than in a full service market. And that anything other than that, the answer from staff would be a no, and that they would need to work to convince us to -- for staff to support that off-sale.

>> Councilmember Liccardo: There's a presumption of a rejection then?

>> Joe Horwedel: That is what we are taking for alcohol other than a full service market.

>> Councilmember Liccardo: That I would support. I suppose the question for Councilmember Oliverio, would you consider altering your position if there were a motion to approve included within it, direction to staff to come back to council to alter the ordinance to enable every one of these offsale alcohol permits at -- certainly at the very minimum, at gas stations, to come straight to -- well to eventually get to council for council's determination so that council -- by the time this project gets redeveloped, is up and running, seems to me there's going to be a substantial period of time that's going to elapse, and we will have had time by then to be able to change an ordinance to make sure that we continue to have control over the decision. Would that enable you to feel more comfortable with the idea of allowing the site to be redeveloped?

>> Councilmember Oliverio: Thank you, Councilmember Liccardo. Knowing of the staff backlog on ordinances I wouldn't anticipate it being done any time soon. I think at this time it's a council decision and I don't support offsale of alcohol at gas stations, understanding if an ordinance could come back then you could defer the PD for a year and wait for that ordinance to come back but I don't think that's going to happen so my preference would just to be to deny this from happening because at the end, you know, we could have a planned development this could happen but you know without the ordinance change which is a certain amount of work, certain amount of things that have to be done you're going to have the offsale of liquor there or beer/wine, what have you. I guess to Joe, where would you balance things on ordinances that you already have on your plate?

>> Joe Horwedel: Our prime focus right now is the sign code update and then working on the Alum Rock form based zoning codes. Those have been the two commitments that we've made previously and then part of it is what happens to the budget this year, one of the things would go away .

>> Councilmember Oliverio: I think the last time you showed us the list we had 12 or 15 wishes for the council.

>> Joe Horwedel: Correct and staff we had quite a few things we would want to work on also.

>> Councilmember Oliverio: Thinking Councilmember Liccardo I don't see it as a viable option and again I want to make sure we can reserve the value of the liquor license for a grocery store.

>> Councilmember Liccardo: I guess my other question then would be I 30 we are all mindful of the bind that planning is in, in terms of turning around these ordinances, ordinances like this one that we're contemplating. Is there an opportunity to be able to defer this application, the decision on the application,

until the time that the council's made a determination on offsale alcohol procedures? What I'm concerned about is just simply that we're making a decision on a car wash today and redevelopment of a gas station and I feel like we're throwing out the baby with the bath water. I don't think there's -- I doubt there's anybody on this council that supports granting offsale alcohol permit on a gas station like this one in an SNI area and from what I can tell Joe is clearly expressed a presumption against it. I hate to believe that we're going to throw this whole project out because of the small fraction of fear that we have that someone's going to allow alcohol at that site.

>> Joe Horwedel: Well let me put maybe a little bit different kind of view to this, that the applicant has the ability to file for a conditional use permit today to do the car wash. The reason it's a planned development is the way the site is configured setback. Where the setback not an issue on this site, they could go and do this project with the conditional use permit. The alcohol question would still be out there because the zoning always allows alcohol to be sold at a -- on commercial property. I think the challenge is in this case that because it is a planned development that you know that decision for public convenience and necessity and use permit goes in a different direction. So yes, we can defer the application. I'm not a real big fan of that because that means I've got to go keep track of it. We did that when we were dealing with second units and we had stuff that was on the books for years kind of as we worked through that issue. But that is an option.

>> Councilmember Liccardo: Joe, so you're essentially saying the difference between where we are today and this applicant simply going forward with his project is really the issue of the setback?

>> Joe Horwedel: Yes.

>> Councilmember Liccardo: Puts him in this different category of process.

>> Joe Horwedel: And my sense is today, if council were to deny this today, we would go back with how to work with regular setbacks and go through the process of reconfiguring this site.

>> Mayor Reed: City Attorney had a comment.

>> City Attorney Doyle: We can't preempt 2006 city council changed the rules so the concurrent sale of gasoline and alcohol we cannot prohibit. I have concerns about whether we talk about a presumption of denial or that the council is indicating that they are less inclined to want to do it. I understand the policy issues but the 2006 council took away the ability to say no, and that we just have to be sensitive to that. The second issue is that a denial of the rezoning, the applicant can't come back for a year. If it's a deferral the applicant could come back and the council could revisit the issues. It's important for the council to know that.

>> Councilmember Liccardo: Thank you Rick.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor Joe, some clarity. What it sounds like if the applicant didn't need the variance for the setback they just -- they wouldn't have to come here at all, is that accurate?

>> Joe Horwedel: That's correct.

>> Councilmember Kalra: That would also apply -- would that also apply for a request of offsale of alcohol?

>> Joe Horwedel: The offsale alcohol request would be like any -- like the one across the street that has been talked about. It would go to the Planning Commission, Planning Commission would make a decision if the PCN was required it would have the mandatory denial to it and that would come to the council. And so the council would then be involved in that decision to say yes or no to alcohol.

>> Councilmember Kalra: So no matter what, however, if the C.U.P -- if we actually -- not the C.U.P., the rezoning, if we approved this today, would they still have to go through a process of a C.U.P. to get offsale of alcohol?

>> Joe Horwedel: No, with the planned development there is no conditional use permit, that's the difference.

>> Councilmember Kalra: So what would be -- the only way it would come before us is if it was appealed to us after a denial at the planning director stage and the Planning Commission to us?

>> Joe Horwedel: With the planned development it would never come back to the council for the PD permit.

>> Councilmember Kalra: What if it's denied -- what is the appeal process if they request offsale of alcohol and it's denied?

>> Joe Horwedel: The Planning Commission is the end of the appeals for a planned development permit.

>> Councilmember Kalra: Okay.

>> Joe Horwedel: What the public convenience and necessity portion of it that's the wrinkle part that that would come to the council. But we haven't done the analysis if this side of the street triggers the PCN or not.

>> Councilmember Kalra: Okay, there's some scenario it could but you haven't determined that's the case or not?

>> Joe Horwedel: We haven't looked at alcohol at this site yet.

>> Councilmember Kalra: I feel somewhat the same as Councilmember Liccardo and I agree with Councilmember Oliverio that this is not the kind of place or kind of establishment you want to reserve offsale of alcohol for. The trend has been to reserve them for full service grocery stores and whatnot however, with this refusing this project to go forward, seems like there's -- we're really because of an alcohol question, it's not even before us, we're throwing this whole project out. And in there's -- I certainly would rather see if there's a way that we can get this project done. I mean it is a project that's going to ostensibly improve the streetscape of that corner, with the remodeling or with the addition of the building and so on. And make the business more viable. And so just deny it and have the applicant have to wait a year even to come forward, not even at that time knowing what the end result's going to be would be something that I couldn't support. So the question then is, what could be done with the deferral? I mean, what -- even if we just defer it just because we're not comfortable denying it, what will be the result of that?

>> Joe Horwedel: I think what staff would do would be to work with the applicant and really lay out two options, whether they wanted to wait and see what happened with an ordinance if something changed that would address the concerns of council about the potential for offsale at this location and then less we'd do a parallel path of them on the conditional use permit of the car wash under the currently zoning and setbacks and see if that worked for them and they could make a business decision is speed more important than efficiency of the site.

>> Councilmember Kalra: What's the viability of the plan with the car wash and so on, without having to request a variance on the setback? Is it just a preference, a style or is there a question as to what --

>> Joe Horwedel: The site is very constrained, so that is one of the challenges of how the parking fits in and circulation at the pump islands. It is not a very deep site. Coming out of the drive -- how the car wash sits on the site on the back makes it very challenging the circulation.

>> Councilmember Kalra: And at the very least I'd prefer deferral so the applicant could at least work with you to try avoid having a variance on the setback so the project is not scrapped altogether for a year, to avoid them having to come to us in this manner.

>> Joe Horwedel: That's what we would be working on, is could they go through and make something work in the meantime.

>> Mayor Reed: We have a motion on the floor to deny. Councilmember Oliverio, did --

>> Councilmember Oliverio: Just want to understand, Joe. So on a -- if we reject the planned development tonight he could come back for the conditional use permit tomorrow to just make the car wash work?

>> Joe Horwedel: That's correct.

>> Councilmember Oliverio: And we have a car wash one block away at this neighborhood. Yeah, so based on the fact that it's a planned development and we are ultimately in the control of doing the denial when it comes to liquor since it doesn't come back to this body, I stand by the original, having them come back with the C.U.P. to make the other part of the business work.

>> Mayor Reed: The motion on the floor is to deny. I think we're done with the council discussion. The motion is to deny all in favor opposed one opposed, Kalra, Reed, Chirco, Pyle, Liccardo, Herrera, I believe that motion fails on about a 4-6 vote if I'm doing the math right. Alternate motion, Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. I'd make a motion to defer so that the Planning Department can have further discussions with the applicant. And if there is any movement on ordinance at least ask them the benefit of knowing there's progress on that.

>> Mayor Reed: We have a second from Councilmember Liccardo. Motion on the floor, Vice Mayor Chirco.

>> Councilmember Chirco: I will be supporting this motion but I was here in 2006 when this ordinance was changed. And there was thinking and justification behind it. The idea was, we were getting many really run-down and unmaintained gas stations. And the long lengthy council discussion was, was there ways we could limit the alcohol sales by putting conditions in such as parking requirements,

oversaturation, crime statistics. But it was to try and encourage the small business people that had these gas stations to invest in their property, and make them an asset in the community and not leave them as a deteriorating run down facility. And I was looking through here and they do speak to the parking. It does become something greater than a two-pump gas station. We were finding that large businesses such as a Costco could have a liquor store and a megamart on the same property because they could afford to separate the parcels. Small business people couldn't. And we were finding that small business people were being hampered when large business people didn't have this same burden on them. So I will support the deferment. And if we are going to change the ordinance I think we need to be forthright and not catch our developers by surprise when you come forward with a project that is under our guidelines. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Well, clearly this gas station is clearly not an eyesore in the district. It's just a standard gas station. I've been very clear with my views to anyone that calls that I don't support offsite liquor unless it's grocery store. Pretty much that's the advance notice that everyone gets. With that said, Joe are we deferring this 11 months, 19 months? I'd a love to keep everyone in the crowd here but --.

>> Joe Horwedel: I would recommend that the council defer it and we will drop it from the agenda and we will work with the applicant kind of managing our expectations of what our schedule looks like for the ordinance work and then as I said before we'll work on kind of the parallel path if they want to choose that.

>> Councilmember Oliverio: Fair enough.

>> Mayor Reed: Motion is to defer. I think there's no further discussion. All in favor? Opposed one opposed Oliverio is opposed so that passes on a 9-1 vote. That concludes our work on that item taking us to item 11.3 which is rezoning of real property located at the West side of Coleman avenue having something to do with soccer but I haven't figured it out yet, I'm getting a clue. [applause]

>> Joe Horwedel: So thank you, Mr. Mayor. As you just noted, this is an item to FMC property staff is not changing the development allowances and development standards for that existing office and commercial project but is adding to the mix, the ability to do an 18,000 seat stadium. One of the issues that has come up during this process is the outreach that has been done for the rezoning. The outreach goes back into June of last year when we first did the EIR scoping, and public outreach for the EIR that we prepared for the soccer stadium. We did a thousand foot noticing pursuant to the public noticing policy. We placed onsite signs, newspaper ads, there's been a tremendous amount of outreach and coverage in the media about the proposal. Council about how staff did the outreach for this. As part of the EIR there were overriding issues, such as global climate change, freeway impacts regional air quality and construction noise, then the operations it's modifier feasibility of some of the ideas that were looked at during the EIR such as covering the stadium with a roof structure and looking at the number of events that I want to spend some time talking about tonight. As it relates to noise mitigation, there was a memo that staff sent to council, and we received two letters from the applicant, one from Devcon construction, analyzing the construction of a roof over the stadium, during the EIR process, in that letter it noted the significant cost increase for building a stadium that would put a roof on it that it's not just the cost of actually a rough structure, but the structure itself to hold up that roof is a significantly different type stadium. We also received a letter from AEG regarding events and feasibility on the numbers of events that should be assumed for this type of facility. The basic results out of that AEG is the firm that deals with booking concerts, operating these types of venues across the country. That the ability to have events other than soccer is an essential part of financing these types of venues and really a reflection of proper utilization of the significant investment in building such a facility. So wanted to go and make sure that the council is aware of that and that the information was for both of those, that those were not feasible measures that could be implemented with the project. The other issue that we have been working through is the noise levels in the venue itself. And it's not so much with soccer events but it's other types of events that are going on such as concerts. Those are one of the types of events that are traditionally found with an outdoor stadium such as this. It is part of how these types of venues are financed. And we received an e-mail tonight from AEG that clarified or added onto the letter that's up on the screen that the ability to have events that were a traditional outdoor concert was essential to being able to book these -- the music industry events or groups into the stadium. And that the EIR analyzed the noise from these types of events, typically about 95 decibels, about 100 feet away from the speakers. So that we did analyze those impacts into the EIR. And as you can see on the aerial photo on the PowerPoint, the distance to the

nearest neighborhoods from the back side of the stadium is 900 feet. That it is a substantial difference in our distance. We did analyze the noise consequence from an event happening in the soccer stadium, and looking at the existing noise in the community, recognizing that we are in an area that is an airport, a functioning rail line and a freeway in close proximity and that the noise in the neighborhood is different than many parts of the city and that the ambient noise levels are higher there. And that what we have found that existing noise in the area is in the range of 62 to 66 decibels, that the noise analysis was showing that having a concert occurring on the site would increase the noise in the neighborhood, but the it was less than our threshold of three decibel increase. And it's important to note that an increase of up to two decibels is not perceptible to humans. You can't tell the difference that is the threshold we used in the City of San José. We published that in the EIR as our threshold of significance. So as long as the project keeps the noise levels at 95 decibels, at the sound control board, that the analysis that's been done, we think, will show that the change to the community is extremely minimal. Staff would be at the PD permit stage doing more analysis to actually analyze the very specific design of the stadium which we do not have at this point. And to go and do additional work with the community to ensure that in fact we could meet that noise threshold. So it is one that the design of the stadium has been already modified to provide some level of noise attenuation in how speakers and stages would be set up to point them away from the neighborhood, that in looking at the design and operation of the sound system, to reduce ambient noise or the noise to the neighborhood, we think we can address that issue. And then the other issue I wanted to acknowledge is that we have done a substantial amount of work on lighting since the EIR was done. That it was one of the major concerns raised by the community. That the stadium has been designed now to have essentially an overhang or a lip over the seating area and has designed the lighting into that structure so it has the light down into the field and has less light that reflects upward and reflects the sort of light pollution in the neighborhood and it is something that we have been working with the design of the stadium to minimize those issues. And so staff is recommending that the city council adopt the necessary statement of overriding consideration, make the findings of feasibility or infeasibility on the roof, covered roof, and the event limitations and to approve the PD zoning and that concludes the staff presentation.

>> Mayor Reed: Thank you. Since this is a zoning we will start with the applicant, allow the applicant five minutes to make a presentation, and then we'll take public testimony. The applicant can divide up the five minutes however the applicant wishes.

>> Thank you for having all of us here. I know you have lots of things on your plate. The item tonight is critical to our process towards an outdoor stadium which will be totally privately financed, primarily for our soccer team but for ancillary events, which include concerts but also include a whole lot of things we hope to attract to San José from high school graduations to the introduction of products from some of our industrial base. With the exception of spartan stadium which I think is older than I am, there is really no facility of this nature in the San José market area. And we think if we can make it happen, it will be a community asset, plus a very good home for our San José earthquakes soccer team. We do live in California so public financing of facilities like this are things that don't happen as quickly as they used to and probably shouldn't happen. So each step along the way we need whatever help in the process, and your help tonight of approving the EIR and whatever else is on the docket relating to this would be a big benefit. I'd like to introduce my son Keith who's really handling the design and the development of the stadium and I think he can give you more details than I can. Thank you. [applause]

>> Thank you very much about. I also have Dave Alioto who is president of the earthquakes. We wanted to show you some of the design and talk about the mitigation and some of the things we took into consideration in the design process. A little technical difficulty here. As you can see, the stadium itself and just to get you oriented, to the right is Coleman avenue and the airport. And the horseshoe is where the railroad tracks are and 880 is where the here. Stadium we really looked at a more traditional stadium which had basically large light stands and no covering over the stand areas. And as we -- and then additionally we didn't have this horseshoe configuration. So what we wanted to do when we started getting feedback from the staff, residential community and the airport, what we did is we started looking at putting a roof structure over the stands, not enclosing the building. So the open part of the stadium it's upside down here but it's actually facing the airport. The sound we're trying focus any concert events where the sound with stage, away from the airport. The roof structure itself will help a little bit with sound but mostly with lighting and what we'll end up with doing, we'll give you a better example of what the roof structure would look like. What that will do is it will allow us, we have some images of this, to put lights underneath the roof structure itself so there won't be any glare outside the stadium. And additionally what

used to happen is they used to put speakers in one section with a big bank of speakers that had to have really high decibel levels in the stadiums. What we'll be able to do here is put smaller speakers throughout the entire seating section so you don't have to have the same amplification for the fans to hear the announcements. As can you see, on this other rendering -- as you can see on this other rendering where did lights would go you get an idea of the scale of the stadium. We think the most unique venue in major league soccer is it's so intimate, it's so small, it's only about 20 rows, everyone is really close to the action. We actually don't have a lot of luxury suites. You have the same perspective as the players and the coaches on the field and we really wanted to create this intimate experience that felt like there were a lot of stadiums in Europe that are smaller. This is going to be 15, 18,000 seats. So this really intimate experience. The other part of this, too, is there's so many families and kids involved in soccer. And so in front of us, at the bottom would be Coleman avenue and what we did was, we have this huge area before the games where kids can come play and we can have events and activities kind of like we have now in Santa Clara. As you're driving down icon for the city. And also for the team. And finally just to give you an idea of the exterior. I think when people think of stadiums they think of these giant structures. We are trying to get people close to the fans as possible, so you can see how small and intimate there will be ten story buildings next to this as part of the office development but it is this great intimate European style facility that we think will be terrific for not only soccer games but other events here in the city and really provide a unique venue in all the Bay Area as mentioned to get some different events here in San José. And we'll be happy to answer questions and David will be able to answer soccer specific questions when appropriate.

>> Mayor Reed: Thank you. I have a lot of people want to testify. Councilmember Liccardo did you want to speak before we take public testimony?

>> Councilmember Liccardo: I'd be happy to put a motion on the floor prior to that time and perhaps the public -- would that be appropriate?

>> Mayor Reed: All right, why don't we do that.

>> Councilmember Liccardo: Okay. I'd like to move at this time the memorandum dated March 12th from Mayor Reed and myself with the following changes. First, paragraph 1, I need to read the following language, be included in the motion: That is that the final EIR for proposed soccer stadium project identified significant and unavoidable or unmitigated environmental impacts that the soccer stadium project is implemented as described in more detail in the draft EIR resolution as well as the memorandum from the director of planning to the council dated today. And the testimony you heard this evening, there is no feasible way to less enor avoid the significant effects of this project as noted in my memo and also reflected in our EIR resolution, approval of this proposed project is anticipated to result in several benefits to our city, therefore I move as part of my motion that the council find that all of these benefits outweigh the significant unavoidable or unmitigated impacts because it is not feasible, environmental impacts identified in the final EIR for this project and this finding be made a part of our EIR resolution. That is language prepared by our city attorney's office. And then finally, with regard to paragraph 2 (b), it was requested by the community, I specified that the community meetings will be held at a time and place reasonably convenient for working residents in that community.

>> Mayor Reed: All right we have a motion with a second so that gives us a motion on the floor so people understand what we're talking about. I think we'll take some public testimony now and you don't have to stand up for all of that. You're welcome to sit down but don't leave.

>> Thank you.

>> Mayor Reed: I got a lot of people wants to speak. Practically everyone wants to speak. I'll have to limit the public speaking to 1 minute or they will have to go home long before they have to testify. I will take the testimony for 20 minutes, that's 9:00. At 9:00 I'm going to ask for all the kids who need to go to school tomorrow who want to, to come down and show us you know that you support this, assuming that's what you're here for. You don't have to stay and wait a couple more hours to testify. And then you won't have any excuse for not going home and doing your homework. So we'll start with a few cards, please come on down when I call your name so you're close to the microphone so we cut the transit time. Don gagliardi, Neil stone and then Pat Dando.

>> Good evening, Mr. Mayor and jcouncilmembers, I'm Don gagliardi. I'm president of soccer Silicon Valley which is the advocacy group for San José earthquakes fans. There are thousands of us here in San José and across the Bay Area and literally across the United States and and the world. I know there are fans serving in Afghanistan right now. This has been a long journey for earthquakes fans. It predates Lew Wolff's involvement. We've been at this the oars culmination of a long journey and we have a very

simple message which is build it now. I'd like everybody who supports that message please hold aloft their flier. Build it now, that's our message, thank you very much.

>> Mayor Reed: Neil Struthers and Larry Stone.

>> Good evening, honorable mayor, city council members, Neil Struthers, head of the building trades council. obviously, we support the staff memo, we support building it now. The major league soccer stadium has a lot of benefits but to those people in the audience today and many of them are here to depend on construction, this project has an additional benefit. It is potentially the difference between keeping their health care and their home or not. So as much as we would like to build an enclosed stadium we're also cognizant of the fact that if it comes in infeasible financially we're not going to build anything. We are sensitive to the neighbors who are here and have not yet spoke but at the end of the day we believe the developer is very sensitive to the community in fact they have committed to building this particular project and operating this project with good jobs that pay health care so I'm confident that they can work out the details of the community, but our message is, build it now, it couldn't be too soon. Thank you. [applause]

>> Mayor Reed: Larry Stone. Followed by Pat Dando and Patricia Earnstrom.

>> Mr. Mayor, members of the council, I'm Larry Stone from the San José earthquakes, 49ers, sounds good doesn't it you need the arts the symphony the rep the tech the San José mutually art the children's discovery museum and so forth. Quality hospitals and outstanding universities. World class airport which will be here in June. And hopefully, soon a world class convention center. Public transit, retail, restaurants and public parks. You don't need to be a senior citizen to understand the importance of senior centers. The HP pavilion is a regional asset whether or not you have ever been to a sharks game or an event there. Professional sports is just part of that calculus. Professional sports like the earthquakes round out a major metropolitan area and region that we call Silicon Valley. This is a fabulous opportunity for San José. The best news is, it's 100% privately financed. So let's go for it. Thank you. [applause]

>> Mayor Reed: Pat Dando, followed by Patricia Earnstrom and John de Napoli.

>> Good evening, mayor and councilmembers, Pat Dando, president and CEO of the San Jose Silicon Valley chamber of commerce. I stand before you this evening and encourage you to support this project and move it forward. I'd like to mention two very simple clear points. First, in today's economy when you have someone step forward and be willing to finance by 100% a project like this, it should happen immediately. As a matter of fact, clearly stated, this is a stimulus plan for San José by private money. It will create construction jobs in the short term, but it will create long term jobs for the long term. I also want to just mention that at one time, major cities across this world would add museums, galleries, professional sports, cultural activities, and other things of that nature. They did that because it was niceties for their residents. No longer the case. Today, major cities around the world add these facilities because it is a necessity. Especially professional sports. Look at any city that has built professional sports facilities in the last few years and you'll see the economic generators they have become.

>> Mayor Reed: Sorry your time is up.

>> It is time to move forward. Thank you, let's build some soccer and play some ball. [applause]

>> Mayor Reed: Patricia Earnstrom, followed by John Di Napoli and then Michael Mulcahy and Dan Fenton.

>> Patricia Earnstrom, executive director of the San José sports authority. Today at our sports authority board meeting our board of directors reiterated their support by unanimous vote to support the state of the art multipurpose stadium in the City of San José. Further urging the San José city council to approve the San José earthquakes stadium project. It will not only provide a venue for the earthquakes but continue to make our city competitive in the sports marketplace for national international sports competitions we are delighted to have such a wonderful community partner in the earthquakes to work with to bring international Evangelists such as soccer, MLS all star games to name a few. By moving the earthquakes stadium project forward we can contribute to the business of San José and continue destination for sporting events just as we are doing this week with March madness as one of only eight cities in the nation hosting first and second rounds of the NCAA men's basketball champion ship at HP pavilion in San José. After you approve the registers before you move forward.

>> Mayor Reed: Sorry your time is up.

>> Earthquakes stadium projects thank you.

>> Mayor Reed: John Di Napoli, Michael Mulcahy, and then Dan Fenton.

>> I'm John De Napoli. I'm just here in support of the Earthquakes. I do know that a project of this size for San José, that is funded without city money is unheard of in today's world. We would be lucky to get

this. Lowe Lew has shown great vision for San José. he continues with this project and hopefully it will be here. Thank you. [applause]

>> Mayor Reed: Michael Mulcahy, Dan Fenton and John Schrader.

>> Good evening, Mr. Mayor, city councilmembers, Michael Mulcahy, cochair of pro baseball for San José. And I'm a dad. I'm here to support the San José Earthquakes and the stadium plan. Now I never played soccer as a child, but soccer is a major part of my life now because I have an aspiring soccer star in my daughter Ella. That's going to be in San José cool. So Ella is nine. But this is a great deal for San José. Stadium's 100% financed, privately, San José will reap economic benefits. The quakes will put San José on the international map just like the sharks have and hopefully the A's will and most importantly today is that time the project creates jobs both long and short term as well as full and part term jobs. So build it now, thank you.

>> Mayor Reed: Dan Fenton. Followed by John Shrader and Stephen Fadashure.

>> Thank you mayor and council, Dan Fenton, president Team San José. Done research around what type in this stadium and I'll give you an example of this week. This week we talk about NCA basketball but let me tell you what else is going on this week. There's a major fencing tournament into San José, there's a major cheer leading event into San José so the opportunity to bring in events into this stadium are huge. We couldn't be more supportive of this venue for what it's going to do for economic impact for San José. Thanks very much. [applause]

>> Mayor Reed: John Shrader followed by Stephen Bedashore and John Kenet.

>> I'm Joan Shrader, I've been a bay area sportscaster San José for many years, resident for 30 years. I've been broadcasting the earthquakes games for so long we were called the clash in those years back in '96. I've seen the impact time and again in my job of stadiums like HP pavilion and AT&T park what they've done not only for the sports community but for the larger community. I travel all over the community and see these soccer stadiums where these stadiums are full of family, celebrating their community, their family, their diversity, I see these stadiums in the new community of San José where we're celebrating our community our culture our diversity. San José is a big name in American soccer and has been for 40 years and I can see the new stadium, a stadium that will provide the proper home for this team, these fans, confirming our place in American soccer. Thank you.

>> Mayor Reed: Stephen Betashore, followed by John Kenet and Warren berry.

>> How's it going, Stephen Betashore San José California. I have been watching the San José earthquakes since I was a little kit. I just got drafted by the San José earthquakes. It was a dream of mine to watch the earthquakes have their own stadium. It would be huge to my family, my friends, the whole community, Iranian accident. There are about 80,000 Persians in the valley. I've got a lot of fans waiting for our new stadium to be built. Unfortunately in 2004 our team left the Houston dynamo because of the construction we couldn't build a new stadium. Fortunately enough, 2007 we brought the earthquakes back. I'm excited to be part of the team now but since 2007 they've been saying we're going to build it, we're going to build it, it's 2010 now, we're still waiting. Let's get on it now let's build it, thank you.

>> Mayor Reed: John Kenet followed by Warren berry and Josué Garcia.

>> Mr. Mayor, council, I'm not likely to be drafted by the earthquakes. You have an opportunity to build a unique community asset. Using somebody else's money. In the perfect location. Now is the time. [applause]

>> Mayor Reed: Warren Berry. Followed by Josué Garcia and Shiloh Ballard.

>> City council members, honorable mayor, city staff. Warren Berry. I'm a business agent of local 393, plumbers steam fitters refrigeration here in San José. I represent some 2500 members, many live in this city. We need jobs. Good paying jobs. It's kind of a no-brainer. It's going to bring many, many dollars to this city. We need the work, the money. Thank you very much. [applause]

>> Mayor Reed: Josué Garcia followed by Shiloh Ballard, Gary fillazetti.

>> Josué Garcia building trades council, ah, double joy for me. I can smell the iron going up and I can see myself screaming, if you vote no we are going to get you a red card. Let's build it now, let's build it now, all joke being aside, we need the jobs as I mentioned before and yes, we need a first class stadium for our soccer team. Families are going to enjoy it, little kids are going to enjoy it. Shows that the developer is willing to talk, to work with the neighbors so let's build it, we need the jobs and we'll give you a red card if you vote no. Thank you. [applause]

>> Mayor Reed: Shiloh Ballard, followed by Gary Filoseti, Shiloh Ballard and Mark Peterson.

>> Mayor and councilmembers, thank you for letting me speak in support of this stadium. Sitting in the audience here for over an hour we listen to all of the problems we have with budgets at the city. I think we

have an opportunity to have an earthquake stimulus package back and forth \$60 million. For me I think we try calculate how many construction jobs that is somewhere around three to 400 construction jobs that we would have and like the city I think a lot of contractors have budget problems and this is a great opportunity for us to have a job that's going to add some pride to the city. I think it's important though here that it's -- I don't think a \$60 million private investment can be supported by just ticket sales. And so we shouldn't do -- have a whole lot of restrictions of what the other events could be at this stadium. Thank you.

>> Mayor Reed: Shiloh Ballard, followed by mark Peterson and John Jewson.

>> Good evening my name is Shiloh Ballard and I'm here on behalf of the Silicon Valley leadership group to support the stadium proposal. Over a year ago the leadership group reviewed this proposal and officially endorsed it from a land use and economic development perspective we like that the proposal will bring jobs to San José and the other half while also converting some land for much needed housing. I think Larry Stone summed it up very well so I'm going to add a personal note. I've been a long time soccer player and soccer fan and probably the last time I came before you is I was in a sling, due to a soccer injury, I ran into a guy and broke my collarbone, really BART to those games, and it was there that I developed many fond memories and also developed and I'm sure some long term quake fans will appreciate this, developed a huge crush on Chris dangerfield, number 7. To this day when I reach for a Jersey I'm always looking for number 7. San José has always worked on it's general plan, much needed housing --

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

>> Spurs job growth and this will do all those things. Thank you very much for your time.

>> Mayor Reed: (saying names).

>> Mayor councilmembers mark Peterson I'm a contractor in the valley. Reiterate what Neil said earlier about jobs. We need jobs in the valley. And if you're going to generate over you know hundreds of thousands of man hours of work for trades people in the valley, with private money, I think it's a no-brainer. Another thing, if you've been out to the site and you've seen the renderings, I think it's a no brainer either. So let's build it now. [applause]

>> Mayor Reed: John Jewson.

>> My name is John Jewson. I represent the Almaden valley youth soccer league, I'm the president of the soccer league. We had somebody from the Almaden valley be drafted by the earthquakes earlier. Our kids want to grow up and have stars as I remember growing up watching earthquake players. I hope you build it and I just want to mention, we should build this for a guy I grew up that passed away over the weekend, his number 5, Gabo Gavrick. Too bad he couldn't see this happen. But he was a hero of mine growing up and I hope my kids have those type of heroes. [applause]

>> Mayor Reed: Thank you. It's 9:00, and I want to give all of the people who have to go to school tomorrow a chance to come down, not to speak but all to come down here, form it up, bring your signs, whatever you want to do to show your support. If you want to stay and take your turn we've got at least another hour of testimony. You're all welcome to speak. But if you want to get ahead of the game and just show your support, let's take a minute to do that now. If anybody wants to do that, and avoid the line, come on down, especially if you have school tomorrow. Bring the signs down, we'll take a photo and then you can go home and do your homework. No takers? Come on down? Anybody else? That's it? [applause]

>> Go earthquakes! [applause]

>> Mayor Reed: All right, do your homework. [Laughter]

>> Mayor Reed: Okay, gentlemen, I don't think I called your names but come on down, let's just take your testimony here. I know it's sometimes hard to hear what's being said in here.

>> Yes, good evening. My name is Ken medeiros, I'm the general manager of air marks, the San José earthquakes food and beverage provider. We also partner with the San José shocks at the pavilion. First and foremost, the stadium will provide San José with the premier sports venue for playing and watching soccer games that earthquake players and fans can call home. A modern design will allow the earthquakes to create a unique and memorable family friendly experience that incorporates the latest technologies amenities offerings for service. And the stadium can host other events when not being used. The benefits to this community will be far reaching working closely with the earthquakes I have had the opportunity to see firsthand the community involvement and commitment in supporting the community in various ways. Lastly the stadium will spur economic development in the area and provide new opportunity for --

>> Mayor Reed: Sorry your time is up.

>> Local vendors and partners who support the earthquakes. Thank you.

>> Good evening Mr. Mayor and city council. My name is Keith Blacke and I'm here as a volunteer of the American youth soccer organization in support of the San José earthquakes stadium development. AYSO is almost 50 years old, nationwide we have 50,000 youth soccer teams and three quarters of a million players. Except for a few overworked and underpaid employees in Los Angeles the organization is entirely run by a quarter million audit volunteers. Locally we have 17,000 players and 5,000 volunteers like me within one hour of the proposed stadium and we are but one of several youth soccer organizations in the area. Our youth players will lie awake at night staring at team posters or clutching an autographed poster. They will feel the joy pride and excitement when a player visits their school. They will be better team members after building the team building thrill of attending a game together and watching.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much both for the stadium. [applause]

>> Mr. Mayor, councilmembers, my name is Brian Jarvis. I'm a board of directors member for the San José police activities league and a 21-year volunteer for the organization. I stand here instead of bringing in 1200 plus volunteers and Chuck you're going to like this served 2600 youth here in the City of San José. Who we hope are doing homework. Our partnership with the earthquakes began when they were the clash. They've always been an asset to the community mentoring classes and role models. The earthquakes give back to pal in many ways and we support them. We just ask that you support them and the plan for the new stadium. Thank you for your time.

>> Mayor Reed: All right, I'm going to call a few more names. Halke Yernheim, Neil Diaz, Brian Bockman, David Heslep.

>> Good evening mayor, good evening councilmembers. My name is Halke. And I live in the Newhall neighborhood. This is the neighborhood that is directly next to the stadium. I lived here for about a year now and one of the main reasons why I purchased a house is because of the neighborhood. It is charming and quiet. This event stadium will change that. With our skies illuminated and the nights disturbed by the cheers and concerts this development will fundamentally change our neighborhood's atmosphere. I urge you to closely evaluate the noise and lights caused by all types of potential usage of this stadium, examine the accuracy of the EIR, why not worst case best case and most likely case scenarios evaluated, I urge you to develop a public participation forum, one in which our input is actively sought, as opposed to merely informing us when decisions and what decisions are made. If construction is approved, I urge you to place limits on the number of events on the stadium with restrictions on weekday and evening usage. Thank you for your attention.

>> Mayor Reed: Neil Diaz, Brian bothman, David Hesslep, Matthew Bright.

>> Good evening mayor and councilmembers, I'm Brian bothman, with Robert A. Bothman, we're a local general contractor with over 200 employees and we've been in the city of San José for over 30 years. We've completed hundreds of projects in the City of San José, and the county of Santa Clara, these including parks libraries, numerous consume projects and private developments. As we all know these types of projects are diminishing, the parks program is almost depleted, the developers have slowed or stopped, and we are looking at dire situations with all of the school districts. This has had a big impact of all of the construction in the area and in project is like somebody said earlier a no brainer. We currently have over a dozen people working on this facility already with the practice facility with design and we see dozens of new full time construction positions, and maintenance positions, as the stadium's built. So we're here to say get it built and get it built now. Thank you.

>> Mayor Reed: Neil Diaz, followed by David Hesslep, Matthew bright and Alita Bray.

>> I'm director of coaching for Almaden valley soccer league and director of the development school for San José earthquakes. I've worked with youth soccer for ten years since I've been in America and heard a lot about opportunities for jobs and the economic benefits for it and I want to talk to you about the opportunity for youth. Providing a home for our youth soccer players of which there are over 20,000 which Mr. Blacke just alluded to is fundamentally important for providing a safe environment for them to come out and watch professional soccer so I fully support the building of a new stadium and I say build it now, thank you very much.

>> Mayor Reed: David Hesslep, followed by Matthew bright and Alita Bray.

>> Mayor, council, I'm vice president of Preston Pipelines, a local South Bay contractor also a San José resident. I've got about 100 unionized workers sitting at home right now. We would love to be participating in a privately financed project at this point in time. Terrific stimulus package. Your talk about the budget

issues that are taking place in the City of San José we have exactly the same issues taking place in the private market. We need to participate in more privately financed projects. You have a terrific location here right next to the highway, right next to the airport, we should really build this project. Also want to mention I'm a soccer dad. I spend 52 weekends a year driving my daughter around the state of California. Get a life I hear it but you know what? It's just a tremendous opportunity for youth. They emulate their heroes, they emulate the pros. There are huge economic benefits in terms of restaurants, hotel accommodations, sporting equipment that's purchased --

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

>> Cheers, thank you very much.

>> Mayor Reed: Matthew bright followed by Alita Bray and Matthew Brooks.

>> My name is Matthew bright. Quakes 2002. I believe in the stadium of soccer about designed constructed and operated the highest standards of neighborhood compatibility. Concert venue with the size that is similar to shoreline amphitheater in Mountain View. Zero restrictions, regarding volume, hours of operation, and frequency of events. For the EIR and the applicant the roof mitigates light but not sound. One city block could separate fireworks and deaf metal concerts from the Lincoln High School, Hoover Middle, and Dana Elementary students trying sleep at 11:00 at night before the big spelling test, the pivotal class presentation or the SAT. The loosely defined good neighbor process includes one meeting for the expression but not resolution of community concerns and one preconstruction meeting the Diridon good neighbor process for the baseball stadium has had ten meetings. That's a double standard. I urge you to evaluate these proposed impacts especially noise and significant unmitigated and incompatible land use and-d.

>> Mayor Reed: Sorry your time is up.

>> A vote to defer is not a vote against soccer but to handle this high impact project the right way.

>> Mayor Reed: Alita Bray, Benjamin Brooks, Darryl Marks.

>> Good evening mayor city council and city staff. I'm Alita Bray, president and CEO of History San José. And have been collecting are actively collecting soccer history and building the soccer legacy collection. We have over thousands of items and we have soccer fans actively cataloging these items at the museum. We support the stadium, we think it's a wonderful addition to the community and we look forward to displaying this important sports collection at the stadium. So thank you and build it now.

>> Mayor Reed: Thank you. Benjamin Brooks Darryl March and then Michael Eurovich.

>> My name is Michael Brooks, a home other than at the new Encanto neighborhood, directly across from the diehard fan of the earthquakes enjoyed many games at San José State's Buckshaw stadium, however, my new home is practically line of sight with and less than a quarter of a mile away from the new stadium. Youth Santa Clara university baseball and soccer stadiums are farther away from my home than any proposed stadium in the existing sporting events held at these facilities already contribute to significant noise pollution and light pollution at our homes. Beyond that our homes experience constant noise pollution from CalTrain and fans cheering shouting sing drum beating for about two hours noise impact to the neighborhood would be even more drastic if concerts were allowed. We ask the city council to prohibit concerts, fireworks, motorized events sponsored truck rallies et cetera.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Darryl March, Michael Urovich, and Jerry Krenick.

>> Mr. Mayor, councilmembers, my name is Darryl March, I'm the director of business travel at the Fairmont in San José. As its representative I'm here to support the development of the San José earthquakes stadium. As a business, the stadium and the earthquakes bring visiting teams and fans to our rooms and our restaurants allowing us to showcase our products and drawing larger attention to the lodge opportunities in our city. As a new venue we also see the stadium's potential to attract untapped markets to San José and grow the number of events that the city can host. As taxpayers we are pleased that these economic benefits to our city are privately financed and targeted area in need of development. As citizens of this community we take pride in our earthquakes not only as representatives of our fine city but as role models to our children and as civic leaders. We believe they are deserving of a home that reflects well on San José, as viewed by the fans both national and international. We are ready, build it now. Thank you.

>> Mayor Reed: Michael Durowitz, followed by Jerry Frenc and Cheryl Faust.

>> My name is Mike Durowitz. First of all I'd like to thank Mr. Wolff and Durocon construction by taking the time mitigate the issues the local neighbors perceive as a potential. Whether the times are good or

times are bad I think this is a tremendous project for the City of San José. The issues have been addressed and I think it's time now to build the project. Thank you. [applause]

>> Mayor Reed: Jerry Frenick, Cheryl Foust and M Craig.

>> Hi I live on newhall street probably not close enough to be affected but I would ask someone on the city council to please propose a motion that there be a limit put on the noise that can be done, the noise can be measured just like we have airport noise monitors we can have concert noise monitors. And so that there's some recourse when a concert happens and it's too loud if it goes above the 2 DB limit that the volume can be turned down at future events and that there be some accountability to this. I don't really think you should -- you know come out in advance and say you can't do this and you can't do that but just put limit on the sound level. That can be done. Thank you.

>> Mayor Reed: Cheryl Fautz, M. Craigs. Lewis.

>> Mayor councilmembers, for me it's the use of choice, not soccer. Multiuse venue where neighbor affecting noise will affect the quality of life. My hubby and I bought this house before Loma Prieta. , compounding noise levels the freight yards the planes the freeways, BART, maybe a potential BART repair facility, Schott stadium. These seven areas are potential areas that cancel each other out. Noise doesn't work that way. Fleece require some sound wall around this stadium and a partial or retractable roof for this stadium. Thank you.

>> Mayor Reed: M. Craigs, Mary Ann Lewis, Joann herd.

>> Good evening, I would like to thank the mayor and Councilmember Liccardo for their March 12 memo wherein you said that you would insist the stadium be operated in a manner that was respectful of the quality of life of the surrounding neighborhood. However I was very dismayed that the two today killed off at late this afternoon without any opportunity for us to read it input analyze or comment on it, they are just dead. That is very, very troubling. However moving forward I think we can still salvage the laudable objective that you two gentlemen put on the joe Horwedel's memo number 2 needs to be expanded to cover all noise not just concert noise approximately autopsy noise affects us. Two, it needs to be specific and 3, it needs to-sorry and then the next point is we need the same standard that needs to be specific for all lights including parking lot lights. The current ones at the current stadium blind us at night, okay, we need those covered. Second you need clear and explicit standards and you must inform them how this venue must operate to meet that objective you established --

>> Mayor Reed: Sorry your time is up.

>> With the result that -- Diridon ballpark is next --

>> Mayor Reed: Sorry your time is up. Next speaker is M. Craigs, pear Ann Lewis and Michelle berg. Your time is up, I'm sorry, what was your name? Sorry you've spoken then. Mary Ann Lewis, Joann curve Michelle berg.

>> I'm Mary Ann Lewis and I am a member of the newhall neighborhood. And I'm here to request greater consideration for the excessive noise that this venue might create. I understand that staff has talked about the measuring the noise levels, however when I looked at this special supplemental memorandum, and the language is to do analysis of the noise so concerts and noise levels produced are reduced to existing conditions, I don't understand what existing conditions means. It isn't very specific. So I would request that you get more specific in your conditions, and that you consider that it's not true, that compounding noise isn't louder, and more effective in our neighborhood, and affected by the venues, than just one or two things. So we already have a great deal of noise. We understand that. We're just trying to mitigate further noise and we wish to have some kind of a meeting venue with the applicant.

>> Mayor Reed: Sorry your time is up. Joann curve, Michelle berg, Kevin de Gitte.

>> Free money is hard to turn down and I don't blame you for jumping at the opportunity. But a city representative you also have a responsibility to make sure you don't lower anyone's quality of life in the process. Everyone here is excitedly stating how much they love soccer and how much fun it will be to go to games and root for their children their heroes. I completely agree the stadium is being built next to hundreds of homes that's just an unavoidable fact. Planning noise mitigation into the design above and beyond what's already been done will prove that a world class multipurpose stadium can be built as a good neighbor will actually improve not lower the lives of everyone in the city. We did used to you cannot simply use the location as a excuse to allow unlimited events with no noise restrictions or design mitigations. Thank you.

>> Mayor Reed: Michelle berg Kevin de Gitte, Jason Calvillo, come on down folks go ahead. Just give me your name.

>> I'm Kevin de Guitte. I think it's a big i'm a small business in the area. And been a big supporter of the earthquakes. Even with the clash. And a sponsor with them also. They held me out by me being able to bring in employees, for my job to grow, now there needs to be a big impact even for the city to bring in more business with other events coming in. You're going to have like I said other major soccer around the world coming in which is great. Could have all star games. I was part of the all starboard they had here at spartan stadium, helped my business out and I think it would help out a lot of the businesses in the area and with hotels and the community. Build it .

>> Mayor Reed: Jason Devillo followed by Steven Douglas and Luke Bratney.

>> Hi, I'm Jason Devillo, vice president of a printing company called Almaden Press here in San José. We have been a print sponsor and provider dating back to San José clash when the team went away we definitely saw an impact. We have 92 employees and the tickets that we get from the team go to those employees. A lot of them are big soccer fans. Overall we're very much in support the of the earthquakes and the possibility of a new stadium the economic boost that the stadium could potentially give us and the community is great. I on behalf of Almaden press hopes to see the lights of the stadium soon, build it.

>> Mayor Reed: Stephen Douglas, Luke bratney and then Richard Hernandez.

>> My name is Stephen Douglas, I own Douglas parking company and my company provides park for the earthquakes. I did bring about 15 of my employees here tonight employees that live nearby, and are counting on their jobs to support their families. with the new stadium, it will doubling my opportunities to hire the employees, and will provide their families and their staff and my staffer to help make their ends meet, support their long term future and provide medical benefits. The earthquakes have been an excellent organization to partner with. They're fair organized and cooperative with me and my staff. I'm sure you'll agree with me that benefit the earthquakes my staff their families the citizens of San José and this great city. Thank you. [applause]

>> Councilmember Liccardo: Luke Bratney, followed by Richard Hernandez and Enrique Arguello.

>> Good evening, honorable mayor and city council members, my name is Luke Bratney, I'm a business agent for the dry wall lathers here in San José. I represent about 1500 members. We support the earthquakes. Please built it now. [applause]

>> Mayor Reed: Richard Hernandez Enrique Arguello, Will newcome.

>> Thank you mayor councilmembers, on behalf of local ironworkers 377, we are for building this building of San José earthquakes. The building the stadium will create more jobs for the community along with revenues and opportunity for San José. We need to help support our community with new jobs and also support family activities. Bringing families and communities together as one give new opportunities for our area. Thank you, build it and they will come. [applause]

>> Mayor Reed: Enrique Arguello, followed by will newcome and Joe corona.

>> My name is en re Kay Arguello. I am construction worker. I am one of the thousands of workers who are unemployed now. President Franklin Roosevelt implement an impressive recovery plan named the new deal. Basically was a large federal relief programs aimed to help all the agriculture and construction industries. In those areas he put people back to work. As a result of that, they reduced the unemployment to two-thirds and the portion is in power of the work class increased. in the present, we are ourselves in a similar situation of the great depression. So we need to learn by the path and implement more jobs. What a wonderful idea it would be if you pass this initiative to be if to create more jobs and raise the economy. Thank you.

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

>> Mayor Reed: Joe corona, Jesus Orpeza, Anthony Salsesia, Tyler, Robert Van Epps.

>> Mr. Mayor, thank you as a representative of the state's largest event staffing company, I am here to support the rezoning of the old FMC's property as a lifelong holder of a events staffing job from out of high school, up to now, I'd grown to have lifelong friends, both work colleagues as well as fans, this more other eloquent speeches have come before me have told you, is a no brainer, I agree with them and support the building of the stadium. Thank you. [applause]

>> Mayor Reed: Anthony Salsesia, Tyler, Robert Vanepps, Leslie Reynolds.

>> I'm Anthony Salsesia, former player of the earthquakes. The stadium is great for the community and jobs for the people in the community and be able to give back to the community and as a former player I think it would be great, I played in spartan stadium but I believe these earthquakes, could be playing in a nice beautiful stadium in San José and not Santa Clara and we need to be building a stadium now. Thank you for letting me speak mayor and city council. Thank you.

>> Mayor Reed: Tyler followed by Robert Van Epps, and Nancy Reynolds and Marcus Pellitiere.

>> Mr. Mayor, I'm Marcus Van Epps, UAW 383, plumbers and pipe fitters. Betterment of the City of San José and the county of Santa Clara. Excuse me. I haven't had much opportunity in the last 18 months to work in this area. I've been working on the road. I've worked up in the Bay Area and down in San Diego on projects. Because there's no work available here in my trade. And so I say this is a win-win proposal for the city and for all the workers and I'm here to support the project. Thank you. [applause]

>> Mayor Reed: Leslye Reynolds, Marcus Pellitiere, furlong.

>> Mayor Reed: My name is Marcus Pellitiere, I will be walking from my home to the new stadium. Walking back and taking my kids and frequenting businesses along the way, when I have the chance. I'm looking forward to seeing this experience in the future. Thank you. Build it. [applause]

>> Mayor Reed: Leslie, followed by Michael furlong and Michael Shalee.

>> Good evening, I won't fatigue you with any more positive stadium but it's obvious that it would be an ideal opportunity for our city, so I support having you build the stadium, thank you. [applause]

>> Mayor Reed: Michael furlong, Courtney Shaw, Lee, please come down when I call your name, Michael Oberlander, Art Burnstein, please come on down when I call your name, Bill Guthrie.

>> Good evening, my name is Courtney Shaw Lee and I'm a teacher in the area at a project 1 school. assemblies with the students they have discussed the importance of education and living a healthy life and that they've also provided the kids with tee shirts and tickets to attend the game. For many of my students they would never have an opportunity to stop wearing the earthquakes shirts to school under mayor uniforms because they were so proud of what they got and going to the game. I just want to say build it now and keep these opportunities for our students.

>> Mayor Reed: Art Bernstein, Michael Oberlander.

>> Please vote for the stadium.

>> Mayor Reed: Bill Guthrie, Ben Field, Ramon Esteves.

>> Honorable members of the council, my name is Bill Guthrie and I'm an elected plumbers pipe fitters around HVAC service technicians many who live and work in the City of San José. I'm also a resident of Councilmember Liccardo's district my family and I live one exit north of the proposed stadium. Of all of us ethnically and culturally. It is part of what makes this city so great and one thing that seems to almost universally unite the world is its love for soccer. This statement is true in San José. Before coming to this meeting I was at my four-year-old daughter's soccer practice on 10th and Jackson. What the building of the stadium would do for local construction workers. Its construction would provide good jobs at a time when good jobs are the few around the far between. Construction workers on average are facing over 30% unemployment with little relief in sight. Our local alone is facing over 42% unemployment. As a resident and as a construction worker I ask you to support the stadium. Thank you.

>> Mayor Reed: Ben fields, followed by Ramon Esteves Colin McCarthy and James Woll.

>> South Bay labor council. First I'd like to recognize councilmember Nancy Pyle who I know has been quite under the weather but who is also one of the few.

>> Community one of the ways in which it can be a benefit to our city is by providing good quality local jobs in the construction and operation of the stadium itself and the hotel the surrounding hotel properties. There have been ongoing discussions between the earthquakes and labor and we look forward to the continuation of those discussions and the speedy resolution of those discussions and the quality local jobs that a influence soccer stadium can provide. Thank you.

>> Mayor Reed: Ramon Esteves, followed by Colin McCarthy, James Lowe and Mike Fox.

>> Good Evening. Ramon Esteves, owner of upper veet administering group, in the Bay Area. For the past two years the San José earthquakes in partnership with our company, have provided countless job and growth opportunities for San José residents. Moreover as a minority owned bid, we are proud that some of these opportunities have been presented-k stadium project which again will be privately financed would only increase job and growth opportunity not only within the Hispanic community but for all residents and businesses in San José. Councilmembers please help them build it.

>> Mayor Reed: Colin McCarthy James Lowe (saying names).

>> Mayor Reed, members of the council, Colin read. Noise I'm not an expert, I have some experience living in a house with three kids under the age of four. But in soccer in this stadium the noise is designed to go down on the field. Not away from the stadium. Soccer teams and soccer supporting is very organic. So the design of this stadium is designed to keep the noise inside the stadium so if there is any sound that gets outside that stadium, I don't think there will be whether the city council approves it but if

there is any sound it's the sign of joy in that the San José earthquakes have scored a goal and we finally have our soccer stadium so build it now. [applause]

>> Mayor Reed: James wall, Mike Fox and then John urban.

>> I work in the area of culturally analysis i'd like to say something the importance of the look of the stadium itself. It is absolutely beautifully. These architectural designs and these new stadiums that are very environmentally friendly become symbols of a place. What we're doing really by building the stadium is building San José. This is an important step forward in our city moving from being a big city to becoming a big league city. The benefits are enormous. Of course there are some costs but I think as Colin just pointed out and others these can be reduced. Please build the stadium. Please help build San José. Thank you.

>> Mayor Reed: Mike Fox, followed by --

>> Good evening, Mr. Mayor and councilmembers. My name is Mike Fox. I'm the CEO of goodwill. Former chair of the San José chamber of commerce, business man in this community for about 27 years and former founder of baseball San José. This project will create local jobs, national and international exposure and reinforce life of its citizens, the stadium will also provide opportunity for our kids and our schools, it's the right project, at the right place, at the right time. Please vote yes on this proposal. [applause].

>> Mayor Reed: John urban.

>> Hello there my name is John urban, president newhall neighborhood association. Really kind of disappointed the developer releases an analysis this week that it's critical to run concerts up until 11:00 p.m. This doesn't go very far when it comes to creating good faith in the good neighborhood Committee process like Diridon has. Concerts are just too loud and just unacceptable. Noise and light trespass is unacceptable. We need a firm commitment from the council to back all measures to mitigate noise and light impacts. We really would appreciate that happening. Bullet 2, Mr. Horwedel offers sound monitoring at our property line to the point where it does not exceed existing conditions. Thank you very much I appreciate that. But on the other hand we have elevated high speed rate coming BART extension coming 24 hour BART maintenance coming this will severely increase the definition of existing conditions. This will allow concerts to turn up the volume. Sound is cumulative. I would really like before we go home tonight to have a firm definition of existing conditions. How was it defined? Is that when freight trains go by is that when ace and Amtrak? Just like it will be a definition before we leave.

>> Mayor Reed: That concludes public testimony on this matter. Back to the council for discussion. Before we do that I would like to disclose that before this meeting my staff or I talked with Lew Wolff and Keith Wolff, Ed storm and Deke Hunter and lots of soccer fans. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you Mr. Mayor. Met with Keith Wolff Jim Kineen and want to thank that group for their willingness to invest in San José and to take what we know as significant risk to build here in San José. I also wanted to thank John urban and Matthew bright and many of the other neighborhood leaders who have been gauged in this process this isn't by any means the end of the process. We've got significant additional work to do. I know the memo the mayor and myself authored contemplates two additional meetings. I suspect there will be additional conversation between the earthquakes and neighborhood members, both before the PD permit process as well as after the team is up and running. I wanted to clarify a few things, because an awful lot has happened in the last few hours. And I think nobody's terribly happy about the timing of some of this information. But I wanted to clarify first, the significant unavoidable impacts that are described in the draft EIR, Joe, obviously includes noise impacts like cumulative operation noise, as well as noise impacts, conflicts with land use, surrounding land uses. I know earlier this evening, you stated that the noise impacts are not significant. And I was hoping you can complain whatever discrepancies there might be between the EIR and the city staff's position at this point.

>> Joe Horwedel: Sure. I think the EIR fairly describes what the noise impacts are. I think in talking with the noise consultant this evening, the noise analysis was intentionally done in a conservative manner. Meaning that we analyzed a concert at 95,000 -- 95,000 -- 95 decibels inside the stadium and that we then looked at what would be the noise reductions because of distance, because of the stadium design, the benefits or noise reduction in how the stage might be set up, the benefits of the existing sound wall that the residential enjoys on the railroad track. Every time is it a four decibel or six decibel reduction, they took the lower reduction amount to take a more conservative answer of what the noise ultimately would be in the neighborhood. As I noted earlier it is an area that I think suffers from a lot of lot of noise impacts today. And so we were very concerned about adding to that, to not make it worse. We have

analyzed the cumulative noise impacts of what BART would do in this area, as the other parts of it. But going to the fundamental question of is there a significant impact for noise? There is noise that will come from the project, that based on the noise levels that are in the community today, our estimates those are in the mid 60s decibel range, that with the concert event running which we think is the worst case that the community asked about best case worst case, we think that the noise in the neighborhood would see a slight increase but it would be in the 2 decibel range and therefore is not a noticeable perceptible difference. It meets our threshold of less than significant but it is one from a cumulative standpoint of the noise that's going on from having a concert, having Bart potentially coming into the area, the existing airport operations and Buckshaw that there is a cumulative impact that we did identify with that.

>> Councilmember Liccardo: Okay, just to simplify things here Joe. We've got background noise level of is it 62 decibels?

>> Joe Horwedel: It's, background is 62, 66, different depending where you measure in the neighborhood.

>> Councilmember Liccardo: Range is 62 to 66. And we believe that if the decibels don't exceed 95 decibels, the noise does not exceed 95 decibels within the stadium then the nearest residential point, how high are the decibel levels expected to be?

>> Joe Horwedel: Is that we're projecting that it's like where the 66 is, it would go up to 67, that there's some we were looking at it was 64 would go to 66. So it's some minor increases that are happening there. That's one of the things that weigh want to look at the PD permit stage to get a better look at more noise readings in the area, where we took those and where we are today is kind of some spots.

>> Councilmember Liccardo: Okay, what's our threshold for ternlg what is significant how many change?

>> Joe Horwedel: 2 decibels when we're over the city standard. City standard is 55 decibels.

>> Councilmember Liccardo: it becomes significant?

>> Joe Horwedel: Correct.

>> Councilmember Liccardo: If it's two or less --

>> Joe Horwedel: Significant when we do the day-night averaging on the site .

>> Councilmember Liccardo: Okay. I want to apologize. I know that many of you are enthusiastic earthquake supporters. We want to flesh thighs out. We are very clear going forward by the way I very much appreciate everyone being out here expressing their views on all sides of the issue. This is a great opportunity for the city but we want to make sure that we do it right. Now, the city staff position now is that these noise -- additional noise levels are insignificant that additional mitigation is not needoffed to be imposed based on what we currently know.

>> Joe Horwedel: Well, that in talking with the applicant tonight, and working through how they would operate the facility, is the applicant has agreed not to exceed 95 decibels inside the stadium. The analysis was done with the 85 and we think that that is a less than significant impact and so the noise standards that we are working or would be applying to the project is that to not to exceed the 95 decibels inside the stadium and the impacts the residents were talking about of coming up with the standard so it's measurable in the community.

>> Councilmember Liccardo: Okay, and Joe I know you're at the receiving end of an awful lot of this information so I appreciate the fact that you're doing the best you can with all the information that you're provided. But I'm looking at a memo dated today, it's fair to say that memorandum doesn't accurately reflect your position at this moment.

>> Joe Horwedel: So I think if you're referring to page 2?

>> Councilmember Liccardo: Yes.

>> Joe Horwedel: So next to the last paragraph on page 2 it said that note that neither the AEG letter nor the Devcon letter indicated that the second bulleted mitigation measures would be infeasible and for that reason it should be included in the project, summarizing. I think we are generally lined up with that, in that the mitigation measure that was being described in the project was looking at the noise level that would not increase the level, increasing the ambient noise in the neighborhood. And so literally from the staff's standpoint is I took that performance standard out of the EIR which had an approximation of 85 decibels, is looking at how the consultant came to that 85 and took essentially both ends and says not to exceed 95 in the stadium and to have a performance standard on the neighborhood side so that we wouldn't exceed by more than two decibels the noise in the neighborhood.

>> Councilmember Liccardo: Okay. I just wanted to clarify, staff recommendation is not that council imposed mitigation, that's described in the second bullet point, namely conducting noise analysis for

concerts so that noise levels produced less than at niche sensitive land uses. Correct. Essentially we were meaning that performance standard that's in that bullet, that the noise not dispeed the ambient noise in the neighborhood. Being the sensitive receptors, the neighborhood and the noise analysis of fine tuning what what that really, that number should be. Because the challenge is at this point, I don't have a pretty picture stadium design but I don't have an engineering design to work from for the noise consultant to do. Ultimately when it is built we circulate do some testing to again certify that it works.

>> Councilmember Liccardo: Again what I'm hearing is you're going to learn more through the PD permit stage and obviously there might be some additional discussion around noise and noise mitigation?

>> Joe Horwedel: Correct and as noted in the memo from the mayor and yourself, prior to the issuance of PD permit those are the things we would be working through. I think some of it is better explaining how the city deals with noise issues on behalf of the community so they could see how we would be dealing with the spirvegz of it getting the more specific design of the stadium so that kind of we have something that's real. Tangible at that point. And then working through with the operator about how they would actually utilize the equipment in the stadium for the different types of events whether it's a soccer game, whether it's a concert or some other type of event. Because each one of those has a different noise profile.

>> Mayor Reed: Right, okay and just to be clear so the public understands what we're doing acknowledge what we are deciding today is to issue a finding of overriding consideration is to two of the proposed mitigations as well that on the number and time of concerts I think the proposed restriction was six or less and building in enclosed stadium we're specifically rejecting those mitigations based on a Devcon letter, 128 million to 168 million additional cost.

>> Joe Horwedel: Correct.

>> Councilmember Liccardo: And basically no one's going to build a \$60 million stadium for \$200 million so we believe that's infeasible. Just want to be sure that everybody's clear about that because frankly a lot's happened in the last couple of days and I know we're all trying to be very clear and of course the fact that there are no enclosed fields anywhere in major league soccer in the United States. We believe this is not a feasible option at this point is that fair?

>> Joe Horwedel: I think it's infeasible in probably three points, one is the cost that it's clearly outside what is the scope of this project not financially feasible, the seaning is that for playing major league soccer the desire for natural turf we have looked at ideas of rolling the turf inside and out but again that is the extreme expensive solution. I think the third piece of it is just from an environmental sustainability standpoint that we're in a Mediterranean climate where an indoor facility really is kind of defeats the purpose of living in this valley. So it's one that you know the cost that you do for air conditioning, the environmental costs for those kinds of things that come along with enclosing it I think are counter to our goals I think as a green city.

>> Councilmember Liccardo: Okay and then also with regard to the timing of events, we have a letter from AEG a producer basically says you can't finance the stadium, you're only going to have a few more than a dozen soccer games and less than six events, it requires some activity actually to sustain the stadium.

>> Joe Horwedel: That's generally correct. What AEG was saying is trying to go through and trying to book concerts and other events into stadiums, they need to be able to go through and move them from city to city to city which means they have to have some certainty on which dates those venues are available, makes it extremely difficult for them to be able to do kind of a continuum of shows and so it really doesn't make it worthwhile for them to even put on the radar of a venue to cover. I think the question about how to pay for a stadium is one that Mr. Wolff talked about or can answer more in his comments, that clearly just building a soccer stadium is not going to be enough for debt service of this major a capital investment.

>> Councilmember Liccardo: Yes I guess Joe can I ask is it feasible for you to revise the memorandum you have today or issue some supplemental to put up on the Website and so the public can understand what the staff's position is.

>> Joe Horwedel: Part of the EIR so that we capture the full conversation of the council so we can package that together ?

>> Councilmember Liccardo: Okay and then I just had a few questions for Keith Wolff. I know we had several conversations about various impacts and issues and I was hoping we could simply elicit clarification about your position. So we're all very clear going forward.

>> Sure, David Alioto as well, so if there's any question about field or natural turf or those types of issues.

>> Councilmember Liccardo: I know you're also committed to sitting down with the community so thank you for that . First with regard to noise. Specific design modifications that you are employing to reduce noise. I just want to run down the list very briefly. Orienting the sound horseshoe design using distributed speakers positioning the stage and concert so that the noise would be directed towards the airport. Erecting a canopy which would cover the seating which will contain some of the noise as well. Joe Horwedel mentioned something about 95 decibels. I know we had not discussed, I wanted to clarify your intentions on that.

>> Our intentions am Home Depot displer has a restriction that goes you up to 100. So it's going to limit some of the concerts that we could have but 95 is what was studied and we'll live up to the EIR restrictions.

>> Councilmember Liccardo: Okay 95 within the stadium obviously that means for folks far away, well folks in residential areas closest to the stadium based on our analyses those will be in the 60s. Okay. With regard to the lights my understanding is you have design modification now which keeps the cap by lighting which keeps the lights below the canopy?

>> Correct.

>> Councilmember Liccardo: All right. I understand parking, when they issue the PD permit after community meeting and you'll adheres to that as well?

>> Yes, I think it's also important to note that we currently have our traffic for the games on the side of the railroad that's on the Santa Clara side which is closer to the residents. We actually 30 the traffic impacts will be lessened moving it cites the railroad tracks and we haven't had problems that I'm aware of in terms of traffic.

>> Councilmember Liccardo: I'm sure it will be good for the residents on the wet side of the track when you're moving over to the proposed site. And then on timing with regard to when events can shut down, are you able to make any commitments about that?

>> You know in our discussions with AEG and you know the key point is they have said, concerts are so competitive and you have to have available and they set an absolutely minimum 11:00, so they really encouraged us say 11:30. We could commit to an 11:30 time and eliminate the acts that have to go beyond that time.

>> Mayor Reed: We have an airport curfew that has to shut down at 11:00 so essentially you would have do stick with that curfew?

>> I think yes.

>> Councilmember Liccardo: Periodic basis to review how things are going.

>> Yes I think we want to convert a feedback loop, so if there are problems we can address them quickly .

>> Councilmember Liccardo: Great, I appreciate your commitments. David you did an excellent job.

>> Last time somebody asked me what the sb was.

>> Councilmember Liccardo: Again, thank you irknow we'll continue to work well together, appreciate your forthrightness.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, Mayor Reed. First I wanted to disclose that Mike Baffin and I had discussions with South Bay labor council and Cindy Chavez on this issue. I wanted to thank Lew Wolff in helping to make the soccer dreams of many play tonight. I love soccer, I soccer when I was in elementary school, high school and when I went to college. I wish I could do so today but this job is demanding and it's tough. I'm really looking forward to sitting in the stadium and cheering on the players. Soccer is a worldly sport and it's really popular among Asian Americans. So I'm hoping that with soccer downtown we are able to entice Asian Americans to come down on a soccer night. And on top of aall that while we wait for the stadium to be built, we should definitely look at the world cup. We have 86 days, 24 hours and 22 seconds counting down . [applause]

>> Councilmember Nguyen: Thank you everyone for coming out to speak and cheering on the earthquakes. Thanks.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I think the line is if you build it they will come, I think everyone is already here, it doesn't Santa Clara, kind of like the New York giants playing in Jersey. But folks who know me know I'm a big sports fan. I want to thank Patricia earnstrom for bringing March

madness back to San José which I think is fantastic. There's a little applause. And you know, I think what excites a lot of people about this is certainly, the opportunity to bring soccer here but also the jobs in yucks as well as the ongoing jobs that we can expect from this type of endeavor. And so I have a couple of other comments before, one of the comments I have in regards to the -- some of the positive environmental impacts including the requirement for this to be built LEED silver, I think it's fantastic, and the shuttle bus requirement which would allow really for people to go to the games less with their cars and more with other kinds of options including CalTrain, obviously using BART some day, and having VTA cooperate in creating sufficient bus line. Even though the stadium seats a lot of people, hopefully the parking lot won't be completely full even if the stadium is. A couple of the issues I have surrounded the overall plan both for this site as well as moving forward, in the site that's in South San José I know is not attached to this. I want to start with the stadium site that is part of a parcel that includes the entire FMC purchase that the City did for hopefully stadium and how it fits with the rest of the development very quickly just to get a sense of what's planned here.

>> Paul Krutko: Councilmember, Paul Krutko, chief development officer. This is additive to the existing economic development potential we had for the site. Which is Joe I believe correct me if I'm wrong it is a million and a half square feet of office development. What we've done is essentially consolidating that development on that site freeing up the 14 acres for the stadium site. So we're not losing any of the economic development potential.

>> Councilmember Kalra: My Keith weuf wowf and Jim Quinneen and the opportunity to come stadium design is really being conducive to mitigating the ostensible impacts on the neighborhood and I'm glad to hear and I appreciate the question Councilmember Liccardo, Joe, the comments that going forward to a permanent stage that will have an opportunity to hear more about the noise mitigation and kind of what allow some engineering to occur right now, we just have a picture but there will be some I assume some kind of modeling that we can at least get some data so we can taint what we've been hear in terms of the noise level?

>> Joe Horwedel: That's correct. I think you heard a number of speakers raising that question about having permit is really going to be the best place to build those in and have those enforceable standards.

>> Councilmember Kalra: Okay, yeah, and I appreciate that and I think that the neighbors that showed up and that raised concerns have very legitimate concerns. All of us if we had a stadium of any size being proposed next to us so I'm glad to hear that we'll continue our discussions with them particularly in regards to the studies we can do to, roof's designed and the direction, the stadium is facing will be very -- will have a dramatic impact as will the lighting. It's not like some of the stadiums we've been accustomed to going like shoreline and candlestick and huge banks of speakers, I'm really interested to see how this new type, the new style of having the smaller speakers kind of spread out will reduce the noise impacts. In regards to, I'm looking at the resolution on page 2 of the draft roferlings. It makes it very clear, and I occurred some time ago, with the commitment from the applicant as well as the direction from the city, it makes it very clear that the Great Oaks, the project in South San José in district 2 was completely separated to this, particularly in regards to the environmental impact report which I think -- and Joe we've talked to about this at some point, that anything looked at particularly in regards to environmental impacts. Look at page 5 of the staff report submitted January 21st, I think it was on the Planning Commission agenda for February 10th, there's an indication that there's an intent of the project proponent, monetize the Great Oaks site to the developer and use construction of the sports stadium. Now, the question I raise with that is the same question when we talked before. Is that -- how does that kind of play into the overall plan of that area, including the hi tash site and of course what are our goals, versus industrial commercial square footage?

>> Joe Horwedel: Councilmember Kalra the EIR that we have certified addresses what are the traffic impacts, if that general plan change were to occur on the Istar property, looking at the service impacts and policy considerations, we have not moved forward with the applicant on that milks. Partly is, what's going on with the housing market, evaporating, and the applicant really wanting to be focused on the soccer team project. At some point, we will bring up those conversations with him gheng with Istar in the top, they do need to many.

>> Councilmember Kalra: Regardless what happens, which is showing an extra commitment tot soccer stadium, what's the time line that you can foresee, for what is your general time line when you believe the perms -- it will be out of permit before us?

>> Joe Horwedel: I don't really have a schedule.

>> Paul Krutko: Councilmember, we don't have a schedule on that. I think Joe put his finish on it. As you know there's significant uncertainty about the progress on the Hitachi project itself. That project is -- its original configuration is not moving forward in terms of its residential component. So that creates a great deal of uncertainty about how that will all sort out across the two parcels. I think Joe and I are definitely in agreement that the proper solution working with the council and the Mayor's office, the notion that we very, very want to keep the industrial capacity that was the key component of the Hitachi revised plan that we did approve. The market has taken us someplace else.

>> Councilmember Kalra: If I could interrupt, I'm actually talking about the project before us right now.

>> Joe Horwedel: Moving the next stage on this is really how fast the applicant wants to move forward with the planned development. Which I assume we're ready to go and we'll start scheduling the community meetings.

>> Councilmember Kalra: How quickly?

>> Joe Horwedel: We'll be doing that in the range of the first 30 to 40 days after the application being filed.

>> Councilmember Kalra: Someone getting in and file the application and one to two months you'll go to community meetings and three to four months at the earliest before it gets to us approximate?

>> Joe Horwedel: The director of planning would not go back to the city council.

>> Councilmember Kalra: Unless there's an appeal?

>> Joe Horwedel: That would go to the Planning Commission.

>> Councilmember Kalra: So in that case, I would ask if prior to the PD permit being done, if there could be some sense, if, and where I'm going with this is at some point it would be nice and my intention is not to delay this and so I'm in support of did motion as it stands right now with the discussion that's already occurred. But I would like to get some further feedback on some of the questions that I raised. And so even if -- and I think that given the comment in here that there shows some -- there's still some connection at some point in terms of potential financing, it would be nice to know exactly what the overall plan is at the Hitachi Great Oaks site even if it's -- even if it's formally disconnected from this. So I would ask to get maybe within 90 days or so some response, a staff response in regards to kinds of what the plan is there, just so we have some sense of how that's going forward.

>> Paul Krutko: Councilmember we can certainly provide that kind of update. It may be appropriate for us to have this be an agenda item on the Community and Economic Development committee where we can provide that kind of report of the progress being made, Hitachi iStar and the FMC property.

>> Councilmember Kalra: Yes, I understand not overnight, 60 days, the appropriate time to do that, that is something I would certainly appreciate. The other item that was referred to a couple of times has to do with -- and I don't know if you even know any of this and I don't know if Mr. Wolff is here if he has any comment on that, in terms of the discussions with labor not just in terms of construction but ultimately in terms of the folks that work at the stadium and even at the hotel sites because we know that HP pavilion you know is operated very well, with appropriate agreements. And so I don't know if there's -- if that's something that can be updated at a future meeting or through an information memo or something that you have information on right now.

>> Joe Horwedel: I think that's really something that is outside the purview of the land use decision. It's maybe a separate conversation with Mr. Wolff of how they're going to be dealing with employees working at the soccer stadium.

>> Councilmember Kalra: And then so then the question is that even if it's outside the purview of the discussion today, is that something that can get information on at a future date in relation to -- it's for in relation to the plans for the future site. In reality it's a site we want to benefit first in tax revenue but also as amenity to the community as I mentioned to many and quality jobs is a part of it.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: You just want to get information. To the extent you can get that information and will provide it that's just an info memo.

>> Councilmember Kalra: Like I said I'm in support of this moving forward but if we can have an information memo in regards to that separate from this not conditioning this on what the results of that info memo are but again within the same general time frame of 60 to 90 days of information that staff may have or that either bargaining units that are bargaining in the private sector or that Mr. Wax might have to provide to you that at least we might update discussions going on so there was some reference of talks occurring, would that be possible?

>> Mayor Reed: City Attorney says it is possible if it will happen.

>> Councilmember Kalra: So then I would ask, that those two, those two information memos occur in the next 60 to 90 days and I can follow up after the meeting. Thank you very much.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. I just want to piggyback on that. Would that also include the progress of this construction time line of this project? I think we hear that, I keep looking out, it says build it now, I know that people are eager to find out what the construction time line will be on that and everything that goes under that umbrella. Is that under you, Joe, or does it fall under the other request that Councilmember Kalra has?

>> Joe Horwedel: It would be separate, that schedule would be through me.

>> Councilmember Campos: Okay.

>> Joe Horwedel: Would be working with the applicant about how fast they'd be moving through the process.

>> Paul Krutko: But I do want to be sure and if the applicant wants to speak to this, it's important to understand that they are working very hard to gain naming right sponsors, private sector partners to join them in the project. In this marketplace, raising \$60 million from private sector sources to build this facility. So that's what they're work on now. I think when they get that capital fully arranged then we'll have a better idea of moving forward with the schedule.

>> Councilmember Campos: That would be an info memo as well?

>> Paul Krutko: Sure. It would probably make sense for us on the info memo, to add this to the Community and Economic Development committee, to be able to provide a report and we would give that tot entire council in the normal course.

>> Councilmember Campos: Then I note in the memo that's before us, its alludes to a couple of meetings that will be taking place. Will that also come in an info memo so we understand at the full council what was discussed at that meeting?

>> Joe Horwedel: Yes those would be the community outreach that would be occurring with the planned development permit process.

>> Councilmember Campos: And then my last questions is, around good-paying jobs. I think that we're excited about this project, we're excited about the stadium. But I know that with the soccer stadium we also are hoping that good paying jobs come with that too. And I think Councilmember Kalra spoke long and hard about that so I won't spend too much time on that. But I think that that's also important, if we can get that information, if that moves forward and I know that we can't demand it but if it's available, it would be helpful to get that information as well.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Campos: Excuse me, one more thing.

>> Mayor Reed: I'm sorry.

>> Councilmember Campos: The last thing I wanted to say to all the fans out there, as I see your excitement, and I think for me, as a councilmember, and also a mom who has an 18 month old son, who is already kicking around a soccer ball, and looking forward to becoming a soccer mom and the life of an elected, and having to take my son to soccer games, I'm often asked what do I do on my spare time, I'm looking forward to on my spare time I'm taking my son to the new soccer stadium and watching the quakes play. It's exciting, I was listening -- [applause]

>> Councilmember Campos: I was listening to the gentleman that was talking about how he just got drafted onto the quakes. And I had the privilege to accompany one of your fellow players to some of our schools in East San José. And to be able to see the excitement of not only the young boys, but also the young girls around this sport that really unites boys and girls I reported out in the news in the media, but you do go above and beyond your ability to just entertain us. You also reach out and you encourage kids to continue their education. So I think we need to highlight that as well. [applause]

>> Councilmember Campos: So with that I will be supporting the motion.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. First of all I'd like to thank all the speakers for staying up so late with us. And I also would like to thank Mayor Reed and Councilmember Liccardo for your lead to make this possible. And also, Councilmember Kalra's note on the information memo regarding to hire good paying job. I would like to close that I have spoken with Jim Kineen, Keith Wolff and my staff has spoke with Brad field. Thank you.

>> Mayor Reed: I want to thank Keith Wolff and Ed storm and Brad Hunter making it possible for this to move forward, this concept of a privately constructed privately financed precisely funded stadium tax

revenues that we need so desperately so I really appreciate their willingness to take the risk to make the investment to make this happen. I know it's -- we've been at it a long time and we're not done yet but I do appreciate their risk-taking and their investment and if we can make it work for soccer I see no reason why we can't make it work for baseball. So what the heck! [applause]

>> Mayor Reed: Joe Horwedel wants the last word.

>> Joe Horwedel: I think there were a couple of issues raised by the community to make sure we've addressed, to work through the issues and not to steal the thunder, I apologize for that. In were some comments around the lighting and how this is put together including parking lot light, state yum lighting in comparisons with Buckshaw. We have looked at the lighting and integrated more contained and that we do have controls related to lighting and parking lot. As it relates to the noise there was some comments about building a sound wall around the stadium. That would not solve the issue of noise coming out of the top of the stadium wp so that we have looked at the maximum levels of noise that was the 95 decibels that was described in the EIR, comment made there were no limit. Stap staff is props proposing and you heard from the applicant that the 95 decibels was the standard that would be designed into the project and that we would be doing additional analysis to work to set those measurable standards that some of the neighbors talked about. There was some question about what are our existing conditions? That is one of the confusing pieces around noizd and so we would work with that community meeting process to walk through what those different choices are. Because there are day-night averages there are peak noise levels there are different standards that the airport uses for federal regulations versus what the city uses so we want to walk through that with the community and pick the right measure that really describes the issue. This project was described using a day-night average which does penalize nighttime noise versus daytime noise, that is different than a peak level noise. We want to make sure we have a standard that ultimately works for having a venue and protections for the neighborhood and that -- there was one other thing. And then the question about prohibiting fireworks. That is one of the things that we did analyze, fireworks occurring in this venue. It is next to the airport so there are FAA regulations that would control how high those could go into the sky so our expectation is they will not be the traditional fireworks reluctance of feet in the air but more within the confines of the stadium similar to what you see in the arena. There could be pyrotechnic devices that could be used but we will not be shoot being them at airplanes.

>> Mayor Reed: I don't think we want to shoot anything at airplanes. We had a discussion on the floor at least a couple of hours ago made by Councilmember Liccardo I still remember what it was hope that everyone else does as well based on the memorandum referred to with a couple of modifications and the findings that he added verbally. So that is the motion. All in favor? Opposed? None opposed, that carries unanimously. [applause] The last item on the agenda is open forum. We have no cards requesting to speak under open forum so we are adjourned.