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>> Mayor Reed: Good afternoon. I want to call the San José city council meeting to order for May 5th, 2009. We will start with the invocation. I'd like the people holding up the wall over there please move, so we have the railing available for people who need it going up and downstairs. The invocation, Councilmember Campos will introduce the invocator.

>> Councilmember Campos: Thank you, Cinco de Mayo, the 5th of May. I'm proud to produce, principal Garcia who are here with some parents. And Adelante dual language school, here to celebrate with a traditional folkloric dance. A dance from the Yucatan, in Mexico. Welcome. [∂music∂] [applause] [∂music∂]

>> Mayor Reed: Okay, let's now do the pledge of allegiance. Please stand. [pledge of allegiance]

>> Mayor Reed: First item is orders of the day. We have a couple of changes to the printed agenda order. Item 3.2, report of the Rules and Open Government Committee, April 15th will be deferred for one week. Items 4.6, 4.7, 4.8 and 4.9 were incorrectly cross referenced from the Community and Economic Development Committee. No council action is necessary on those three items, apart from approval of the committee report which is item 4.1. So after we deal with 4.1 we will not take up 4.6 through 4.9, so those will be dropped. Item 8.1 on the independent police auditor, we'll take at my request regarding disclosure of closed session actions first and then a discussion of process going forward. And then finally, today's meeting will be honored in memory of Frank Jirij. Frank Jirij was the chief operating officer of HP pavilion from 1993 to 2000. Frank helped guide both the construction of the arena and the assembly of the management of the arena. We have one of the most successful arenas in the country in terms of what goes on there. And we have Frank to thank in great part for that. Any other items under orders of the day? We have a motion to approve the orders of the day. All in favor? Opposed? None opposed, that's approved. Next item is the closed session report. City Attorney.

>> City Attorney Doyle: Mr. Mayor, the council met in closed session this morning. We were given authority to initiate litigation of one matter. The names of the action will be disclosed after inquiry upon request. The vote was unanimous with the absence of the Vice Mayor.

>> Mayor Reed: Ceremonial items, I'd like to ask Councilmember Constant and the members of the Senior Commission to join me for the first item. All right, today we're issuing a proclamation to recognize the month of May as older Americans month. I think I'm that category, so I'll let Councilmember Constant, who by my standards is even middle aged, we'll let him speak about the issue and the commission.

>> Councilmember Constant: We were going to let the Mayor do it since he's an expert but I'm the council liaison to the Sr. commission. This is older Americans month in the month of May. We take the opportunity to recognize the older Americans' contributions to the community. This is a number that's growing in its percentage of population every year. It is something that as the city moves forward we need to make sure that we recognize the needs of the older Americans in our community, our older residents that have needs and make sure that as we move forward that we continue to meet those needs and to recognize people like the people behind me who contribute greatly to the City of San José and its residents. We have senior citizens that volunteer on a regular basis throughout our city. In fact I don't remember the exact amounts but we recently had an event, we had it every year where we recognize the contribution of our RSVP group. How many was it?

>> Over a million.

>> Councilmember Constant: I think it was over 4 million dollars worth of services provided by members of the senior community every year to members of the City of San José and our residents. On behalf of several, we won't point out which ones they are, we would like to thank you publicly for what you do in our community and thank you for joining us in proclaiming this month as older Americans month in the City of San José. Connie. [applause] And Connie Langford is the chair of our senior commission. I think she has a couple of words for us.

>> Well, I'm here today as chair of the senior citizens commission. I cannot speak for entire commission today, because I just returned from a six-day trip out of town to celebrate grandparents' day with my grandchildren in San Clemente. I just became aware of the city budget and I must say I accept this proclamation with a very heavy heart. Because it's proposed to close senior and community centers in the very poorest neighborhoods in the City

of San José. Where seniors who are receiving SSI, SSP grants live. Their budget have been decimated, and they will be facing discontinuation of services and the senior nutrition program.

>> Mayor Reed: Thank you all for your service, appreciate your time on the senior commission. [applause] Next I'd like to invite our executive director of the redevelopment agency, Harry Mavrogenes, and David Baum, this is for an award for financing reporting achievement. I have a certificate to give to Harry, and the award was given by the government finance officers association, instrumental in the report, the eighth year the finance division has received this report. Demonstrates that this division operates at the heist starts of finance and government accounting. We've got an award for David Baum. [applause]

>> Mayor Reed: Both of those awards are in black and white. For the next commendation I'd like to invite up councilmembers Nguyen, Kalra and Chu up to the podium as we recognize Asian Pacific American heritage month. Councilmember Kalra, the first independencan American, Councilmember Nguyen, the first Vietnamese American and Councilmember Chu the first Chinese American elected to the city council.

>> Councilmember Nguyen: Thank you, Mayor Reed. This is my pleasure to proclaim the month of may as Asian Pacific American heritage month. I'd like to take this opportunity to acknowledge a few folks who are here with me. Evan Lowe, from the city of Campbell, Michelle Lu, president of Asian Americans for community involvement, and Aaci brought some of their guests here too, so welcome everyone. This past Friday we kicked off Asian Pacific American heritage month with an event at the downtown restaurant hosted by AACI. We are very happy, and we're glad everyone was able to join us last Friday. Asian Pacific American heritage month was established in May of 1978 to coincide with two important milestones in the history of the United States. The arrival of the first Japanese immigrants and the contribution of the Chinese immigrants to the buildings of the transcontinental railroad. They continue to strengthen the fabric of our society. Since the arrival of the first immigrants, 150 years ago, we all possess a purpose of fulfilling the American dream and leading a life bounds by the American ideals of life, liberty and the pursuit of happiness. During API month we remember the challenges and struggles of those who came before us and those who are with us today and at the same time we also celebrate the achievements that define our history. In the earliest years, tens of thousands of gold rush pioneers, gold miners, transcontinental railroad builders, as well as farm and oar charred workers were subject to prejudice and discrimination yet they excel and continue to make contributions to all aspects of our so it. Asians have persevered and continued to work for their families and create plenty of opportunities for their children. They have produced classic works of literature and cultural, and in the world of academia. They have helped us serving our nation with great honor. All of us here are proud to be Asian Americans. With that said I'd like to ask Mayor Reed to present this proclamation to Michelle Lu who will be accepting on behalf of the Asian American community here in San José. Thank you. [applause]

>> On behalf of AACI and all of our friends here from the Asian and Pacific islander community, I want to thank Councilmember Nguyen, Councilmember Kalra, Councilmember Chu and Mayor Reed and the rest of the city council for this honor. We so appreciate that the city embraces the cultural diversity of our area. Thank you again for this recognition. [applause]

>> Mayor Reed: I'd like to invite Lee price and the staffer of the clerk's office to the podium. We'd like to recognize the week of May 3 through 9 as municipal clerks week. It is thanks to the hard work of her and her staff that our city is able to flow smoothly. Managing all this for a city that's officially over 1 million people is no small feat. Much of the work that the Clerk's office does takes place behind the scenes so we want to take this opportunity to get some those folks out into the public so we can thank them for their dedication and hard work. And I'm guessing the clerk's office is temporarily closed just for a little bit. If somebody -- somebody is there minding the shop! We've got most of the team here.

>> Lee Price: Thank you, Mr. Mayor, members of the council. I appreciate the opportunity to recognize municipal clerk's week. This is actually an international event. There are municipal clerks throughout the world, the international institute of municipal clerks recognizes us each year in the month of May. I'm appreciative of the mayor to allow us this time at the podium. Dennis Hawkins is appointed as the assistant City Clerk, he's been in that position for the past year. We've implemented many more sunshine reforms. Folks behind me are responsible for posting agendas for council and other committees. We have provided training for board and lead staff. We pushed the agendas on a weekly base, staffing meetings, we continue to meet multiple request for

public records act requests. So that's the people from the public and people from the organization that are calling our office and requesting records. We continue to cross-train and provide opportunities for educational training in my office and I'm proud to say that Dennis Hawkins Michelle Pimentel -- excuse me Nora Pimentel and others can completed many, many hours of professional training and I'm proud of their accomplishments. They're well on their way to becoming fiscal and municipal clerks. I'd like to give my staff a round of applause because they work really hard for all of you. [applause]

>> Lee Price: Thank you, Mr. Mayor.

>> Mayor Reed: The only thing she can't control is how long you all speak. That concludes the ceremonial items. The next item is the consent calendar. Are there items on the consent calendar that members would like to pull for discussion? We have a motion to approve consent calendar. All in favor, opposed, let me just check the cards and see if anyone needs to speak on the consent calendar. I know we've got some cards. No requests to speak on consent calendar. All in favor, opposed. The next item is 4.2. Airport West property. Looks like Paul Krutko is going to take the lead.

>> Paul Krutko: Good afternoon. Appreciate being moved to this point on the agenda and allowing us to present at this time. What we are presenting to council today is, today's decision is whether or not we should restructure the current agreement that we have with the Wolff-storm partnership for the purchase and redevelopment of airport West or we should terminate that agreement and proceed with a request for proposals. I'm going to take a bit of time, given that we've been working on this project a number of years, to give a little bit of background because we have councilmembers who have joined the body since we originally took this up, and I think it's important to understand the context. But our key decision and criteria today are that, as always with this kind of transaction, we want to look to minimizing or eliminating any impact on the General Fund. Given that we have this property for economic development purposes, we want to maximize our ultimate purchase price, and city profit and also, we want to try, as we can, with this projects to facilitate a very significant economic development project that would include a new soccer stadium for the earthquakes. So the -- my presentation today is going to go through these elements and want to really briefly go over background, what our current agreement is, what is being proposed and our options and our recommendation. I'll do that fairly quickly. But just to remind if council and the public why we own this particular property, we originally acquired it because we were pursuing a much larger airport expansion program, somewhat around four times larger. When we were pursuing that program, we had need for off-airport property. We had acquired the right to buy property across 87, which is now a part of eBay campus. We made a decision about four years ago that we wanted to pursue the eBay expansion and we allowed them to move into control of that property. We needed additional property to support the airport project. The FMC Corporation was willing to sell us the property that is across the street, from the airport, on Coleman avenue. When we engaged in that conversation with FMC we were interested in purchasing 52 acres. They indicated the only way they would sell the property to us if we purchased the entire property which is about 78.2 acres. So we did, with prior council approval, pursue to buy that property and we bought it at a very low time in the market, using airport bonds for lease revenues for 51.6 acres and we engaged in a HUD 106 loan to secure the balance. These are in the property as the community development block grant. The strategy in '04-'05 was that we were going to build the airport rental car facility and parking for airport on this property. Then ultimately we would build hotels and offices that relate to a much larger airport development, with associated retail and other economic development activities. The site, when we acquired it, came with preapproved environmentally with these entitlement with 1.3 million square feet of office and retail. There was an interest by the ETA for a portion of this site -- VTA for an ultimate end of the line maintenance for BART. We had a revision in the plans due to 9/11, and the significant downturn in the economy from the last recession. And so the airport project itself was scaled back by 75%, very appropriately. And what we were then able to do is bring the rental car facility and the park garage development back onto the airport property proper. We would use the site during the construction period for lay-down and the decision was made to shift all 78.2 acres to our economic development purposes that wouldn't be any airport usage of the property. We came to council in 2007, recommending, and council accepted, that we shift this property to an economic development project, and that we use our authorities for exclusive negotiations to move this property into development. Mr. Lew Wolff and his partners proposed a project that would develop all the 1.58 million square footage, as well as adding a new stadium for the earthquakes, professional soccer team, that Mr. Wolff had acquired the franchise for. The team that was here vacated and went off to Houston so this was a restoration of this franchise. He proposed at that time that the way the stadium would be built, would be to do a conversion of another property in the Edenvale portion of our city to

generate the capital to build the stadium. Council looked at that and, last spring, which doesn't sound so long ago, but if you're following economic history, you realize we've lived through a very tumultuous year from last March until now. It seems so long ago that we were in the middle of the presidential campaign. Anyway, with that editorial, the development agreement was approved, acquisition price of \$132 million. The developers proposed to pay option payments equivalent to our debt service until they were ready to take our property down, provided security. And we were agreeing to actually buy the parcel from VTA if we chose to sell it to them. The current status of the agreement, is that they have proceeded under the terms of the agreement and have made \$6 million in payments to the city. We have been fortunate in paying our debt service because it was variable rate that we were able to not have to use all of the payments for our debt service payments, that we were able to capitalize a bit of a reserve. But they did come to us in January and indicate that, given the difficulties in the marketplace and the change in the value for the property, and where they could get financing, that they would not be able to proceed with the project, and would be looking to terminate the agreement if in fact we couldn't work through a renegotiation that would reflect the new market realities. We came to council on March 24th. There was a particular requirement for posting of a letter of credit. Council approved releasing that requirement, so that the restructure could be reviewed, and be brought back to council on this date. So what's changed? Well, the property, the values of property in the valley have dropped precipitously. The council is aware of the reduction in residential property values that the -- Larry Stone has made. We anticipate similar changes that will occur in properties' commercial value. We did evaluate the property using the same appraiser that we used initially and he confirmed that the property has declined in value by a third. The current market for office retail and development is frozen. There are no promotion that are actively considered as well as the residential market being in the same situation. However, despite that, Mr. Wolff would like to proceed with the soccer stadium now because he has resources that he would like to employ to build that stadium. So the new proposal is to purchase 64 and a half acres, we would continue to reserve the 9.3 acres that was previously identified as a new facility for BART. The purchase price is a little over \$89 million. Incorporating into that is they would pay us \$7 million for a 14 acre site for the soccer stadium. They would proceed to do that construction in the next two to three years and they would privately finance the stadium. There would be no need to wait to convert the Istar property to generate capital. So that may come back to the council as an appropriate land use decision at a later date but is not a prerequisite for this decision. They would continue to option the property, those payments would not apply to the purchase price. Recognizing the volatility that we've experienced in this market, if you go back to the earlier slides with me, we bought it for 25, we were selling it at a substantially higher price, we want to protect the value, if they don't purchase it by 2011, then we get a revalue of the property. I'll get into more details later. We did redo the cost-benefit analysis. Those of you with us at the time will recall, we looked at the Istar and Edenvale property as well. Since that's not part of the deal, we looked at the stadium, no stadium option. It has a considerable upturn to the General Fund, both in terms of the stadium and jobs and economic impact. We do owe money on the property, as I've described earlier, this is a reflection of that debt. The secured debt, I've already described in terms of the two loans. The airport used commercial paper to make their lease revenue payments. So at some point, those will have to be paid off as well. So again, the decision today is, before you should we accept this offer, or should we reject it and move forward with a different process. The developers have been very clear, that the need to adjust the purchase price is very important. It's a market price for the property. If we can't bring it to market, they will walk away from the \$6 million that they've already paid us, the \$6 million that's already paid is to be applied to purchase. So again, these are key decision criteria that I already mentioned. The question is obviously why shouldn't we RFP? It's the staff's opinion that we're unlikely to get a comparable offer market rate transaction that would add a professional soccer facility to the site. We're in a very weak market, so what we would receive in terms of potential interest, given what we know presently, we think would be limited. The RFP process would take us some time. Negotiations would take us some time. And we're obligated to pay the debt service in the interim. So the staff's recommendation is to proceed with this restructuring, as presented to council today. We believe it minimizes our General Fund impact. We have the market value being offered for the value, a significant countercyclical investment in terms of the project, putting people to work and supporting families in our community in this difficult recession. The stadium would be 100% privately financed and there is not a requirement for the Istar conversion. So with that, mayor, I'm prepared to answer any questions the council might have.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Paul, thank you for all your work on this. I know this is a certainly extraordinarily promising project and it's taken a lot of effort through a very tumultuous time to get this

through the goal line. I know we have a question that I think Nancy Kline was able to answer. But I was hoping to build on the question a little bit which are relating to the calculations on page 9 and 10 of the staff report regarding the General Fund impacts. I assume between the two, staff has clearly a preference to have the sale proceeds apply to debt service as opposed to applying them to the secured debt to reduce the impact on the General Fund, is that right?

>> Paul Krutko: Councilmember, there is a lot of descriptive material in the memo about the choice that we're hoping the council will be faced with.

>> Councilmember Liccardo: Right.

>> Paul Krutko: Which is, with this agreement, if council would agree to the terms today would create, is an opportunity within a year or two for Mr. Wolff to pay us \$7 million. And then subsequently that there would be the ability for them to exercise their option and buy the rest of the property. So when those proceeds come in we then have a choice about how to apply them. We have showed two different options about how to do that. We will come back to council when that opportunity presents itself, but we wanted to kind of show how that would lay out. And if you -- essentially applying proceeds to debt service is not the preferred staff option. We would prefer to have the developer move forward with the project in a quick and efficient fashion and be able to pay off the debt. What we're showing is if you used the payments you could manage our General Fund burden during this period of time. As you can see, even if we paid down the debt we would have a significant General Fund burden until they paid off the debt. The staff working with others, wanted to give the council a full picture what could happen when the money comes in. But that's a decision that waits for further consideration by the council.

>> Councilmember Liccardo: Understood. And I appreciate that, Paul. In a world in which the VTA chose not to make the purchase of that 9 acres, does that significantly alter our strategy? And would that have any impact on the structure of the deal that we're contemplating today?

>> Paul Krutko: I think the key point there is, and I think it's an important point that I didn't make in the body of the presentation, it's important to understand that what we're proposing is, moving all of the development rights to the 50 acres. So that the parcel that the stadium is going to sit on is essentially a parcel -- or proposed to sit on would have no development entitlement on it. So its valuation is not without development entitlement. The acres that have been discussed as the BART service yard, price point in here, the \$10 million is what we paid for it. And so what we're looking to get back on that, in terms of this scheme, is the price that we paid for it, recognizing that that -- those acres won't have any development entitlement. So we have had conversations with the VTA staff. There is -- they are uncertain about how they want to proceed at this point in time, given the current situation with the BART project. We've indicated to them that this is a significant amount of money and we would as your staff want to find other potential options to gain these dollars. We haven't gotten a sense from VTA that they want to do this. In fact we've gotten probably more reluctance.

>> Councilmember Liccardo: Right. And I don't want to probe into those negotiation. What I really just want to get to is, is there anything about the structure of this deal, does your opinion about any of these conditions that are in the current deal change in any way, if we believe VTA is not going to purchase those nine acres any time in the next five to ten years?

>> Paul Krutko: No, councilman. I think we very much thing, staff recognize, recommending this transaction, believe that the proposal for everything but the 9.3 acres is a sound proposal and stands on its own two feet. But given that it's 78 acres and these nine acres are part of that, we thought it was important to include that in the information we are providing council so you would know about that. We recommend going forward with the project whether or not the VTA is interested in buying that property or not. That represents more opportunity to generate capital whether from the VTA or not.

>> Councilmember Liccardo: The stadium itself, the 14 acres, I understand the agreement is that within two to three years the construction should begin. What happens, in the world of change conditions, we hate to contemplate a world without soccer. In the world of changing conditions where, for whatever reason, the stadium is no longer feasible, it seems to me the development partners have a 14-acre parcel with no development rights

which they got for a price which reflects a lack of those entitlements. What exactly happens as the next step within the terms of the agreement, or what's the City's next step?

>> Paul Krutko: The agreement contemplates, if they -- the rights don't move from the stadium parcel until they take it down. So if they don't take the stadium parcel down, then the rights would be available across all the acreage. And that's all of the development entitlement that's available at this time. So when we've analyzed the numbers we still end up in the same price range that we are now with -- in one instance concentrating the development rights on a smaller parcel, but a large parcel, or having them spread across the other 14 acres.

>> Councilmember Liccardo: Okay, thank you, Paul. I'd like to thank you for all your hard work. I'd like to make a motion to approve staff recommendation. Thank you, Councilmember Pyle.

>> Mayor Reed: Rewe do have a motion to approve the staff recommendations. I'll have some public testimony on this, we'll come to this shortly. Councilmember Liccardo.

>> Councilmember Liccardo: I think delay on this parcel costs the taxpayers extraordinarily while an extraordinary opportunity awaits. I'm ready to move this along.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I would just like to say that putting on my former real estate hat tells me this is the perfect time to do this. You build when you can't -- when you shouldn't otherwise. First of all, what does this bring to us? Well, it brings back our beloved earthquakes, that's great. It brings economic dollars to San José which we desperately need. It brings community spirit, and it brings much needed economic relief now. So I can see far more reasons for this to be approved than not. And with that, I'll cede to public testimony or other councilmembers. Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, Paul and Nancy Kline, and your whole team for all your work you have put into this project. I understand that you recommended earlier that we shouldn't issue an RFP given the reasons you have stated, which I completely agree with. But I wanted to ask a question. Have we had anyone who approached us in terms of the interest in pursuing or looking at this site?

>> Paul Krutko: I -- just make sure, Nancy will come tug on my coat. But we have not had anyone approach us to say that they were interested in this property other than the developers we were working with over the time that I've been involved in it.

>> Councilmember Nguyen: Okay. And then I think the question probably goes to the City Attorney. But we received this letter from local 19, and I believe the concerns, if we were to move forward with this proposal, working with Mr. Wolff, they were concerned about union representation at future development. At these future facilities. I guess my question is, at what point can we have a conversation with Mr. Wolff regarding local 19?

>> City Attorney Doyle: Councilmember, if you've referring to a letter concerning -- I'm not quite sure what you're referring to. I got one missive but I didn't get this one, local 19. I'm sorry, this has to do with whether the --

>> Mayor Reed: Let the City Attorney have one minute to read this. I know he's a quick read. Any further questions?

>> Councilmember Nguyen: That was my final.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I just wanted to add my comments, that I think this is a good deal and it's coming at the right time for the city and I think we need to continue to move forward on this project because it's going to be good for everyone involved and very good for the community, and I think it's a much-needed shot in the arm.

>> Mayor Reed: Okay, back to the City Attorney.

>> City Attorney Doyle: The request from local 19 is, to have the developer engage and enter into a neutrality agreement. That would be something that we'd have to -- that's a negotiation point. Whether we can require it, is always an open question under the -- under federal law but it is something that the negotiators could take to the table, and have that discussion.

>> Councilmember Nguyen: Thank you, Rick. So with that clarification, I just hope that staff willing to engage in this conversation with a developer. I think any -- at any time when you have such a big project like this with a lot of potential workers here in the City of San José it's good that we have union representation. I don't know what's the outcome but I hope we're open to having that discussion with the developer.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: My question is a little different but it also goes to opportunities, and when do you have these discussions when we talk about the future of the stadium. I'd received several calls regarding the professional women's team, and that's the FC gold pride. I'm not sure, I'm not sure if this is a legal question or if you can answer it Paul but at what point do we start looking at who actually besides the earthquakes can actually house their team there, if we're talking soccer, we have a professional women's soccer team as well. I don't know if that's appropriate now or if it goes to what the attorney talked about negotiation at another team.

>> Paul Krutko: Thank you, councilmember. The way I would respond to that question is, is that the project before you, the earthquakes organization is proposing to buy the site for \$7 million and they're proposing to build the stadium between 50 and 60 million. They're spending probably about 60 to \$70 million to build a facility. What we 92 about the earthquakes schedule is that they play approximately 30 games a year. The conversation I've had with the ownership, Mr. Lew Wolff and Mr. Keith Wolff is they're anxious to have as many different kinds of sporting activities be tenants in the structure. It's important for us to understand is what is proposed today, the city much like HP pavilion we would not be in an ownership position on the completion of the project. They would finance the land and would own the stadium but they've told me they are interested in getting any and all San José related teams as well as international teams and all kinds of other activities into the facility.

>> Councilmember Campos: Well, that's encouraging to know that they're open to having other teams be a part of the-o, or be housed there. I think that's real encouraging. So I would encourage the earthquakes as well as Mr. Wolff really consider about having the women's team there. Soccer is everyone's sport and it's exciting to see a lot of young women and girls are excited about it. I will be supporting the motion. I think that this MOU it really accepts the realities of our current lands prices. So staff, I commend you for assessing it appropriately, and bringing it back in a timely manner, so that we don't miss this opportunity to be able to benefit financially for the City of San José also being able to be supportive of bringing the earthquakes back to San José. Thank you.

>> Mayor Reed: I'd like to take public testimony at this time. Give Paul a chance to sit down. I'm call out a few names, so you're close to the microphone. Don gagliardi (saying names).

>> Good afternoon, Mr. Mayor and councilmembers, I'm Don Gagliardi, I'm the president of soccer Silicon Valley. We're the advocacy group on behalf thousands of San José earthquakes fans. We've got thousands of them here in this community, maybe something of them could stand up and let you know they're with us. Those of you who have been here for those five years remember seeing us again and again before you, so this is an historic and important day. Hopefully this is the last council meeting that we have to attend. Not that we don't enjoy being here. But I want to thank Mayor Reed and the members of the council for their leadership and their foresite on this. Soccer is the world's favorite sport and this will pay tremendous benefits to the City of San José all across the world, in the market that the city competes in which is the entire planet. Soccer is very important all across the globe. Soccer's also very important for grass roots in San José. Our kids play soccer all across the city. We need more sports fields. We need kids to be fit. I've given each of you, I hope the clerk gave it to each you, that packet that the quakes have prepared this year, earthquakes fit, to help keep kids and schoolchildren in this county fit through developing their bodies, just like the earthquakes do. Also want to mention that the quakes fans have done something unprecedented anywhere in the field of sports, we've created a 5 '01C 3 organization

to give back to the community. I'll give you one example of what we're doing, in combination with the earthquakes. We're work with the earthquakes, the mayor's gang prevention task force, Sam Liccardo's organization, Communiversity, teens who are at risk to every San José earthquakes game. We had suck last year, we have 26 this year. Supporters group like you see in no other sport. That's one example of what the earthquakes mean to this city.

>> Mayor Reed: Your time is up.

>> Thank you.

>> My name is Benna Chang on behalf of the Silicon Valley leadership group. As you know, we're a public policy trade organization representing over 280 companies here in Silicon Valley. And we're here today to express our support for soccer and for the construction of a soccer stadium at the airport West site. In these tough economic times it's important important to support projects that will increase the number of jobs and bolster the economic vitality of the region. We believe the proposed soccer stadium will go a long ways towards facilitating those goals. We urge the council today to enter into an agreement today that will encourage our position. Thank you very much.

>> Thank you for this opportunity. I'm here representing myself and my family. Some of you may have heard our family's story before. In 2004, just almost five years ago my little boy who was eight years old died of an aneurysm which doesn't sound much having to do with soccer. He loved soccer, he loved to play keeper. The San José earthquakes supported my family as we went through the first steps of our grief. And this past year, soccer Silicon Valley started an award that goes to one of the earthquakes players for community service. And we got to design the award and just last October we gave the first of it to Joe cannon. And I'm not wearing this Jersey, because the next night, some of the season ticket holders got to go down on the fields after the last game of the season for what they called a special gift. And Joe cannon walked up to my son and gave him his game Jersey. I don't let him wear it anymore, I don't want the colors to wear away. I'm not wearing it either. But soccer has done so much for my family and my family really, really would like to see this. Thank you.

>> Mayor Reed: Sal Ventura, Owen Lee and John Jessom.

>> Good afternoon, Mayor Reed, city council members and staff. My brother and I, if I wasn't for soccer when we were growing up, we would have been delinquents. We snuck into a lot of earthquake games when we could. We're really excited about this. My brother's down in Santa Monica now. Again my name is Sal Ventura, the assistant business manager of IBW local 332 in San José. I purchased a home in Cambrian park in 1985. I've been pleased as most people have bought property in San José of the increase in property over the years and it's been an excellent investment. I've also had my home appraised twice in the last six months And have been disappointed in how much the value has decreased. So I appreciate the circumstances faced with the property on Coleman avenue. As excited as I am in having a soccer stadium in San José and have the team come back to San José or be here and play in our stadium I'm really concerned about the proposal at the current price. IBW local 332 drafted a letter and sent it to City Attorney Doyle. I wanted to read this letter to you partially. As we understand the terms, the city is contemplating accepting a price that is 31% below the agreed upon price as of 12 months ago. In light of this dramatic revision to the economic terms, the local 332 is interested in answer to the following questions. Does the restated purchase price amount to the city making an expenditure of public funds? If yes would the expenditure trigger prevailing wage discussions? If so is there a budget for such improvements? We received response from assistant City Attorney Ed Moran and we'll evaluate that response. I did want to share our organization's concerns and I appreciate the opportunity to speak in front of you, thank you.

>> Mayor Reed: Owen Lee, John Jessum, Colin McCarthy.

>> Good afternoon, thank you to the mayor and the council for an opportunity to speak about this issue. My name is Owen Lee. I'm with Unite Here Local 19 representing workers at hotels, stadium concessions, airport concessions and other industries. I've submitted a letter from the business manager of Unite Here Local 19 to the city clerk, and I want to summarize a few points from this letter. Unite here believes there needs to be labor peace for any stadium or hotel that's contemplated. A labor peace agreement is that the workers will have the right to choose a union. We've discussed this matter to Mr. Wolff and he has yet to make a written commitment. Our

simple request is that the city council in their action commit to discuss the issue with Mr. Wolff and urge him to resolve the matter. We believe this is only fair and we would like to enthusiastically support this project but if a lack of response is any indication, we're worried about the quality of the jobs, and the benefit of this project to the community and to our members. Thank you for your consideration.

>> Mayor Reed: John Jesson, Colin McCarthy, Ross Signorino.

>> I'll keep this short. My name is John Jesson, president of the Almaden valley youth soccer league. We partner with the San José earthquakes to provide on field experiences coaching clinics and experiences to our children. We urge the city to sell the property to the San José earthquakes. Soccer is the most popular sport in the world and needs a place in San José. We want our kids to live their dreams, and become professional soccer players. Don't bet against soccer. Thank you.

>> My name is Colin McCarthy. I was the first president of soccer Silicon Valley before I handed the reins over to Don and he never looked back. The time has come for San José and soccer to step into the international spotlight. Particularly, soccer in San José to step into that spotlight. For far too long, soccer and San José have had to apologize. For far too long, San José has had to deal with comments that the city can't get it done, it's a city that can't, it's great because it's in close proximity to other cool places. Soccer has faced similar detractors. Soccer has had to apologize, it's boring, nobody wants to watch soccer. The time has come and today you're presented with an opportunity to end that. Soccer and San José don't need to apologize. San José is a great city, great city to raise kits, to raise a family, it's a great city. It is a city of welcoming of business. Soccer is a great sport. It's a wonderful sport, a diverse sport. It's also a fantastic sport and one of the reasons why San José is a great place to live. Your vote yes today brings soccer and San José into the limelight and ending their apologies. Let's make San José a city that can regarding soccer, and being San José. Thank you.

>> Mayor Reed: Ross Signorino and then Ann Warren cribs.

>> Ross Signorino: Mr. Mayor, members of the council. I can find nothing negative in Paul's presentation here, what he said about the area, the possible -- the likelihood that the stadium is going to be built and so on and it seems very good. But I saw something that was an opportunity here in what he said, when he mentioned the BART service yard. I assume that those nine acres still there and it will come to that. And I think it's a good opportunity since some you do silt ton VTA meeting, on the board, I should say, to think about brick BART to the airport. That's a good opportunity to think about it. You got to have tracks anyway to have a service yard there. And also, something, too that we've mentioned so many times, at so many council meetings on, and you're very good here in San José about this, is the question of a living wage. People that are hired there even after the stadium is built, even after they've had the hotels and shopping centers and other things there, whether it's Lew Wolff or not, about living wage, that's very important. Because these people, it's not going to get any different than a living wage is going to be vital no matter what time of the year it is, or how long it's going to take to build this stadium. I wish San José good luck in doing this, I hope it's successful, I believe it will be and I think these things bring communities together and it's good the presentation that Paul gave us, thank you all.

>> Mayor Reed: Ann cribs is our last speaker.

>> Thank you, Mayor Reed and members of the city council, I'm Ann cribs, the vice chair of the San José sports authority and I'm here today in substitution for Greg Jamison, who is at Frank Jirij's memorial services. We encourage you to continue your work with the earthquakes to support this very unique private partnerships in these challenging times. The support of the venue will be a valuable asset for our community. It will not only provide a venue for the earthquakes but will continue to make our city competitive in the sports marketplace for national and international sports competitions. We're delighted to have such a powerful community partner to work with. The proposed soccer stadium which does not require public funding will contribute to our mission to bring visitors to San José, and provide a positive economic impact in the community. As you know, San José is one of the few venues in the country without a modern outdoor stadium. With this stadium we'll expand our ability to bid for other sporting events. We can continue to earn national, international prominence as a premier destination for sporting events. We commend the work that you have done, the earthquakes have done, and staff has done, and commend you to move forward with this agreement, thank you very much.

>> Mayor Reed: That conclusion the public testimony on this item, thank you very much. Come back for council discussion. Question I have for Paul Krutko. They're going to pay nor, privately financed, their stadium, right?

>> Paul Krutko: Yes, sir.

>> Mayor Reed: Good. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Paul, I'm looking through the PowerPoint slides and I don't see what type of stadium would get built. What I mean, is seats or dollar amount to be spent. And I imagine we're going to have a stadium in Santa Clara for 49ers. And is there any talk about whether it's a 20,000 seat stadium or what's the range? If we get a tiny stadium that really limits the utility of it.

>> Paul Krutko: My understanding is that they are proposing to build what we, those, the fans would understand more specifically, it's going to be a European style stadium. It is a soccer specific facility. It's not intended to be a multiuse venue. And I believe the seat proposed range is between 15 and 20,000. Is that -- 18. So right in the middle of that.

>> Councilmember Oliverio: Okay. And then I wanted to say that ideally, you would sell property in an up market and would you get a higher retention on that. But that's where we're at and I think that's a risk when you as a city or government go in to speculation, we're going to sell it, but really, there's a risk to the General Fund which risks our library hours and hiring of police. But I really hope that we will, as we go through this budget process or any given Tuesday, really strongly consider issuing an RFP for the Hayes mansion. That has more impact on our General Fund of \$4 million. If we're doing that for this, I hope we'll do it for that some day. I thank my colleagues for asking the questions I was going to ask. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I don't know if everybody knows, Ann cribs is a former Olympian. I wanted to give her that credit, she's a real credit to our community. Thanks.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Mayor. I was curious what your responses were?

>> City Attorney Doyle: The questions were raised if the Reilly McBryde law firm on behalf of the electrical workers. The questions were really on the base of whether the city is making an expenditure of public funds. We have responded that the amount is not an expenditure of public funds. It's the current fair market value price. That answers the question. The number 2, the answer was yes, so that doesn't apply and then number 3 would be, will there be city sponsored improvements on the project, if so is 32 budget? The short answer is no, there are no contemplated city improvements.

>> Councilmember Kalra: Thank you. And that's what I thought the answers were, based on at least what is represented to us today as well as before. But I wouldn't -- you know and I'm supportive of the motion, and along with the other comments that have been made by my colleagues, as well as why the current market, as well as the stadium being built, and I would just second some of the comments from Councilmember Nguyen, regarding the unite here, the comments being that the issue should be discussed, that I would agree with Councilmember Nguyen that that issue continue to be discussed along with the other, you know, the number, myriad of issues that will have to be discussed in order to do a deal like this. I think it's important that everybody be discussed and then we will have expectations of what both parties will be. I know that from past practice, that my understanding is Mr. Wolff has a practice of using union labor. I hope that continues to be the case going forward and whatever can be done in terms of discussing that with city staff with Mr. Wolff and his representatives I would appreciate that as well, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I think this -- the staff should be commended for putting this deal together. In bad economic times we now see something positive coming out of what could have been sort of a negative situation. And I agree with much of what's been said. I think the concerns that have been brought out should be addressed. And I also want to reflect on the fact that soccer really brings a diverse community out. I mean, it is such a popular sport globally and we have a lot of the community that are soccer fans and I think it will already add to the diverse character of San José to have the soccer stadium and the fans coming to that and also the fact that it supports our grass roots interest in soccer, so I'm very happy to support this motion. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I'd like to thank the staff for the amount of work and also, I'd definitely like to emphasize or encourage Mr. Wolff to continue discussion with local 19 and IBEW. I'll be supporting the motion and what I like about this new amendment is that we're dealing the Istar property from this soccer stadium, so that leaves some more industrial space for the future growth of the city. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just want to acknowledge, I know unite here and other bargaining groups raise certainly legitimate concerns. I think certainly every building that has been built by Lew Wolff employs union workers. He won't be cutting cost, that's certainly the M.O. of the team. Thank you for taking the risk. This is being built entirely with private money. I don't know too many cities in the country that you can point to that have stadiums built entirely with private money. I want to thank you for taking a risk on San José and taking a risk on soccer.

>> Mayor Reed: I'd like to say in this economy, because of the economic realities everybody has to deal with, this is really a bit of good news. And we wish everybody well. Because it is going to be privately paid for, privately financed and privately built. Look forward to seeing lots of people with hard hats on that side working to support their families, in this recessionary time. So I'm going to support the motion. The motion is to approve the staff recommendation. All in favor? Opposed, none opposed, that's approved. [applause]

>> Mayor Reed: We're next going to tape the report of the.

>> City Manager Figone: Thank you, Mr. Mayor. The H1N1 veers, otherwise known as the swine flu, the city is working closely with the county consistent with our pandemic flu preparedness plan of several years ago. Chris Shippey has created an internal team to dealing with the effort. We have placed signage in public facilities asking people not to enter the building if they have flu like symptoms. The signage language was recommended by the council health department, we've distributed hand sanitizer to City Hall counters and several of the City's communication staffs are now work shifts in the county's joint information center to help with the communications effort related to the flu concerns in the county. Kim Shunk our emergency services director has continued to participate on regular conference calls with the county health director. We'll keep you updated, that concludes our report.

>> Mayor Reed: Our next item is the RFP for banking and financial services, 3.4.

>> Good afternoon, mayor, members of the city council, I'm Julia Cooper, deputy director of finance. I wanted to take a couple of minutes to make a very brief presentation on the bang bank services. We concluded our RFP processes and are bringing forward to you today a recommendation for Wells Fargo to be our new banking services partner. We are very, very excited about that and energized about something that is pretty mundane from your perspective but we're excited about efficiencies and enhanced services. We do have representatives from well far go bank today, if you have any questions, Jim Thompson and Mark Hagen, the VP of treasury management sales. There are key city players who helped, Carla Merkins, Vijay Sammeta, and city attorney's office and Julie Jennings in parks and rec. I wanted to take a moment to recognize these people because they worked really hard. One of our goals when we put the RFP together was to come together in a new banking relationships where we could simplify policies and procedures. We had four components of that RFP process, general banking, lock box, merchant card and security custody. One of the expediting news that you saw in the 20 some-odd page memo, we are going to have initial savings to the city of over \$200,000 a year. In addition to

putting operational efficiency in place, we are going to have savings as well. Which I'm sure in these times we could spend multitude of time over. This has already started in terms of the legwork to try figure out how we employ some of these issues out in the field, it's going to involve a significant interdepartmental coordination, that some of our partners, parks and rec, are very enthused about. We will have an Internet portal access for our folks that work with banking services, know online immediately what's happening with our information. Desktop deposit, instead of checks being sent to the bank, they will be done at the desktop, cash available that day as opposed to having to be transported by courier. One of the things our customers will see very soon very visible is a payment kiosk. People can swipe their card and pay their garbage bill or business tax without anything else. Recouping our fees for merchant cards, PCI compliance, Wells Fargo is completely compliant with merchant cards. We'll help reduce the number of different interfaces into the city with credit cards. And so we're very excited. We're trying reduce the amount of paper flow and amount of paper that people use, to reduce cost. If have you any questions, I'm available.

>> Mayor Reed: No questions. I have no cards from the public on this. I need a motion. Motion to approve this by Councilmember Nguyen. I like the part about saving \$200,000 and getting better services, that's a good deal. All in favor, opposed, that's approved. 3.5 is the airport revenue bonds trust agreement item.

>> Scott Johnson: Thank you, Mr. Mayor, members of the council, I'm Scott Johnson and I'm joined by Jim Tung, a financial analyst doing research related to this particular effort. So I think given the nature of what we're proposing, we were recommending that we make a presentation to the council outlining the provision and potential risk and the mitigation efforts that staff is proposing. So basically to give you an overview, in September 2007, you may recall that the city issued our largest bond issue, \$725 million, to help fund the airport master plan project. And when we issued the bonds, we invested approximately \$660 million of those proceeds, into what's known as collateralized investment agreement, and the investment was with Citigroup global markets, otherwise known as Citigroup. Rate of return was 4.5%, in exchange for us investing those bonds with Citigroup. The guaranteed rate is significantly above the current market rates. We did some research in regards to guaranteed investment agreements, and the last one that we can find, just based on the credit market, the tight credit market in today's economy, was a little less than 1.5% and that was uncollateralized. Well, this particular agreement is collateralized with U.S. treasury and federal agency securities. A number of years ago the city council authorized the finance department to invest in collateralized investment agreements. A number of years ago we were allowed to invest in uncollateralized agreements. Typically we only invest in the collateralized agreements, when we invest in a GIC provider they then put up collateral. The collateral per our policy is either U.S. treasuries or U.S. investment securities. They put that collateral into a third party collateral agent and then weekly or daily the collateral agent puts those mark to market. They compare the collateral to the market, and then the provider of the agreement, if the value of the collateral is less that be our collateral requirements they have to provide then additional securities to meet our coverage requirement. The balance, as of May 5th, on this particular agreement, are about \$380 million. So the reason why we're here today is that Citigroup's ratings have fallen below the minimum level that's allowed under the airport master trust agreement. And with that, the council has the authority that we could accept the ratings. Council would have to take action to modify the master trust agreement to allow the city to retain the investment agreement. So I want to talk about that a little bit and the potential investments to the city and the potential risk to the city in continuing this particular agreement with Citigroup. So this graph shows, it's I think a good graphical showing based on the projected cash flow needs of the airport project. For the \$380 million, if we were to pull the investment out of Citigroup and reinvest those proceeds in today's market, and we would have to invest in a ladder portfolio based on the cash flow needs of the project, we would invest that between .15% to .39%. This agreement gives us a guaranteed rate of return of 4.5%. We compared what the detriment would be to the city, if we were to draw down the investments over a 16 month period, the city's investment would benefit by an additional amount of earnings of \$9.3 million that would be available only for airport projects. That is a good thing for our airport in terms of moving forward with our airport capital plan. We looked at various scenarios, if we were to pull out early, we could potentially benefit around \$2 million in earnings compared to the current market rate, we would be able to invest in compared to the guaranteed rate. So what is the risk of retaining this particular agreement with Citigroup? First, you know, I want to pause a minute and share some information with you. Because it's rather relevant. This morning, I took the opportunity to listen to a presentation of the federal reserve chairman Ben Bernanke to the joint committee, the joint economic committee. And I want to quote a statement based on the transcript that was issued. He said as you know, the federal bank regulatory agencies began the supervisory program also known as the stress test that has been discussed in the news, the financial news and the local news. So that program they embarked on in

February. The program, it's a forward looking exercise intended to help supervisors gauge the potential losses, revenues and reserve needs for the 19 largest bank holding companies in a scenario in which the economy declines more steeply than is generally anticipated. The purpose of the exercise is to ensure that banks will have a sufficient capital buffer to remain strongly capitalized and able to lend to credit with worthy borrowers even if the economic conditions were worse than expected. So following the announcement of the results, the bank holding companies will be required to develop comprehensive plans for establishing the required buffers. Equity under the capital assistance program would be available as needed, to ensure this. We looked at Citigroup and in particular their financial statements and what they published. And we were pleased to see that Citigroup, as of December 31st of 2008, they have a net equity, that's all their assets minus their liabilities, in accordance with their financial statements, they have net equity of approximately \$142 billion. And then finally, we looked at the most recent filing that Citigroup made with the Securities & Exchange Commission. They made a filing yesterday with the securities and exchange commission, announcing their plans to sell, until they reach a definitive agreement to sell their Japanese domestic securities business and that will yield approximately \$7.9 billion to Citigroup. In addition to that, Citigroup just recently announced that they are completing a brokerage venture with Morgan Stanley, and once that's completed they will generate about \$2.7 billion of cash flow, yielding about 5 billion of after-tax accounting gain. The reason I bring this up is there's been a lot of discussion about the stress test and there's information on the news that in the worst case scenario that Citigroup may have to come up with \$10 billion. So they are already looking at plans to generated that capital to meet those needs in accordance with the fed's recommendations. So it's difficult to predict with any certainty how long a bankruptcy proceeding would last. So this particular slides, basically, says well what happens if Citigroup went bankrupt? What would happen in regards to our investment, the \$380 million, and the related collateral associated with that investment? If they become bankrupt, the city would not have access to the funds for a period estimated between two to six months. And it's really difficult to predict with any certainty how long the bankruptcy proceeding would last. That two to six month range that was provided to us by our bond counsel as their best estimate. However, they did note that it is possible that bankruptcy proceedings could potentially be significantly longer. So the city most likely would not be at risk for losing the principal invested, because of the collateralization requirement that we have on this particular investment. Now, the next slide, I want to talk about the risk mitigation strategies that we are currently working on and that we would recommend moving forward if council took the action to continue this particular investment agreement. We are currently, as I mentioned, monitoring the collateralization and the federal government activity. We could at any time withdraw funds from the investment agreement and if Citigroup files for bankruptcy, there would be that immediate, short-term cash flow need that we would have. And we would look at either issuing airport commercial paper notes. However, we would have to do that analysis because we are counting on the airport commercial paper notes to fund a portion of the project in accordance with the financing plan. And or we could come to council and establish an interfund loan from another of the city's portfolio, to the airport, as we have that more short-term need if the collateral was held up in bankruptcy courts, if that were to occur. So what is the process to implement staff's recommendation to retain the financial agreement? First of all we're asking that the staff approve the financial agreements and authorize us to approve and execute, any other necessary documents associated with this investment agreement. Staff would also obtain consent from the bond insurers, and continue to monitor the collateralization, related to Citigroup and the financial markets. And then finally I just want to make a statement in regards to the financial viability and solvency in regards to Citigroup. So although we agree that it is possible that Citigroup could quickly and unexpectedly file for, or be forced into bankruptcy, this scenario really seems unlikely after reviewing the level and types of the federal government support that has been provided to Citigroup to date. So just to inform the council, in the initial round of funding through the U.S. treasuries, the troubled assets relief program, otherwise known as the TARP program, Citigroup received an amount of that and issued stock to the U.S. treasury. Subsequent to that Citigroup converted a portion of those stock, the U.S. owns 30% of Citigroup's common stock. Citigroup received \$20 billion of federal government support through the U.S. treasury's targeted investment program, otherwise known as TIP. Whether the institution is sufficiently important to the nation's financial and economic system, these are the requisites, could potentially cause major disruptions to credit markets, or payments and settlement systems, destabilized asset prices, significantly increase uncertainty or lead to similar losses of confidence or financial market establish. The level of support of Citigroup indicate that the federal government is unlikely to allow Citigroup to fail, unlike the overnight bankruptcy that this economy faced through Lehman group. I believe we did our due diligence in coming forward with a responsible recommendation to the council. We definitely don't want to panic. We definitely want to look at the benefits that are afforded to the city and to the airport in regards to continuing with the collateral agreement and we make our commitment that we will continue to monitor both the federal activity and the status of the

collateral, as well as the status of Citigroup, as we move forward, if council approves our recommendation. And with that we're available for any questions you may have.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'm trying to control my rage. And I have some questions that may not be the most polite questions. Why are we just hearing about this in April?

>> Scott Johnson: Because recently, the ratings were down graded by Citigroup. So that's why we're bringing this forward to the council for approval.

>> Councilmember Pyle: We stand to lose a lot of money. And do you know how much that would be? I mean we're talking about 107% above collateral, is all they have to guarantee. But you can only get so much blood out of a turnip. If they go bankrupt where are we?

>> Scott Johnson: In exchange for investing our bond proceeds, Citigroup was required to place U.S. treasuries and U.S. agency securities with a third party collateral agency. So the collateral is listed in the City's name. So if Citigroup went bankrupt, that collateral belongs to the City of San José.

>> Councilmember Pyle: Do we have no other option? We just wait until there is a demise with Citigroup? Or do we have other options? Can we look at other places to invest?

>> Scott Johnson: If we decided not to continue with this particular agreement, which as I mentioned is collateralized, then we would have to pull that money out of the investment agreement and invest in other alternatives. Unfortunately, the way the market is today, with the interest rates, we would receive less than 1% in interest, in any particular security that we would invest in, be it the U.S. treasuries or U.S. agencies. So that's why I strongly believe that we should continue with this investment agreement, because at the time collateralized. And with that collateral, we're protected. And the collateral is in the City's name with a third party collateral agent.

>> Councilmember Pyle: Okay, so from your perspective this is pretty safe?

>> Scott Johnson: Yes, I do feel that way.

>> Councilmember Pyle: Although -- well, there's no other way to get better interest?

>> Scott Johnson: In today -- believe me, Citigroup would love for us to pull this investment agreement. They're paying us 4.5%, in a market that is currently paying less than 1.5% for uncollateralized agreements. So we have a very -- a very beneficial return in investment agreement. And the beauty of the conservatism of this city is we require collateral, when we invest in investment agreements with a GIC provider.

>> Councilmember Pyle: I'm getting very calm. Thank you. You're doing a good job. The next question I have, how long do we wait, they go bankrupt and then we act or --

>> Scott Johnson: Well, at this time there's no indication that Citigroup is going bankrupt. I apologize if I appeared to alarm any councilmembers. What is the not my intent. My intent is to give you the full picture and the full spectrum in regards to the economy, what Citigroup is doing, what the federal is doing in regards to Citigroup, and is interrelationship between our investment agreement. So there's no indication in the market that Citigroup is going bankrupt. They have strong assets. There has been some media in regards to early information in regards to the stress test, in worst-case scenarios. But as I shared with the council, Citigroup is already acting on that by selling some of their assets and partnering with others to yield significant cash flow to the company.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Scott, you are officially, now our version of Ben Bernanke. You have to pay attention to every thing, especially when you're reading the transcript. Number 1, you must have a fair amount of anxiety, you and your staff, in this particular transaction. Before there wasn't a thought. But now, who holds our securities, have other municipalities who had assets in bankrupted institutions, what kind of played out from those things?

>> Scott Johnson: Can you repeat the question?

>> Councilmember Oliverio: I assume other municipalities have investments, so far have any of those institutions that held those investments gone bankrupt and what happens to that city or county with their investments, was it a saga with investments?

>> Scott Johnson: Well, in general, with financial institutions that have gone bankrupt, like Lehman, I'm aware of municipalities that were holding investments with those institutions that went bankrupt. Unfortunately they didn't have the benefit of having those companies post collateral with U.S. securities. So you know, we're in a much better position than those particular companies, those particular agencies that have had a negative impact due to those bankruptcies.

>> Councilmember Oliverio: And then remind me because we've come back and talked about this a few times with the council, we've had the special meetings of the finance board. Do we have other investments which are noncollateralized at this time?

>> Scott Johnson: Related to -- this is the only remaining investment agreement that we have left and it is collateralized, as you mentioned.

>> Councilmember Oliverio: All right, you gave us your recommendation so thank you.

>> Mayor Reed: Scott, if we were to take our money out of this agreement, \$380 million, more or less, and walk across the street and put it in the bank, what happens if that bank goes bankrupt?

>> Scott Johnson: Well, the banks --

>> Mayor Reed: That's above the \$250,000 FDIC insurance limit by a few hundred million.

>> Scott Johnson: Right. Actually, municipal agencies have different requirements with the relationship with banks. Where those -- those particular -- the banks have to post collateral for the city. But then we are limited, to your point, related to the insurance. So we wouldn't -- we wouldn't think that would be a good practice, to invest \$380 million in one particular bank. But I did show the slide, showing if we were to pull that money out, and reinvest it, you know, if we go back to that particular slide, what we attempted to show here, is if you look at the blue line, that's the attempted earnings that we were investing, whereas if we were to take that money out and invest it in the market, the city's airport would benefit by about \$9.3 million.

>> Mayor Reed: My question: Is there any no-risk investment? What if we stack the money up in my office. And don't give it to anybody.

>> Scott Johnson: Well, I would be concerned about security.

>> Mayor Reed: Well, I mean, that's kind of a problem.

>> Scott Johnson: Right. I guess you --

>> Mayor Reed: We have collateralized security for this investment.

>> Scott Johnson: Right.

>> Mayor Reed: If we put it anyplace where we invest money, if anybody who holds it declares bankruptcy, we have similar problems.

>> Scott Johnson: We use the term in financial terms, "flight to quality." The reason the interest rates are low is because folks are investing in the U.S. government, because the U.S. government is felt to be the safest investment in the world. The beauty of this particular investment agreement is that we have collateral that they were required to post collateral with U.S. government, federal securities. And so we have -- we have the best of both worlds here. We're getting a higher rate of return than otherwise if we were investing in those U.S. government securities.

>> Mayor Reed: So the real safe, supposedly alternative would be to get out of this deal and invest the money directly with the federal government?

>> Scott Johnson: That's correct, yes.

>> Mayor Reed: But if we put tonight any other investment that entity is always subject to bankruptcy.

>> Scott Johnson: Correct.

>> Mayor Reed: We could have trouble. So having the collateral gives us another layer of security that we wouldn't have unless we gave it to the U.S. government. So my question to you is how much do you trust the U.S. government? Don't answer that. I guess a lot of people trust it because they're paying very low interest around the world. There's no risk-free investment. We've sort of bilked the spenders on this one with the collateral. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Scott, thank you for all the information and the presentation. I know you've been doing a delicate dance for several months now and I appreciate the fact you're keeping us afloat now. With regard to the 380 million in collateral, I assume we're the primary lien holder on that Catholic collateral if all goes for the worst. Again, I'm making the assumption that there's a bankruptcy, pardon my focus on the worst case scenario. We would be the primary lien holder on that collateral, is that right?

>> Scott Johnson: Well, because the collateral is held with the third party trustee, in the City's name --

>> Councilmember Liccardo: Okay.

>> Scott Johnson: -- so there would be no other liens, no other lien holders, we believe in talking to our bond counsel and working with our city attorney's office, that we have every right to that collateral because it's listed in our name.

>> Councilmember Liccardo: No risk of it being subordinated for any other claim on Citigroup?

>> Scott Johnson: No.

>> City Attorney Doyle: Councilmember, I've asked the question of my staff if whether, in bankruptcy, the other lenders could reach that collateral. And according to our bankruptcy counsel, at Orrick Herrington, they say no. At least our bonds counsel.

>> Councilmember Liccardo: Thank you. My understanding is, we have invested \$660 million of bonds proceeds. We have got \$380 million of collateral. I just assumed there was some kind of one for one dollar match. We've got a delta of \$280 million. Should we be worried about that difference?

>> Scott Johnson: Council, the initial investment was \$260 million. But we've drawn down the difference, we've spent that.

>> Councilmember Liccardo: That reflects the collateral ratio to the actual bond proceeds that are invested?

>> Scott Johnson: Yes.

>> Councilmember Liccardo: Wonderful. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. 4.5%, I wish I could get that at my bank. I just wanted to thank you, Scott for all the work you've done and for all the good analysis including the comments that you referred to from the Fed that were made earlier. I think we need to be concerned whether we're sufficiently protected. It sounds like the investment, the 4.5 is the better rate, sounds like you've covered us on both sides with the collateralized situation. It sounds like the government, in terms of looking at stress testing, I hate saying this but rather than explaining all of it, too big to fail is kind of how Citigroup has been determined by the federal government.

>> Scott Johnson: Right.

>> Councilmember Herrera: So I think that's important, you know, I would hope that we would not -- that we would do anything to prevent us from actually dealing with -- if bankruptcy should happen, that we would hopefully be able to foresee any troubling signs and take action. I personally don't see Citigroup going into bankruptcy because of all the things you've talked about. But we certainly wouldn't have any ability to say how long our assets would be tied up if that happens. That's a real unknown entity. I'm glad that if you have these other things built in we would be able to come back and be apprised of the current situation. Could you speak to that in terms of if there was a change in circumstance, it definitely sounds like right now this is the right decision. If there were some change in circumstance how would you know that? Again what would you do to take action?

>> Scott Johnson: Well, if there were any change in circumstances I definitely would report it to the City Manager, to the council through the City Manager, to your point, you know, we've committed we're going to continue to monitor the collateral, what's happening on the federal level. And the stress test information was released to the 19 major banks today. It will be public Thursday. And I think that we will give council an update maybe through the City Manager's weekly of Citigroup's response and their plan of action moving forward and we'll continue to monitor that.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Scott, in regards to -- I just had some clarification in regards to the estimate of the 2 to 6 months of delay if -- and that would be if the -- if Citigroup did go into bankruptcy, the delay in that case would be delay in having access to the assets?

>> Scott Johnson: Yes.

>> Councilmember Kalra: And so what other real costs, in other words, at the end of however many months that would be, what are the real costs associated with that delay, as well as the end of that several-month period, what is -- what would the assets that we would be able to claim?

>> Scott Johnson: Well, I think the other cause would be if we didn't have access to those funds we would have to then draw -- you know, we need to continue with the airport project. We would spend the money. We would pay for those costs out of the City's investment pool, and then our investment pool we estimate would lose maybe about \$2700 per month for each \$1 million of unreimbursed expenditures based on today's market.

>> Councilmember Kalra: Even after that several-month period when we do have access, the result would be the \$2700 per million?

>> Scott Johnson: After we had access, we would have the collateral, we would have those investments. And so then, basically we would be earning less on those investments compared to the investments agreement.

>> Councilmember Kalra: And then any -- any resources or the sores of funds used to make up to keep the projects going, that would be reimbursed once the collateral is accessed?

>> Scott Johnson: Yes, uh-huh.

>> Councilmember Kalra: Okay, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, Mayor. Scott, I would feel a whole lot better if we could get some kinds of a printout on a more regular basis, maybe every couple of months, just to get a sense of where it's been, where it's going and what's happening.

>> Scott Johnson: I'd be happy to.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I just shared with Councilmember Chu, I worried about my own bank having problems, now have to worry about this one too. So it's doubly concerning. But I make a motion to approve the staff recommendation.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. Our next item is 3.6, regarding assembly bill 68. And carried by Brownley, solid waste, single use bags and AB 87, Davies. Single use carryout bags. John Stufflebean.

>> John Stufflebean: This was passed out of committee last week, and questions are addressed in a supplemental memo. We're here to answer your questions.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I would urge my colleagues on the council to not support this particular legislation. It has certain issues with it, one being timing. TTY in the economy I don't think it's prudent at all to put additional burdens on businesses or individual residents. And almost every resident would be affected by this particular legislation. There is some flaws in this legislation. There is no cap, so it could have serious implications for people like myself who have large families. There are a lot of flaws in this and quite frankly, it is the wrong time to be doing this. Many jurisdictions have recognized this and have held off on issues like this because of the cost and the burden it puts on those that are affected. There is not a lot of specificity in thousand money will be spent. And I think in retrospect, if it does passed, they're going to look at this and see that this is an illegal tax. There is no spending limited on how the amount is to be spent. The single use connotation of a plastic bag, many of us use these plastic bags use them over and over and over again and then recycle them when we're done. It's often pointed out this huge source litter. We just had the great American cleanup, and I was out there with my neighbors and plastic grocery bags were a very, very small percentage of what was picked up. There are other areas that should be more of our priority. So I'd make a motion to not support this.

>> Mayor Reed: Motion to not support it. Fails for lack of a second.

>> Councilmember Oliverio: I'll second it for purposes of discussion.

>> Mayor Reed: Got a second here. Staff, on the -- and the way we do legislative agenda, we have a possibility of doing support, oppose, or support if amended, or sometimes we do watch and wait and see how the bill goes through the legislature. But your motion, Councilmember Constant, is to take a position of not support? That is the motion on the floor. On the commotion, Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'd like to do a substitute motion to accept and then speak to the issue.

>> Second.

>> Mayor Reed: Okay, we have a substitute motion to support. Or accept the staff recommendation and support the bill. Okay, Councilmember Pyle.

>> Councilmember Pyle: Well, first of all, a lot of the language has not worked out. That's what happens with committees. That's when a bill gets processed, it's part of what comes back to be included, just as we do here. I any one of the big stickling points is the fees. The city cannot charge a fee. The state however can charge a fee. They really want to know what the City of San JosÉ stands. This is causing all kinds of environmental concerns and education, I can't stress enough, is so key to this issue. For example, we talk about, what about poor families, what about people that can't afford the 25 cents a bag? They actually could come out ahead. It's a caves changing habits. If a family uses bags, and I'd like to have something available so that they could get free ones. But if they make use of those bags, they don't have to pay anything, in fact, they'll get money back. I know that PWN San JosÉ, Safeway already give money back in reference to not using bags. And so I don't really see this as a continuing issue, it does need to be refined, FCC, but the impact on all of us in reference to our budget is amazing. Most of Europe has condemned plastic bags, as a method of bringing home vegetables and/or any products from stores. We're getting there, but we can't let it die here. This is very, very important that we become environmentally responsible. So there you go.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor, and I agree with many of the comments made by Councilmember Pyle. I had a quick question, John, about, in the attachment, there's a sentence beginning the third paragraph, stating that both bills to prevent cities and counties for bags available in this funding, first of all I'd like to thank Councilmember Chu for championing this issue and his work on leadership on the RWRC. My recollection is that county wide commission actually proposed a ban on plastic, a fee on paper if the City of San JosÉ adopts a ban like Palo Alto did, it sounds like we're out of the money, is that right?

>> John Stufflebean: Yes, that's my understanding of the bill, yes.

>> Councilmember Liccardo: Is there any inclination of the staff to modify the recommendation to somehow or other entitle us to a portion of the revenues if we adopt a full ban?

>> John Stufflebean: State recommendation on that type of issue, if you're inclined to support the bill, there are times for amendments to be put on the bill as it goes through. We suck if that's an issue you consider supporting it at this time, and then encouraging our lobbyist to make amendments along those lines as the bill moves through.

>> Councilmember Liccardo: So we have plenty of time do that. It went to natural resources on April 18th. Sit out of that committee now?

>> John Stufflebean: I believe it is.

>> Councilmember Liccardo: So it's in play --

>> John Stufflebean: In appropriations tomorrow.

>> Councilmember Liccardo: So I'll take your word for it we still have time? Because I know yet it has not reached full coins, whatever we're going to do, Councilmember Constant raised questions that are valid. Under prop 218 we want to see a clear spending plan I'm sure. I'm just concerned, the impacts of fees can be readily avoided, people could use bags. Everyone can do that so I support this going fort.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. John Stufflebean, can you tell me, I've read the attachment and the other piece of data here but it didn't seem to be exactly how the money could be spent? I assume that could be broken out further in the amendment process. But as best you could encapsulized, how would it be spent?

>> John Stufflebean: Some of the money goes directly back to stores to administer the program, some of the money is available for education, and some is available to controls, to capture the bags in the storm system. There's money available, still as the bill goes through?

>> Do you think this needs to be strengthened just because this thing is being enforced?

>> John Stufflebean: That I don't know. Do you know Skip if this includes enforcement? Skip has more information on that.

>> Councilmember Oliverio: I've seen him at community meetings with people on both sides of the fence.

>> Yes. The staff that had been working on this believe that any fee solution would require staffing at the level that's collecting money. The bottle bill, for example, that levies the nickel and dime deposit on cans and bottles in the state since 1987 has a statewide agency overseeing that with in excess of 100 staff.

>> Councilmember Oliverio: But we wouldn't be doing a redemption of bags under this legislation, right?

>> There would be a redemption to a state agency.

>> Councilmember Oliverio: My concern, the average consumer would consume \$300 worth of bags, if you didn't change your lifestyle. I would prefer if I charge someone \$300 that I would give something back, putting towards a government where people wanted, whether it's longer enforcement, longer library hours, if it's a statewide issue I would certainly like reduced class sizes in schools or something like that. I know these are not perfect and my preference is I'm not a big fan of the state bills that come because we're, you know, there's 11 of us, and we can make things more complicated ourselves. I was wondering if Councilmember Pyle would accept a friendly amendment to her substitute motion that would allow for support and amend for this bill. I didn't hear the amount part unless I'm mistaken.

>> Councilmember Pyle: That is part of the staff recommendation.

>> Councilmember Oliverio: I still have reservations on this.

>> John Stufflebean: As it moves through the process, we see significant changes we'll bring it back to council, sure.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I also wanted to report as representative to the California league of cities, this item was discussed and deliberated extensively in the last board meeting and passed unanimously from the league of city or the representative from the California cities. I definitely will be supporting the substitute motion, I think the fact that the government, all levels is now considering policy on single use plastic bag, a confirmation that times aren't change and we are all taking a second look at the environmental impact of those plastic bags. I also sit on the recycling and industrial waste commission and the last meeting that the commission also passed a ban on plastic bags and 25 cents charge for the paper bag. I opposed that motion, because I think to San José, can go even further than that. We can do even better and taking the lead of this, the county of Santa Clara, so I'll be supporting the substitute motion, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I will be supporting the motion as well, with amendments to follow. And I know that our discussion comes to the full council, remind me of that date.

>> John Stufflebean: June 2nd.

>> Councilmember Campos: June 2nd. This will give us an opportunity to revisit this. And if we have amendments we would like to forward to Roxann Miller to include in the assembly meeting, we can do that, can't we?

>> John Stufflebean: I think so.

>> Councilmember Campos: I don't know if we can include that in -- can we do that?

>> John Stufflebean: To include in the June item the legislative issue as well.

>> John Stufflebean: That would be great, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I think it's important to get some resources for those counties or cities that are more aggressive. I understand, I think in Sacramento in particular, finding revenue generation takes a key role to how legislation is passed. Over here we have an overarching goal, we talk about our green vision, we talk about how we want to improve our planet, sometimes the best types are difficult, they're challenging for businesses, they're challenging for commerce, when fast food restaurants, it was a good thing to do. This is an example of lifestyle changes that we have to start making and it's never the first one, the first generation or the first councilmembers have to make a decision. It's not an easy decision to make and the first businesses certainly have to make those changes and the first consumers that have to get used to making those costs, it's not easy. But sometimes you know, you just have to make the right choice for the long term health of our community and for our children and grandchildren. And I think it's the right way to go so I appreciate Councilmember Pyle's substitute motion.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks, just some closing comments. I just wanted to reiterate, while we're in an unprecedented economic downturn, we continue to make decisions that incrementally increase costs and burdens to individuals and businesses. It's not like this is sitting on its own and it's the only thing where costs are being raised. You can go back for the last six months and just tally up motion by motion to all levels of government where things are increasing. It's not the hit here, it's the increase in sales tax, the increase in fees and taxes, the increase in the garbage rate, everywhere you look, this is a terrible time. This is a terrible time for us to continue.

>> Mayor Reed: Councilmember Constant, I'm not going to support the motion. In addition to what's been raised, I don't think we are going to see enough money out of this. This is a tax, a bag tax, 25 cents. If we get a penny we'll probably be lucky, it's going to the state of California, I don't think we're going to get our share to actually clean up the litter. So I'm concerned about that. Second thing is I have talked to both American medals and Sims metals about recycle, and one of the things I'm proposing is not to do with it like we do for bottles and cans. There's no return fee, it's a tax on the issuance from the bag. Haven't seen any analysis by the state staff whether or not they could make that work. If people in the recycling business told me they can make it work. I'd rather see this done, whether it's 5 cents, 10 cents or 2005 cents, whatever the fee would be, people of low income, have to invest in plastic bags, investing 25 cents, need to get their money back. Those amendments would have to be made before I'm interested in voting for the motion. Okay, any further comments? We have a motion to support and recommend, staff's, Councilmember Pyle's motion. So three opposed, Oliverio, scant and Reed, that motion carries. Return on June 2nd for further review, and that is part of the report. That concludes 3.6, taking us to 3.7, which is an urgency ordinance to delay effective date of ordinance number 28517 regarding the gaming control. Whoops, I'm sorry, I had a card from Ross Signorino on 3.6.

>> Mr. Mayor, members of the council, you'll have to take that vote over now.

>> Mayor Reed: We'll see if anybody wants to.

>> Ross Signorino: I agree with Pete constant's remark there, it's a bad time to charge any fee. But you know, any time is a bad time. It doesn't matter, good times, bad times, any times. What puzzles me with this, I'm sure the plastic bags do harm to the environment but I use them for transportation of vegetables and fruits to the food banks and so on. I think they're very handy. I'd hate to see them disappear because of that. And then use them too at the food banks to distribute food. So that's a point that has to be taken into consideration. But you know, we have bottled water, and there's a fee on it when you buy it for return and so on. And then it winds up in the landfill, but you can't even go to a hardware store and buy something, little screws or some packages or some kind, everything is wrapped in plastic. There's no way to get away from it. And how are you going to do all that? So I think you have to look at it in a different bigger way, there are other things than plastic bags going into our landfill. We recycle as good as we can, we do a good job of it here in San José. But that isn't enough. I think the thing we have to do is start going after maybe on a federal level about imports from other countries, and all this stuff that wrapped in this plastic, and try to eliminate it there. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. Anybody want to reconsider on the previous item? The motion stands. That does conclude 3.6. 3.7, urgency ordinance to delay effective date of ordinance number 28517 regarding gaming control.

>> City Attorney Doyle: Mr. Mayor, council, when the council adopted the ordinance, contemplated changes in title 16 and title 20, specifically the gaming regulation and the zoning regulations, with respect to relocation of card rooms, all that was done as a package. And it was anticipated that everything would be concurrent and take effect at the same time. We are proceeding currently with the proposed zoning changes. Those have worked their way through the Planning Commission, they are coming to council on May 19th. On the other hand, the title 16 changes have already been adopted, and they would take effect shortly. The proposal is to delay the implementation of those title 16 changes until the council gets a chance to consider the title 20 changes and everything would be effective at the same time and we anticipate that being June 26th, if everything goes according to schedule. There are regulations in place.

>> Mayor Reed: Any discussion? I have no card from the public to speak on that. Is there a notion? A motion by Councilmember Pyle to approve the staff recommendation. All in favor? Opposed? None opposed, that's approved. Items 3.8 is report of the Rules and Open Government Committee meeting of April 8th, 2009. Motion is to approve the report. All in favor, opposed, none opposed, that's approved. Three.9 is assembly bill 829, the clean and health schools act, by Brownley, motion, all in favor, opposed, that's approved. 4.1, report of the Community and Economic Development, April 27th, 2009. Councilmember Pyle chairs that committee.

>> Councilmember Pyle: Thank you, mayor. The floats are in the packet, I move for approval.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. 4.3, new construction, second mortgage loan program. Motion by Councilmember Nguyen to approve. Just want to thank the staff for being creative in ways that we can help the current market. These are tough times and we can use some of our funds to help some of the Real Estate market. So I'm going to support the motion. All in favor? Opposed? None opposed, that's approved. 4.4 is a hearing on the annual action plan. And recommendations from the staff on some funding. I'd like to disclose before we get into this that I have had members -- I and members of my staff have met with representatives from the NAACP, Silicon Valley aid society and members of the public on this matter. I think we'll have a report from the housing department, Leslye Krutko.

>> Leslye Krutko: Thank you, Mr. Mayor, I have Sandra Murillo with me. I want to explain the process and then I have a number of changes I need to read into the record. The annual action plan is a federally required document and it allows San José to receive about \$16 million annually in federal housing, community and economic development funds. The particular document that we are considering this year is a one-year plan for fiscal year '09-'10 and it's the last year of our consolidated plan. Next year we will be adopting a new consolidated plan. The plans require that we hold five public hearings. This is our fourth public hearing. We have had two before the housing and community development commission. This report needs to be submitted to HUD by May 15th. The draft plan was made available to the public for a 30-day period and notices were provided in Spanish, Vietnamese

and Chinese and were sent to over 175 organizations. For the record, on May 1st, HUD notified the city of our actual '09-'10 funding allocation, so only 14 days in advance of when we were to submit our plan. Typically, these are released in January, to include in their draft document the actual numbers. But the budget was delayed and as a result the numbers were not available until Friday. So in order to keep up with our publicly noticed meeting and required submission of the plan by May 15th, we're asking for the council to approve the draft annual action plan with the verbal changes that I'm requesting today. First, the following funding changes need to be reflected for each of the four federal programs. The CDBG program will be increased from the estimated dollar figure in the draft annual action plan from \$9.9 million to \$10,069,430. An increase of 1.7%. The home program will increase from the amount reported in the draft report from \$4,192,248 to \$4,694,689. That's a 10.7% increase in home funds. Congress and the president have directed no funding to the American dream down payment initiative under this budget. The emergency shelter grant program was one program that was reduced in funding. It had a slight decrease of 1/10 of 1%. It went to 442,619. And the Hopwa program, our housing for people with AIDS program increased 3.7% from \$767,000 to \$796,697. These slight changes to the budget require slight changes to the four programs as follows. The total budget for CDBG program will increase from \$12,177,000 to \$12,271,430, which includes a decrease in anticipated program income from \$800,000 to \$725,000. As a result, there's a 1% increase to public service administration, fair housing and planning and can community development improvement budgets. The allocation for the Portuguese organization for entertainment and services, POSO for their Portuguese senior center project has been increased from \$24,000 to \$25,000 so that gets enclosures to the total amount of their award. Previously they were only partially funded. We are looking to the funding for the Mexican American community services agency for both awards to require satisfactory outcomes, for monitoring review by city staff, preparation of a business plan, and participation in the city sponsored nonprofit assessment tool which is called QLVs. For HOPWA, additional funding of \$28,789 will be used during program -- during the upcoming program year or excuse me during program year 2010-11 because all agencies right now are fully funded according to their requested amounts. Administration funding will be increased by \$890 for fiscal year 09-10 to bring it up to 3% of the new HOPWA allocation. For ESG because funding was decreased by 1% or \$693, the budget for West vale community services which was the lowest ranked application has been decreased from \$23,677 to \$22,983. And lastly for home there are no changes to the consolidated plan for this program. Additional funding will be applied for those program areas that are highlighted in the annual action plan. And as mentioned earlier no funding was allocated to the American dream down payment program. So we will merely be expending remaining balances for that program. And with that, we're available for any questions you may have.

>> Mayor Reed: I think we'll have some questions. I've got quite a few cards from people in the public who want to speak on this. Councilmember Pyle. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Leslye, on page 2 of the staff report, there's reference to the additional funding that maybe made available through the American recovery and reinvestment act. And that's anticipated to be somewhere around \$6.8 million. How does that impact some of the nonprofits that have been denied for funding? Are they likely to be the next in line or rather, does the money go to the existing grantees in some proportion?

>> Leslye Krutko: We have -- for the CDBG program which is the one program that is similar and we will be receiving stimulus funds for, we are anticipating receipt of 2.7 million in CDBG funds under that program. We are before council next week to discuss that program. That will be an amendment to the current-year plan. What we're considering today is the new one-year plan. Next week we'll be look at an amendment to the '08-'09 consolidated plan. We do not yet have HUD guidance for the use of those moneys. So we do not know yet how we're going to be instructed to use those moneys. We do believe that there will be an economic development focus or a creation of jobs focus of the funds. But that's just from what we have read, not from any guidance we've received. I think what is really holding us back is not knowing whether or not we can use any of the moneys for administration fair housing purposes or for public services which is traditionally the funding that the CBOs can use. So until we receive that guidance we're not sure what we may have available.

>> Councilmember Liccardo: Okay. Well I'm sure you know what's on the minds of myself and probably many of my colleagues which is legal aid society. At this point you don't have any indication that would help us understand whether or not that 2.7 million, any portion of it could actually go to legal aid.

>> Leslye Krutko: At this point we're not certain and we've been looking every day for guidance. With anticipation, actually they have passed their date on when they were required to provide that guidance. But we still don't have it.

>> Councilmember Liccardo: I -- members of my staff I know met with Tony over at the legal aid society. And I only was able recently to read a letter I think that was submitted to the counsel from Tony Estremera. I wanted to ask for some response, I assume you've had a chance to see the letter, is that right?

>> Leslye Krutko: I'm not aware that I have, no.

>> Councilmember Liccardo: Okay, I don't actually believe that I have it. Perhaps -- well, I'll hold off my question until we can get you a copy of that letter. I -- let me just put the question out there so maybe have you it in your mind, which is it would appear as though legal aid society certainly scored very well but then had questions from the financial audit. The question I had at any point in time in the near future at which you think any of those questions would be resolved in a way that would make legal aids eligible again for funds particularly in -- aid eligible again for funds in this second line of legal aid money that may come through the ARRA?

>> Leslye Krutko: I think that is something we have to look at and work with the nonprofit on. I can say that there are some fairly significant concerns that would need to be worked through. We do have -- you know, I have had some conversations with Jeff Ruster about tools that may be available for these concerns. Judging what we were given from our application, we are clearly very concerned.

>> Councilmember Liccardo: Okay, I'll hold off any further questions until we've had a chance to get you that letter. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Actually I was going to ask that question as well. Let me see if I can frame it a little different and get to the root of what we're trying to get a response from you, Leslye. If legal aid was able to improve their financial audit scoring, and under situation, and all the tools that you were talking about that the city could provide to them through Jeff's department or your department, would that put them in a better position to receive from the American recovery act money, which I believe you mentioned was 2-point-something, I'm trying to think in a positive way, if you were able to overcome all of those would that put them in a position to receive money?

>> Leslye Krutko: Assuming that HUD guidance allowed that that's possible. There's also possibilities for other funds that may be returned, as well, that we could look at. But we would need to get to a point where we were comfortable with those financials.

>> Councilmember Campos: Let me ask a follow-up question. What is the time line, or have you worked out a time line to be able to start addressing those financial concerns that your department has?

>> Leslye Krutko: We have not worked out a time line with that. At this point this was a funding recommendation that went forward but we have not sat down to start that process.

>> Councilmember Campos: Have you had -- started the process of having a conversation with them about the tools that you can provide to them?

>> Leslye Krutko: I know that we have talked with them about the application. I don't know, Sandra --

>> Sandra Murillo, Housing Department. We have had a couple of conversation west legal aid regarding the concerns over the financial statements prior to making the recommendation. And as Leslye indicates there are some concerns there, and it will take some -- a significant amount of time to help them rectify, so that they would be eligible.

>> Councilmember Campos: Thank you.

>> Leslye Krutko: But I think the answer is no, we would need to start that process.

>> Councilmember Campos: You'd need to start that process?

>> Leslye Krutko: Yes, and I've had conversations with Jeff about the various things we can provide.

>> Councilmember Campos: And in the packet it talks about the different individuals by zip code, who is providing -- that legal aid is providing the services, excuse me, by zip code, this was legal aid data that you included in our packet, is that correct? No? Then it was legal aid that provided this for me and I appreciate that, then. Thank you. It talks about -- I don't know if my colleagues got that, I had requested from staff and I believe I also requested information that would actually break down the services that are provided by zip code. So having laid that out, the question I want to ask you, if legal aid is not able to provide these critical services to these residents in the zip codes which seem to have a high number of clientele, I think you mentioned to me that there are other organizations that would be able to provide these services. And would that -- would they be able to handle the extra workload so that we're not doing a disservice to the clients that are currently being served by legal aid?

>> There are other agencies here locally that provide similar services. There are the fair housing agencies and then there are housing counseling service agencies. Currently we are gathering data from -- we have not completed the gathering of that data to compare the types of services. Because they -- they're all different and collected, the information is collected in different ways. But we wanted to provide you a comparison, very similar comparison. And the number of clients that are being served or the number -- the clients that are being served by legal aid could very easily be disseminated through the other organizations. There is going to be more of a load on the other organizations, that's without a doubt. But there are other agencies locally that could provide that.

>> Councilmember Campos: So when do you plan to have that conversation with those agencies to find out if they can handle the additional workload?

>> There have been some brief conversation with other agencies that are providing similar services but not any involved conversations pending decision here today.

>> Leslye Krutko: And I think, councilmember, the answer is that the demands for these sort of services is that at a high level because of what's happening in the world today, and that you know, ideally if we had more money for these, we would be able to provide that. Right now we are fairly limited in how much money we have available.

>> Councilmember Campos: And I appreciate that and I think the reason we're asking these questions is you're right, there is a high demand more than ever now for these services. And I know when we had the study session about foreclosures, we were hearing about how the counselors weren't able to get to everyone. It's similar because we were talking about housing for people. I hope that as you continue to move forward on this and you meet with these different agencies that you could report back to the neighborhood and education committee or the appropriate committee, so that we can get updates on the efforts to be able to make sure that we're maintaining this service at the level that we are currently -- that the different sergeants able to provide it. So I don't know if you have any thoughts on that, Leslye.

>> Leslye Krutko: No, I think that's a really good idea and it's certainly a concern that has been expressed I think by others as well, that more money is needed for this function.

>> Councilmember Campos: So Leslye, what would be the appropriate time, or month, to come back to the committee with an update after we've been able to distribute this money to the agencies, and find out that -- whether they're able to meet the demand?

>> Leslye Krutko: Well, I think we'll be coming back on a fairly regular basis on the issues of foreclosures and what's happening there and we may be able to connect the two. Because it's the same agencies that we're working with, in that regard.

>> Councilmember Campos: So your time frame on that is --

>> Leslye Krutko: Yeah, I assume probably in August or so we'll be coming back.

>> Councilmember Campos: That's great, that's great. I think the last follow-up question that I wanted to ask is, I know that you mentioned that you're doing -- you're collecting data on the different zip codes. When do we anticipate that data being available to the council?

>> I would expect that to be completed by the end of this week, early next week. Because the agencies are work on it very diligently.

>> Councilmember Campos: And the last comment that I want to make is that I think you hear from the council that this is extremely important for not only, I think, us as electeds, but for the constituents that we represent. I've got numerous calls and then was -- as I looked at the data from legal aid society, on the zip codes that they were serving, I had quite a mound of numbers, and I think Councilmember Liccardo was first and I followed right behind him, in people and then it was easily distribute throughout the rest of the city. So this is an important service and if there is anything that we can do to make sure that agencies that are providing this service are made whole, so we could provide this to the community. I want to disclose that I met with Tony Estremera, and the union, thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, I wanted to chime in and express my concern, that my two councilmember colleagues have expressed already. I've known legal aid society for a long time, given the fact that they've served people who live in my council district. But what Councilmember Nora Campos pointed out is that legal aid society serves people from all walks of life. I appreciate staff trying to come up with a plan to introduce potential clients to different agencies around the city. I think that's a good plan. But at the same time, I think that when we serve these particular group of clients they have -- they form relationships over the years and what's really crucial for me is that -- to sustain that kind of relationship with staff at legal aid society. And that's why it raises such huge concerns for us when an organization like this doesn't fit our model and our criteria in terms of receiving the funding. So I'm hoping at any point when we have additional funding that this is one of the organizations that staff should look at and give consideration for the services that they provide. So that's in terms of the CDBG grants, I do have a couple of questions in regards to the rest of the consolidated plan, if you don't mind. On page 19 of the report, it talks about the dispersion of affordable housing units throughout the city. Again we are seeing a lot of that dispersion in council district 3 and 7. We talked about the dispersion policy lately, and I would like to see affordable housing units, spring throughout the district and not in specific council districts such as District 3 and District 7. I want to get staff's opinion in terms of where we are and what's the latest status.

>> Leslye Krutko: We are set to go to the CED committee next month, on that issue. I suppose it's supposed to be at the ends much this month. It's a fairly complicated issue and it really does overlap the general plan. So what we're going to do first is explain where housing has been built, where affordable housing has been built, so what it looks like right now. And then some of the planning areas going forward. So we're going to set the stage for the discussion. But we'll then be coming back probably again, once or twice more, and trying to link this to the general plan. Because honestly, where housing is going to be built is where we're planning for housing. And so if we are planning for housing in certain areas of the city, both affordable and market rate housing will be built there. And so we need to be able to show that. It's a much more complex project than we thought it was starting out. But we'll be starting that later this month.

>> Councilmember Nguyen: Great, thank you. Then just a final question. I know that the city and the county develop a really great collaboration, this issue of domestic violence against women, as the economy you know is taking -- continuing to take a downturn, we're seeing more of that, especially in the ethnic minority communities. I was just wondering, what is the City's plan in regards to addressing some of those issues? And that also brings into question some of the organizations that are being funded or lack of funding from the CDBG grant. Some of these organizations provide culturally sensitive programs in relation to language and other factors that are really critical for some of these individuals from different ethnic minorities. I just want to have an understanding, do we have any plans in terms of addressing some of these issues?

>> Leslye Krutko: With domestic violence, if it's okay to come back to you, I know the city has a domestic violence program that's greater than the CDBG's. That would be better, I'm not the expert in that area, for us to come back to talk to you about that.

>> Councilmember Nguyen: Okay, and maybe we can have an offline conversation or something. Thank you, Leslye.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I too, have received information from numerous organizations about the support of legal aid. I met with Tony Estremera, and the South Bay labor council has sent a letter of support for legal aid as well. I want to say to staff, these are challenge times for all of us in more ways than one. But the housing counseling project and the fair housing counseling provided by legal aid is so crucial at this time. I understand and support and respect the work that you've come up with. But I'm hoping to include some of Sam's concerns, in the form of a motion. I would like to move the annual action plan but would like to make the recommendation that, at the same time that legal aid is working to improve their financial situation, that at the same time, depending upon what happens in the pecking order, that other groups cannot use, that they be funded towards the legal aid group and then, of course, they would be able to go ahead and provide whatever they need to do. So Sam does that sound approximately what you --

>> Councilmember Liccardo: Could I just inquire, essentially Councilmember Pyle, are you saying that you want legal aid to be next in line?

>> Councilmember Pyle: If -- if -- yes, that the funds would be bumped up.

>> Councilmember Liccardo: I'd certainly be happy to support that. I would just as soon inquire, if Leslye could comment. I'm not sure how that may impact guidelines that we currently employ.

>> Leslye Krutko: Yeah, I think that if we can resolve those financial concerns, I mean, clearly they've provided good service. So that has not been an issue. But if we can ensure that as an organization, they're able to be financially secure and we wouldn't be giving them funds and they couldn't continue, then I think that would be fine with that. That's really our concern.

>> Councilmember Liccardo: Okay, I'd be happy to second the motion.

>> Mayor Reed: We have a motion on the floor. I have about 20 cards from the public who want to speak. I'd like to take that as soon as we can but we still had a couple of councilmembers who had a question or comment. I'll take that, Councilmember Herrera and Councilmember Chu.

>> Councilmember Herrera: Thank you, mayor. I will support the motion that was just made. I just want to say disclosure, I met with Tony Estremera from legal aid. I want to echo the comments of my colleagues that this is a very important organization, and support to the community and the kind of Services that are provided. I think we need to take a look at how we can account the funding on this organization. So I look forward to hopefully having some additional funding come in and see some of the concerns addressed in terms of the audit situation, and hopefully, this moves forward. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you. I want to disclose that I have met with Tony Estremera, actually, I meet with him on a regular basis. We both serve on the water commissions. My staff has met with Donna sparks, the regional director of local 2320 and Alicia from the legal aid society. I have a question for you Leslye. My understanding is that other agencies that are providing similar services will only provide services to U.S. citizens, whereas, this legal aid society is pretty much open to everybody. Is that a true statement?

>> I am not familiar that the other agencies provide only services to national citizens.

>> Councilmember Chu: Okay, great, thank you, that answer my question.

>> Mayor Reed: Okay, we have a motion on the floor. There are four items that staff had recommended with the modification added by Councilmember Pyle to try to fund legal aid, next in line. So I'm going to take some public testimony now. Please come on down. I'm going to call your name. So you're close to the microphone. Rod Chydev, Oriencia Alva, Victor Gwendolyn. You can stand or sit while you're waiting.

>> Hi, good afternoon, council. I just want to say, I'm going to defer to the staff legal aid to work with city council in terms of how we can keep them alive. I think the main thing I wanted to say was that we need to preserve whatever life lines we have for the City's most vulnerable populations. And that's exactly what the legal aid society has done for decades. I'm speaking of someone who is referring, from my organization, Silicon Valley debug, they are the most important civic actors that we need right now that are protecting people's rights in terms of housing. And I just want to paraphrase what Councilmember Constant said earlier, that this is an issue of timing. Given the housing crisis, there could be not a more harmful time to cut institutions that are protecting and advocating for homeowners and renters that are an inch away from becoming the next generation's homeless. You know, our concern on the streets isn't just this current economic climate, the real fear is, what will happen in the recovery, and who will be left behind? If we cut these life lines, there will be an entire segment of the most vulnerable populations that will not be there with us but out on the streets. I hope you honor the good work these people do because we depend on them more than I think the council even knows.

>> Mayor Reed: Aurencia, Alicia Carbadol. I know some of these people have left. Step up to the microphone. Give me your name. So I know who's spoken.

>> Victor. Good afternoon, council. As a former client of legal aid, was a client, I still consider myself a client, I see the issue of legal aid, and the services that they provide to the community are real important. For me, San José, from the community, and I've seen and I refer a lot of people to legal aid. And I know that it was mentioned that other organizations can provide services for legal aid members. But the truth is that legal aid has built a relationship with these clients, not just that relationship, but it's that trust from other people that have gone there, that have received services, and they keep referring people to legal aid. So legal aid in terms is essential, is essential to people of unrepresented ethnic minorities in the community. It's also important that we take in consideration that referring people to other organizations will actually cost people to fall in between the cracked. In other words, people will not be able to trust other organizations, because they just said a long time, it takes time to build that relationship. Also, as the economic crisis that we're facing right now, you know, it's hard for people to find a place where they can trust. So to what my point is here, that legal aid has built a trust within the San José community, the communities of color. Taking the funds away from legal aid is basically pushing all that community away, marginalizing more than it already is, okay? Thank you.

>> Mayor Reed: Aurentia Arva, Moses carbadol.

>> Aurentia was going to get the children, she was waiting all afternoon. I have been working in legal aid from 1987 and one of the oldest employees that are in there. And through all this year we have been provide service to the most vulnerable people. My clients, the first thing they ask me, if this is a federal government building, because see, when they hear my client, my community, it's I have some problems to believe that because of the funding situation, they receive federal money, they do not take undocumented people, and I said you know, we have a lot of community that are undocumented. It doesn't mean that the children there in city center registered to vote because they're 18 years old pop but the father and the mother are undocumented, they're afraid to go, not because they're afraid, because they can't provide the service. I working every day, my clock sometimes since 7:00, one of my children, call home and say mom, it's time to come and go home. I don't have a car. I can't afford it. I live in Downtown San Jose, three blocks from here. It is a poor neighborhood. I saw people living in the basement, I see people living in the garage, paying \$1400, for infected, mice and rats and roaches. It's so hot inside, even making a call to the code enforcement for them is called the government. And it's so hard for them to trust the government. So I making the phone call, I call the code enforcement. 90%, the code enforcement employee spoke to that excellent. But it is so hard for them to work too. So my work after 7:00, every day is so hard. And also I volunteer for immigration, every afternoon, Wednesday and Friday. After 5:00.

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

>> Thank you.

>> Mayor Reed: Moses Avilas, (saying names).

>> Good evening Mr. Mayor, my name is Moses Avila. I work for Silicon Valley debug. I just say don't cut legal aid. Don't cut it.

>> Mayor Reed: (saying names).

>> Good afternoon, members of the council. My name is Fred Hirsh. I'm on the executive board of plumbers and fitters local 393 and I do quite a bit of work as a delegate to the South Bay labor council. Right now in my union, we're face going 30% unemployment. We have many members, I don't know the exact number, who have been unemployed up to a year already. People who work in residential housing construction. And you know what that situation is like today. I've been associated with the work of legal aid society over many years. And at this point, I'm sure that many of our members are seeking answers, to problems that are without solution for them. They have to work through a maze of regular -- of the agencies, and it's a challenge that is aided by the legal aid society. It makes a difference, often, between holding a family together and dispersing it with shopping carts. That's where they fit in. And that's where more and more residents of the city are fitting into the economic picture. It would be a shame, it would be -- it would be a disgrace if the city were to allow these services to be taken away from the people today. Thank you.

>> Mayor Reed: Mavis Wallace.

>> Thank you very much. My name is Mavis Wallace. I work for legal aid in the housing unit. I've been employed there for the last 13 years. It would be a real big hardship on the community if you close our agency. We're the only agency that provides unlawful detainer clinics five days a week. We provide tenant landlord law, educational seminars, provide referral list for emergency shelters and the food bank. The bottom line is our workday never stops. I go to the store, out to lunch or shopping on the weekends, I always run into clients that still need our services. I am the community. The community is me. Thank you. [applause] Milforward Reynolds.

>> Good afternoon, my name is Milford Reynolds. I'm a private attorney. I've had a legal relationship with the legal aid society of Santa Clara County since 1998. I was first an independent attorney on their conflicts panel until 2005 and then I've been referred case of from legal aid that they continually handle. And was probably the biggest case that I received, I filed a lawsuit on behalf of 37 Spanish speak tenants against the landlord they had that was a very large apartment complex where there was -- it was cockroach infested, rats, there was gang activity. When we reached a settlement of the case, one of the things that we negotiate with the landlord's attorney or it was his insurance company's attorney, we took steps to eradicate the gang problem, that the gang graffiti would go away, any gang activity the police would be immediately notified and actually made all these tenants feel safer in this complex. I've been referred a lot of unlawful detainer cases from legal aid, probably over half of them I've done pro bono simply because theories people who need help. When I was on the criminal conflicts panel I know people who were arrested and charged with crimes automatically had the right to a criminal attorney to defend them. But people who have been thrown out on the street who have done nothing more than lose their job have no representation at all. Legal aid provides that. You have heard from legal aid employees who have talked about the dedication. I can personally attest to Ms. Carbahal's dedication. With respect to this one specifically lawsuit she and I met on more than one occasion on the weekends on her own time for her to translate from English to Spanish and Spanish to English, we even spent one Saturday, we went to this apartment complex, the tenants let us look in, we took photographs, we photographed the place, in order to make a case to file a lawsuit to help these people out. The last legal aid case referral that I got, I actually did the work pro bono, paid the filing --

>> Mayor Reed: Your time is up.

>> Thank you.

>> Mayor Reed: (saying names).

>> Good afternoon, mayor and council. My name is Javier Rodriguez. I want to thank the landlords who are sticking arounds. We do service landlords also. A lot of people do not know that. My name's Javier, the vice president of legal assistance workers. Let me try to summarize quickly as possible for time. Legal aid provides legal services in the areas of tenant and landlord rights and housing. Including but not limited to three day notices, 30 day notices, lockouts, unlawful detainers, habitability, deposit and foreclosures. In fair housing, we counsel, investigate and conciliate case of race, color, national origin, familial status, disability, sexual orientation, source income, religion, age and sexual harassment. We are the only agency that provides walk-ins, legal housing assistance 5 days a week. And including referrals by the San José police department that we quite often get, that's okay. We provide that assistance in English and in Spanish, five days a week, nobody's ever turned away. It could be anybody from San José either the east side, the north side, the west side the south side. They come in, they will receive legal assistance. We've provided this service for over 15 years. We distribute quarterly over 3500 fliers to all our community agencies, local colleges so everybody knows about legal aid. We conduct three educational seminars per quarter, three tenant seminars, three landlord seminars and three fair housing seminars. We also conduct educational outreach at the churches, schools, and community events many times on weekends, late in the evenings, they call us, we'll go.

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

>> Thank you, Your Honor.

>> Mayor Reed: But coming right after you is Tony Estremera. He's going to cover anything you missed I'm sure.

>> Thank you, Mr. Mayor, in two minutes or more. Just to explain unlawful detainers, you got unlawful detainers, you have three days to respond. They take priority under criminal case in the courthouse. When people get notices they're not going to call the housing authority or anybody else and find out who is in charge and who's taking over for legal aid. They're going to come to legal aid. They're goggle find no one there. Unfortunately under our collective bargaining agreements I'm going to have to give notice to five people that they're being laid off. I don't like to bring this matter to your hands but as a volunteer public official I know how tough this is. I'm asking you to get into the weeds, I'm asking to you redo some of the work the staff has already done. But they've already done their work. And as I expressed in my letter that I dropped off on Friday I don't know what they're talking about with the audits. They fund people that have had half of the rating that we have, they fund people that have 4% -- doesn't make any sense to me. We've met with them, I met with them the day when they put out the recommendations, that's when they said we're not going to recommend you for refunding. We haven't talked since then. I'm more than willing to fitting out but there's not time left. Somebody here is going to have to stands up and represent our clients. That's your job. I hate to put it in your hands. I understand it's tough. But there's nobody to represent them. It's us, and it's you. So I hope you think about it. But unfortunately my staff isn't going to be around in April. It's not going to -- I mean in August. My staff isn't going to be around at the June -- after June 30th or the 28th or whatever the last day of June is. That's when our contract ends. I have no other choice. I can't wait for Obama. I can't wait for General motors. I can't wait for Citibank. That's where we're. So unfortunately you have to drop that in your hands. Thank you.

>> Mayor Reed: Sorry. Tony, Guy caputo, Donna Borts and then Juliana.

>> I am not employed by legal aid. I have a contract with them that ends June 30th. I have no financial interest in being here this afternoon. I was the housing attorney for legal aid and I supervised the fine people that have talked before you today for eight years. Two things, they are familiar with the community, they have the experience to handle thousands of cases, they don't need to reinvent the wheel. I might challenge you all to do one test. Have yourself or your staff call around to all the other agencies that you expect will cover the housing issue, tell them that you just had a notice to vacate, an eviction notice posted on your door by the sheriff, what do you do? I can tell you, you go to legal aid, legal aid will talk to you, they have for years prepared packets to help people go down and obtain from the court a stay for 40 days. It's ready to go. Same with the unlawful detainer. They get served on a Thursday, somebody gets sick, they come in on Tuesday, Friday, Saturday, Sunday, Monday, Tuesday they have to have an answer. If they need an answer filed that day, they'll get an answer filed that day. And occasionally I have assisted as Milford Reynolds has as a pro bono attorney, to stop

some evictions, either because of the business as usual attitude with these banks with foreclosures, nobody wants to hear anything. They're not very careful about the law. They're not always careful about people getting their rights. And we show up, case is dismissed, they'll have to refile again, give you a chance to talk. But you'll find out that many of the suits filed here in San José were filed under the auspices of attorney firms that are hired in Southern California, that basically do these on behalf of the banks, basically on a mill process. They don't care. We talked about justice when we pledged the only justice you have in San José --

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

>> Is a bit late. Thank you.

>> Mayor Reed: Donnis Borks followed by Juliana.

>> Good morning, I'm Donnis sports I'm the West Coast organizer for the UAW local 2020, national offerings legal services workers. We represent legal services workers at over 100 programs across the United States. Our members don't know how to make cars. What they do know how to do is provide quality legal services that they've been doing under this program, with grants from CDBG, since 1991. They also, legal aid has been existence in San José for much longer than that. This is not a new startup company that we're wondering if they can make it. They've made it through hard times before, they'll make it through hard times again I suppose. I want to let you know we have four people who work here whose jobs are on the line. And just like Tony said, it's not something we can wait and maybe Obama can take care of next year. We have four people who have all worked there for over ten years, two of them over 16 years, dealing with the clients. They've built up those relationships, here in this city, they've -- and I think it's a big -- we talk about trust that they've built up. But it's a lot of trust to take and say maybe this, maybe there will be some funding down the line. Let's wait and see. That's not the kind of trust we can have. This is a program that needs to survive and needs to survive now. Thank you. [applause]

>> Mayor Reed: Juliana.

>> Hi, mayor and councilmember. I'm in this dress because I was dancing today but I came over here for legal aid. I've been with them since 1991. They are my landlord, they helped me a lot, and they still help me. And please, please, support them. You know, because they do very good work. Like said, all my family, and my friends, we all go to them because they really good. Thank you.

>> Mayor Reed: Markel Adams. I'm not too confident about that last name. Carlino. After Janice Carolina, Jessie.

>> I'm Janice Carolina. When I came today I had a couple of clients who really wanted to be here and they couldn't, and I told them I would speak in their behalf to both the council and the mayor. Legal aid society does a lot of work with the housing authority of Santa Clara County, in regards to a problem with some of their landlords and client appeals in regards to getting their paperwork in time et cetera, et cetera. One of them is a single mom she has four children and last year she was diagnosed with a strange bloods disease that said she was going to lose her sight and she is losing her ability to write and she is losing her hearing. And so she couldn't manage to get her certification in on time and she was threatened by the loves her subsidized housing because she was unable to provide a written appeal. That took me eight days, Monday through Sunday to go through the HUD regulations and find out that indeed she has the right to do a verbal appeal. Right now, this lady, although still having physical problems, retains her subsidized housing with her four children. My second client is also a subsidized housing tenant. The landlord that owned her subsidized housing for ten years died. Someone who said they were the son took over the property and started collecting rent from my client. Housing authority realized they were dead, and the landlord threatened to evict my client who had six children. He was required to provide them proof new ownership it took us 30 days but that client also retains her housing. My clients have asked me to ask you, if not legal aid, then who? Thank you. [applause]

>> Mayor Reed: Jessie Dominguez. Annette prim, Andy Garces. Go ahead sir, let us know who you are so I can keep track.

>> My name is Jessie Dominguez. And I work in the community a lot. I do a lot of outreach. And throughout the years, I've been work out in the community, I've brought many people to legal aid where they have been served and helped. You know I came and I presented some names here of families that have been helped. You know, if not about any certain thing, it's about people. You know, these are people that every day they live in this city. The people are people that vote for you. People that when you run for office, you make promises to these people and these people are, you know, are people that need help. I'm not here to offend or to insult anybody. I'm here to plead that you support legal aid. It's a big supporter of people. It's all about people. That's what we're talking about. That's what people are here about to talk about people, the rights of people. I've been before city council, it's been a while since I've been here for different, many issues. But here I am, and I'm pleading with respect, that you consider not just out of compassion, but out of spirit of -- that you consider that these people need these services. That legal aid can present to these people. Like I stated --

>> Mayor Reed: Your time is up.

>> It's been years. Thank you.

>> Mayor Reed: Mary prim, Annette Kirkham, andes Garces.

>> Good evening, I'm Mary prim, project director for project sentinel. I'd like to thank you for your support of project sentinel in providing fair housing in the City of San JosÉ. We've been here for 30 years. We've provided services in San JosÉ, a full service fair housing agency where our services include housing discrimination investigation and enforcement, with the federal funding we also provide the City of San JosÉ with mortgage default counseling and the current market, that's our office is completely overwhelmed with the mortgage default counseling. We also provide market rate housing where we've made that available to the citizens of San JosÉ, project homeless connect that the city has every year. Additionally we do eviction and housing counseling. We are not funded for this particular service. Additionally we work with the city staff to educate landlords in collaboration with the law foundation of Silicon Valley, the code enforcement, rents and referrals and legal aid. We have the ability to maintain monetary ability for our clients. A case we have in San JosÉ one of the many that we have where apartment building manager was harassing the tenants in the buildings that were Latino with immigration. We investigated the case and we did file a claim on behalf of all five families and they were awarded \$45,000. Additionally, we served people irregardless of their documentation. We serve people whether they're citizens here or not. And lastly our agency is able to answer phones with a live person, doesn't go to a phone tree. So that is something the City of San JosÉ constituents can definitely benefit from. We serve all areas of San JosÉ and make a concerted effort to reach out to the under served and minority community. Thank you again for your ongoing support of our agency.

>> Mayor Reed: Annette Kirkham, Andes Garces.

>> I am Annette Kirkham. I'm an attorney with fair housing law practice. Funded along with Asian law alliance through CDBG. We provide legal representation, full legal representation to folks who have been victims to housing discrimination and predatory lending. We provide representation in state and federal court litigation, throughout the administrative process at the Department of Fair employment and housing and HUD and we also provide eviction defense in court to our clients. We participate with the City of San JosÉ with a don't borrow trouble Silicon Valley and we have a neighbor work certified mortgage counselor on site. We also are not legal services corporation funded, so we can represent folks regardless of their legal status. Thank you.

>> Mayor Reed: Andes Garces followed by Peter O'Reilly.

>> Good afternoon. First of all, my name is andreas Garces, I've worked with this organization for several years now, I've been in touch with legal aid and I see the work they do. Without the funding cuts since I became part of the nonprofit I see the first thing to go is prevention. So I want to speak for prevention. The kinds of work that legal aid does. And also, highlight the city here, just so I can talk about preventing homelessness in San JosÉ. You know legal aid prevent a lot of people from going homeless. So if you want to eradicate the homeless problem, it is better to have legal aids arounds to prevent people from going homeless in the first place. Thank you.

>> Mayor Reed: I have cards from Peter O'Reilly, Markel Adams or Kianta Noble. They may have gone. I have a motion on the floor, previously made by Councilmember Pyle. Come on sir, if you want to speak. It's been a long wait, I don't want to miss you. Please, we'll bring the podium down.

>> Thank you, good afternoon, mayor, and councilmembers. Legal aid have been helping me since last year, when I walk in, they all was give me quick answer. And save me a lot of stress. So I hope you can consider continuing funds to legal aid. Thank you.

>> Mayor Reed: Thank you. Anybody else that I missed? Okay, thank you, that does conclude the public testimony on this item. We have a motion on the floor as outlined by Councilmember Pyle. I'm going to be supporting the motion. I started out my private law practice doing a lot of fair housing work. I did a lot of landlord tenant work and I know how important the work is that legal aid society does. And they've done it very well for a very long time. We're a little short on cash but it looks like we may get some more funding from the federal government. It's on our agenda for next week. I'm hopeful that legal aid will be first in line with the motion and will resolve the financial issues and they'll be able to fund them so I'm going to support the motion. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. Leslye, I had some question, I understand there's rollover amount from year to year that we do apply to the next year's grant cycle. Is that right?

>> Leslye Krutko: We don't have such a thing as a rollover. What's happened, when the program first came to the housing department, we had a number of contracts that we worked through, and we disencumbered. So for the last two years we had considerably more money than we have today. Right now we have the allocation and then a small amount of other funds that we've -- that have not proceeded. But the amount of money this year is significantly less.

>> Councilmember Liccardo: So I guess my -- you can probably see where my question's going. Is there any reserve out there that's left? That's not encumbered?

>> Leslye Krutko: I think there are two issues. One is that in the administration area, because we have different pots of money, based on what HUD allows to you use. In the administration area, we do have some additional flexibility, because of moneys that we have moved around. So as an example we are funding one of our staff people with stimulus funds or will be as soon as we get those funds, instead of the community development block grant funds. Next year we will have savings in that account. But in other accounts right now we do not have additional funding.

>> Councilmember Liccardo: Okay. I guess what I was looking for was to see if there was any reliable source of reserves that could help legal aid until we get to the next funding cycle, not next cycle but the next decision with the ARRA money. Is the answer that there is no such money?

>> Leslye Krutko: The answer would be for one of their activities, are which is the fair housing, okay for fair housing, for fair housing we do have some funds that could be made available. But for the housing counseling we do not. In order to fund housing counseling you would have to defund somebody else.

>> Councilmember Liccardo: Right.

>> Leslye Krutko: Would I just caution, we have been directed as staff to look very carefully about the financial status of people we are awarding funds to, until we are confident with that, I couldn't fully recommend that we proceed. I'm happy to meet and see if we think we can quickly resolve those concerns. But that is based on the information I have before me, it's a concern.

>> Councilmember Liccardo: Okay. And am I right in believing, Councilmember Pyle, that this -- that meeting with legal aid was sort of part of the motion that in fact there would be some investigation to determine if we could resolve these concerns quickly? Yeah, okay, great. And of course, we're all very reluctantly supporting this motion, not because we -- obviously Tony Estremera and Lisa Carbahal and all the members of legal aid have performed extraordinarily in our community, that's true to the individuals I represent, some them spoke. We are

living in a time, while from Hirsh calls it a disgrace that we lose these services, this is essentially a zero sum game. If legal aid is funded, then a lot of people who are struggling through poverty in our group, they lose the funding and that is the reality of the decision that we're making today. So we will wish it were not that way. But I think those of us who are supporting this motion are doing so very reluctantly, knowing the reality. I do want to express my gratitude that we are fortunate to have three organizations, Asian law alliance, legal sentinel and legal aid Silicon Valley, who are providing these services and we'll need a lot more in the coming months and years. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. I want to follow up on the thinking process of Mr. Liccardo, Leslye. You mentioned that there is some money in the fair housing component currently right now that we would be able to fund some of the staff at legal aid, if the talks and the tools that you're proposing with legal aid to resolve this financial audit? Then we would be able to -- your CDBG money would be able to fund that particular component of legal aid, is that correct?

>> Leslye Krutko: The fair housing component.

>> Councilmember Campos: The fair housing, yes. So I'm going to press you on a time, because it really is crucial that we're able to be able to resolve this as quickly and as soon as possible. If there is hope that we can resolve this. And I'm confident that in listening to Mr. Semena and a lot of the speakers that work for the organization, that there is the possibility of resolving this. So I'm going to press you again to figure out what is the time frame that we could meet with them, resolve this, and maybe use some of that money to close the gap until we understand or to carry over until we understand what the American recovery act money can be used for, the guidelines. Because they end it in June. I mean, that's just arounds the corner. And we don't know when we're going to finds out the guidance and how long it's going to take you to recover, to solve the outstanding audit.

>> Leslye Krutko: That's a decision that the council can certainly make. I think we do have funding in the fair housing section. Again, we're just concerned about the financial -- financials. If we can buy a little time, and keep them going while we're working that out, I think that is doable.

>> Councilmember Campos: So that's doable. So would that mean that we would need to amend the motion to help them out a little bit, so that you can work these issues out, is that what I'm hearing? I'm trying to --

>> Leslye Krutko: We can do that. I think what would be helpful for us is to meet to understand how much time it's going to take to resolve some of these issues and whether or not they're quickly resolved or not. So --

>> Councilmember Campos: So then, would the motion be to move forward with your first four recommendations, and then amend it to come back to committee, or to council for the second part that I'm talking about, and that Councilmember Liccardo is talking about?

>> Leslye Krutko: Well, we would have to do a con plan amendment again, because we couldn't just decide later, we are going to submit this to HUD for approval so we would end up having to do a con plan amendment. So I guess my recommendation to you is, if you're seriously considering that, that that would need to be part of the motion.

>> Councilmember Campos: So maker of the motion, would that be possible? And I know -- seconder of the motion, would that be possible?

>> Councilmember Pyle: We just call that part B of the motion.

>> Councilmember Liccardo: I'm certainly happy to second that amendment. The -- I guess the question is timing. And Leslye, could you just give us a sense when you need to have something to HUD?

>> Leslye Krutko: Well, we have to have something to HUD in the next few days. So what I'm suggesting is if we want to, say for example to look at three months of additional funding, which gets us through the beginning of the

fiscal year, we immediately start meeting to see what we can do. Then we could do a con plan amendment in September, say, to add funding.

>> Councilmember Liccardo: Great.

>> Leslye Krutko: Otherwise, it will be hard for us to respond, because we have this May 15th deadline for submittal of the report.

>> Mayor Reed: Okay, we've modified the motion by friendly amendment as suggested by Councilmember Campos. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And Leslye, just based on what you said right now, so it appears that obviously, you have I think ten days -- the application has to be in, in ten days or the plan has to be submitted within ten days. So but when you indicate an amended con plan, that would be subsequent to that given whatever discussion or other information you have, you can submit an amended plan, but the important thing at least from your perspective now is to get a plan in by the deadline and then further discussions can occur subsequently?

>> Leslye Krutko: Yes, that's -- we have to get it in 5015th in order to get the \$16 million in funding. We can do a consolidated plan amendment after our plan is approved. It won't be approved until sometime this summer. That's why if we were to give ourselves a little bit of leeway, and work things out, then we could do a con plan amendment in, say, September.

>> Councilmember Kalra: And in addition to looking, you know, more closely at some of the criteria in regards to finances, are there any other avenues or -- in other words, the plan that's being submitted, are there other options for the funding to shift, as opposed to what is currently being recommended?

>> Leslye Krutko: At this point, not unless we defunded something else, no. That's only an option to provide funding for that one activity.

>> Councilmember Kalra: And in terms of stimulus, granted that's a separate issue but timing wise you're indicating when would we have more information as to whether that can be used for this purpose if we get X amount of stimulus dollars?

>> Leslye Krutko: I wish I had that answer. I don't know. Because HUD's already missed their deadline. So they were supposed to have that to us a couple of weeks ago and we're still waiting.

>> Councilmember Kalra: Okay. Well, again, as I think many of the councilmembers have stated, you know, this is the situation where we have a number of organizations that are kind of fighting for the same piece of that pie. And other worthy organizations, I'll say over a decade I've had the opportunity not only to work with Tony but many of the attorneys that have worked representing poor people, and primarily people of color and work class people, just as I did. And the reality is that although we -- I may have represented them in the criminal justice system along with legal aid attorneys or private attorneys, oftentimes there are so many other issues that are affecting them, that you sends them to legal aid and there is an umbrella of so many different services that are available, if there is a housing issue, there are other issues as well. As the mayor mentioned he's previously worked in the area. I was fortunate enough to work as a law clerk in landlord-tenant areas. The law they're facing is an up hill battle. There's more pressure for them to move quickly on some of these actions, and I just think it's critically important that legal aid society gets funded. So if there's anything I can do, anything that I'm sure other folks would volunteer as well, so facilitate that process, as we go forward in reevaluating some of that information. There are some intangibles that I don't know or believe that the process has to take into account. And that includes the degree of trust that legal aid society has built up, particularly with the communities of color and with disenfranchised communities. That's very difficult to put into an application, as well as all different areas that legal aid society has garnered trust over decades. I'll support the motion, as Councilmember Liccardo said, it's not an easy choice. But we have to move forward, and I think right now, it looks -- I hope it's pretty clear to staff that we all want to find a way to get legal aid society, get this program funded. So no jobs are lost, no services are lost, thank you.

>> Mayor Reed: I think that concludes the council discussion. We have a motion to approve the recommendations with the amendments. All in favor, opposed, none opposed, that motion is approved. That concludes the -- all the actions on the plan. Staff's got a few days to get it to Washington. We will move to item 4.5, that's a memorandum of understanding between the City of San José and Step Up Silicon Valley, the campaign to cut poverty. I think Leslye has a -- I don't know if there's a report on that, but we have staff recommendations. I would urge my fellow councilmembers to support this, since working with others we can have more leverage. Motion by Councilmember Nguyen to approve, seconded by Councilmember Pyle, all in favor? Opposed, none opposed, that's approved. 6.2 is airport food and beverage concession agreement. No additional staff report. Motion is to approve the staff recommendation. All in favor, opposed, none opposed, that's approved. That takes us to item 8.1, regarding the selection of the independent police auditor. There are two items. We will take the second one first. Having to do with my request to disclose some of the closed session discussions, and then we'll take up the process moving forward. But before we decide to go forward with the selection of the new IPA, I think the public deserves some sunshine on what has happened so far. And that's why I'm asking the council to allow disclosure of parts of the closed session discussions about the independent police auditor, from April 7th and April 28th. So that I can respond to two things I've been accused. I've been accused of not informing the city council that Chris Constantin had a brother on the police force. That's not true. Several councilmembers knew before April 7th that Chris Constantin had a brother on the force. Others did not. I found out about that after April the 7th, and I'd like to tell the public what I said to the council on April 7th. On April 28th the council considered a motion to allow me to reveal what I said about Chris having a brother on the force. I'm asking council authorization on that vote to be disclosed to the public. I've also been accused of manipulating the selection process to get Chris Constantin appointed. That is not true. Councilmember Constant and Councilmember Campos participated, and we were all in agreement on the top 8, top 4 and top 2 candidates. Chris Constantin was not my first choice. The week before April 7th I called Councilmember Constant to talk about the two candidates. Councilmember Campos and I agreed that the other candidate was our first choice. On April 7th the council interviewed two candidates. Before the council unanimously approved the Chris Constantin selection, there was a vote, not unanimous. I'm asking for disclosure of the votes of April 28th and authorization for me to disclose what I said on April 7th. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. Just a quick question for Rick. Rick, as I understand it, under California government code, the votes that we're taking on the 7th and the 28th are not required to be secret, as -- are not typically -- how do I describe this? Are not deemed to be secret proceedings for purposes of closed session, as the discussion might be. Is that right?

>> City Attorney Doyle: Let's go back. First of all, I'm not sure what votes you're talking about. Votes for certain candidates of the IPA?

>> Councilmember Liccardo: The mayor referenced, I think, two votes, really there were three. But the two on the 7th and one on the 28th --

>> City Attorney Doyle: What the Brown Act contemplates is reporting out an appointment of an official. So at the point in time that the city council selects an individual, that is a report out of closed session, and the vote of that appointment is reported out. It's not common if you don't appoint someone to report out that we voted not to appoint someone.

>> Councilmember Liccardo: Right.

>> City Attorney Doyle: To answer your question, it's not generally, the vote of what you didn't do in terms of not making an appointment isn't reported out. Once you've made the decision to make the appointment, that's what you report out.

>> Councilmember Liccardo: But the Brown Act, there's nothing that prevents the council from making that public?

>> City Attorney Doyle: No, no.

>> Councilmember Liccardo: Okay.

>> City Attorney Doyle: If the council, the majority of the council decide they want to do that, they can do that.

>> Councilmember Liccardo: So I'd like to make the motion to disclose the votes on April 7th, and 28th relating to the IPA. And just thinking --

>> Mayor Reed: Okay, we have a motion on the floor.

>> Councilmember Liccardo: If I understand correctly and happen to be correct on this there were two votes taken on the 7th and one on the 28th.

>> Mayor Reed: That's correct.

>> Councilmember Liccardo: Okay.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Kalra: Thank you. I just wanted to -- I was going to say almost exactly what Sam said, ask the question, make the motion, I'm happy at this point. I will be definitely supporting the motion.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I want to speak to the principle of closed session. There are certain reasons why sessions are closed. One of those reasons has to do with employees, whether they're in service at the time or whether they're applying for service. Would you agree with that so far, Mr. Doyle?

>> City Attorney Doyle: Yes. I mean, there is a reason why you're allowed to go into closed session and one of those reasons has to do with the employment of certain officials. And the reason it contemplates the appointment of someone being disclosed is because to require otherwise might result in embarrassment our didn't actually pick someone. So that's the reason. But there is nothing that precludes you from deciding amongst yourselves if you want to disclose it, to disclose it.

>> Councilmember Pyle: I'm worried about the slippery slope. And by that I mean, I'm a little embarrassed to have to say to the individuals that applied, it's going to be all out there. You'll know exactly how the conversation went, et cetera. I'm not quite sure I understand the mayor's proposal. And maybe that's what I'm struggling with.

>> Mayor Reed: I'm not proposing that we reveal anything about any of the individuals in the process other than Chris Constantin, which everybody knows about, that the disclosure of these votes would not reveal any of the names of the other candidates.

>> Councilmember Pyle: So it's strict the vote?

>> Mayor Reed: Yes, that's the first motion, the motion on the floor, about the votes.

>> Councilmember Pyle: Okay, thank you.

>> Mayor Reed: Further discussion or questions? Councilmember Kalra.

>> Councilmember Kalra: Yes, mayor, thank you. That the struggle in this discussion is that argument that could be made for or against the motion, much of that discussion may, and probably would, require reviewing some what happened in closed session. So I feel caught, you know, this is an appropriate discussion for closed session to discuss if it's going to be revealed, whether it be the vote or otherwise. And so I -- it's, you know, I haven't been in this situation before. And so it's really, at least putting me in an awkward position where I don't -- I don't understand how it's possible to discuss something in an open way regarding closed session, in open session, to decide if you're going to reveal something from closed session, without revealing things that were discussed in closed session. I hope I'm making sense with somebody out there. But I don't know if anybody else understands

my point. But it's just very difficult, and I understand the position that all of us have been put in, including yourself, mayor, through this process. I'm sure it's been I think a source of embarrassment for all of us. So that being said, it just seems like a more appropriate discussion for closed session to decide if anything done in closed session is going to be revealed. And then if it's revealed, it's revealed. And it can be done in a way that we deem appropriate, as a council. But you know, maybe I just need to learn more about the distinction between closed session and open session. But that's just a sense I'm getting and I don't know if anybody else also has that same sense.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Councilmember Kalra took the words out of my mouth. Rick, is this sort of a circular reasoning, opening up from our debate because much of that would be closed session discussion?

>> City Attorney Doyle: It's difficult, it's a fine line, you're right, it's difficult to have a discussion without talking about what was talked about in closed session, and yet you can't disclose that, until you vote to allow it to be disclosed. So if that's what you mean by circular, yes. But we've done it once before. It was the concept of whether we should release notes from a closed session in connection with one of the first soccer deals a few years ago. And the council voted to release the notes from closed session. But it is a difficult discussion. Because if you want to talk about what it is you want to disclose, you can't, until you agree to disclose it. In public, at least. You can have this conversation in public or you can have this conversation in closed session.

>> Councilmember Herrera: I just think it puts us in an awkward position because certainly, it's no -- I don't -- I'll speak for myself. I certainly believe in sunshine in wanting the public to have full knowledge of everything that we can provide knowledge of. But this issue, and I fully would want to debate this, and I feel limited in ability to do so, because S things I would want to say, I could only say in closed session. So I'm going to offer a substitute motion. That part B of this, which is to bring these to open, closed session to the vote, that we take this back to closed session and have that discussion first. In one week.

>> Mayor Reed: Motion and second? Motion dice for lack of a second. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. I think it's just important to know that what I say here is the same thing I say back there. And I have voted on this dais to record closed session, so that if we ever had a circumstance that it could be revealed what was said. I think to have that discussion in closed session is completely wrong. I should have this discussion in the open, so people know how I feel. And the reality is, we go to closed session for certain things. Sexual harassment, personnel issues, other items. But as much, it's my viewpoint, as much should be done as possible. So our constituents can hear what we're saying, rather than putting a PR face on it. The reality is, all we're asking to do is report out a vote. It's not saying anything else. It's not saying what was said. Just simply a vote that we as councilmembers voted on. Pretty simple. I would urge my colleagues to support the motion on the floor, simply because it's just a vote. A slippery slope might be more like revealing something incredibly more detailed. But simply the vote of how we voted on the candidates, I'm more inclined to do a lot more. But even if you have the argument that this is too much, this is really little. It's not much. And it would be -- the fact if anyone is listening to this argument would say that it's not the right thing to do, I think they would not understand. And I would just again urge my colleagues, the motion on the floor is very minor, it's very small, it doesn't really offer that much of the secret chamber that's green and has a large table that we sit around, thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. You know, we report out votes all the time so this is not ground-breaking. I agree with Pierluigi, I think we should be recording those sessions. There is reason for secrecy at certain points but almost always the reason for that secrecy expires at some point. Just because something was appropriate for closed session two or three weeks ago doesn't necessarily mean it's still appropriate to be a closed session today, this week or next month. I hope that after we have this vote in the future and we're reviewing our policies in our sunshine ordinance, we revisit the idea of recording closed session in all circumstances and have it available at least when the reason for confidentiality is passed. But like Pierluigi, I don't

say anything in closed session I'm not willing to say in open session. And I think that's something that he and I are both proud of. And I don't think revealing this vote in any way diminishes the value of closed session.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to ask the America of the motion, what are we trying to accomplish by revealing this vote?

>> Councilmember Liccardo: I received an e-mail today from Raj Devia from Silicon Valley debug indicating that ACLU and other groups wanted more information made available about the selection process before we go forward. It seems to me that a lot of people have questions, a lot of people do and we ought to be willing to make at least this very modest step to be able to clear the air about what the votes are. And I don't think any of us are ashamed of our votes in any way. Let's just disclose them.

>> Councilmember Chu: I understand. They were probably not curious about the process. Did they specifically ask for the vote?

>> Councilmember Liccardo: Well, I think the e-mail went to all of us. I'd be happy to read it. They obviously made an extensive document request. But I think implicit in all of that, they say they want the hiring process, the IPA postponed until all necessary discussions and documents from the last hiring process be made public.

>> Councilmember Chu: Are we going to do that?

>> Councilmember Liccardo: Well, if anyone wants to disclose all the discussions in closed session in this, I'm happy to support that too. What we have is a very modest motion, because it's not obviously that we'll be able to get there, get the six votes to do it. If there are six votes I'll be happy to vote for it.

>> Councilmember Chu: The intent of the motion is to satisfy the people from debug and NAACP?

>> Councilmember Liccardo: No, the intent is to provide sunshine in an area where there has been considerable on security. And I'm concerned about closed session secrecy being used as a shield and a sword. And it seems to me that this has been a hugely controversial issue for lots of reasons. And at the very least we owe the public at least to let them know how we voted.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: I'm going to support the motion. I think this is a pretty simple task. It's just to report out the votes. And I don't mind that people know what I vote. That's a pretty simple task, that's what we're here for, I'm more than happy to support it.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I'll be supporting the motion as well. I think that the votes that were a little different was the first vote, and I think that's probably the information that we're asking to be disclosed, was the first vote, and the second vote on the 7th, and then we know pretty much what the vote was on the 28th. I'm just hoping that since we didn't have an official recorder from the attorney's office in that, that we capture the two votes accurately, so that we can disclose the information accurately to the public.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I have no problem revealing what the vote is. And I don't say anything in there that I'm not happy to say about that issue or any other issue. It's not just Councilmember Constant and Councilmember Oliverio that are that way. You know, I have no problem revealing that. My questions about process and there is a significant slippery slope issue because next time what if some other councilmember feels next time that there was something misinterpreted by the public, do we vote on that and do we vote on that? It is my opinion that personnel issues are to remain confidential. I posed the motion, because I

have no time debating when the appropriate time comes, when we should and should not reveal closed session. We're abiding by the rules. If those rules are something different than people want, that's for another day. Today we are dealing with one issue. My issue that I indicated earlier, any discussion that reveals closed session, any real decision about whether to do it or not reveals closed session materials. That's the lawyer in me. I brought it up, it's not to hide anything, but I want to make sure what we're doing is both legally and policy wise, to make the right decision, when we're following policy. I have no problem people knowing what I voted. I don't think that's the issue. I think there's an underlying issue whether we are going to have this debate when issues like this come up in the media or somehow come up or brought up in the media by folks on the dais and then we have to respond to them because there's a reflection on what happened in closed session that shouldn't have been out in the media to begin with. So anyway, I'll just leave it at that, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I have no problem with highway voted being revealed. I have a problem with -- I had a problem with the process. And being able to debate this and I'm not a lawyer but it just struck me that we can't discuss everything around this in public. There's more to it than the vote. So I am fine to support releasing the vote. I think there's things that aren't being discussed, though, that do pertain to it. So it is not giving everybody the full picture.

>> Mayor Reed: Okay, I think that concludes the council discussion. I have three cards here people that want to speak on the IPA process but I think it's on the next phase here, the going-forward phase. So call those later. So on the motion, to authorize the disclosure of the votes on those two dates regarding the selection of the IPA, all in favor? Opposed? One opposed, Councilmember Pyle. Okay, on that then the council has authorized the disclosure of the vote. On April 7th there were two votes taken regarding the selection of independent police auditor. The first motion was a motion to appoint Chris Constantin as the new independent police auditor. That vote carried on a 7 to 3 vote with Reed, Chu and Campos voting no. Vice Mayor Chirco was absent. The following discussion, the matter was reconsidered and the vote was unanimous, in favor of appointing Chris Constantin as the new IPA with Vice Mayor Chirco absent. April 7th. On April 28th council considered a motion made by Councilmember Liccardo to allow the mayor to disclose that the mayor stated in closed session that Chris Constantin's brother was a police officer. That motion failed on a 4-6 vote with Reed constant Oliverio and Campos voting no, and Vice Mayor Chirco absent. For discussion of the process going forward, selection of an independent police auditor, on that council has three memoranda on the process going forward. And I'd just like to start with noting that there are two informational memoranda about the process looking backwards. The first is an information memorandum that I did on October 28th of 2008 indicating the process that we would follow, model along the lines of the process we'd used for the City Manager and the City Auditor's recruitment. On April 21st, I issued another information memorandum about the process we just went through, with the selection of the IPA with the time line of doing that and disclosing that members of the council panel, that was myself, Councilmember Constant, and Councilmember Campos and former member Forrest Williams. Along with the names of the community members who participated in the interview process, Rick calendars, Victor Garza, JosuÉ Garcia and others. I want to take the time to thank those members of the community for taking the time to interview those IPA candidates. As you all know, we're going to consider what to do going forward. That's the question in front of us now, that is 8.1. And if on reflection of what has happened so far in the process, I've recommended that all decisions that need to be made should be made by the entire city council, and that closed session meetings will only be hold to interview the individual applicants in order to protect the confidentiality of the applicants. I think that allows us to maximize the public participation and transparency in the process. This is a unique position, with unique issues, and I think having the entire city council engaged in the process is the best way to ensure that everybody has the same information and that the entire council is engaged in the process going forwards. And I've made those recommendations and a way to go forward in my memorandum dated April 28th. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. After reading the various memos on the subject, I really think that your memo gives the clear direction of where we should be going. I think it's important for everybody to remember that this is a council appointment, and it should stay with the council. I do have concerns with the other memo. The other memos that were put out, particularly in delegating our appointment process to another council appointee. I really don't think that is a reasonable or prudent thing for us to do. I think that there are some ways

that the process can be modified and amended, so that it can be improved, and I think you have done that in your memo. And I would like to make the motion that that be the direction we go.

>> Mayor Reed: We have a motion and second by Councilmember Nguyen to set the processes described in my memo. Councilmember Chu.

>> Councilmember Chu: Thank you Mayor. How many candidates would you consider of the top tier candidates?

>> Mayor Reed: I think that's something the council would have to decide. In the last round we had eight. But it could be six, it could be ten, it could be 12. It would really be a decision to be made by the council.

>> Councilmember Chu: Okay. Speaking from my school board experience, I did have the experience of choosing two superintendents for the Berryessa school district. During the first phase of the application process, we secured a recruiter and he reviewed the applicants. But we also give the school board member, in this case can councilmember, the pool and we give the option to pick anybody from the pool. Even though it's not suggested by the reviewer of the recruit.

>> Mayor Reed: That would be what I would anticipate we do.

>> Councilmember Chu: Okay, because it doesn't state that clearly on this memo. I wondered if you would take this as a friendly amendment.

>> Mayor Reed: Oh, certainly. I think the council collectively has to decide how to do that.

>> Councilmember Chu: Okay. You think that should be the next discussion item, we would be able to just include it in this motion?

>> Councilmember Constant: I think that's the spirit of my motion. That's my understanding of how it would work.

>> Mayor Reed: I would certainly agree with that.

>> Councilmember Chu: I'm sorry.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: So maker of the motion, I know you've read the memo. From what I'm hearing, is that the council will receive all the information at the same time, not one particular office will receive information ahead of the full council hearing information. Is that correct?

>> Councilmember Constant: Yes. My understanding of the mayor's proposal is, if you look in the section here, the council will approve the criteria for screening the candidates. The recruiter will review all application and review the criteria, and the recruiter will present those to us, the city council in executive session.

>> Councilmember Campos: Understood. Who is going to select the consultant? Will we receive that information all at the same time and be able to have that discussion openly or does it go to one particular --

>> Councilmember Constant: In the previous paragraph, the city council at a regularly scheduled council meeting should consider a recruiter. Again that would lie with us as a council.

>> Councilmember Campos: Would we be directing our human resources department to bring a consultant forward so we could interview or evaluate them so we can select someone?

>> Councilmember Constant: I believe that's the intent by the language of the mayor. I would like to clarify, that's my understanding.

>> Mayor Reed: We've done that in the past, we've had multiple consultants considered by the council, and the council makes the decision.

>> Councilmember Campos: So the human resource department would bring those forward.

>> Mayor Reed: Yes.

>> Councilmember Campos: That's helpful. Those are all my questions at this point.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just wanted to ask. I've only heard from one individual who wanted to submit an application. So the question is, can we take new applications?

>> Mayor Reed: My proposal is to -- first, you'd have to check with the people who have already applied to see if they're still interested. If there are other people that want to apply that that would be open, reopened for additional applications. Until some point, I'm not sure exactly when the council wants to say, okay, that's it, that would be a decision for the council to make.

>> Councilmember Pyle: Okay, thanks.

>> Mayor Reed: I will say that I know that some of them are still interested but that's a question have you to go back and ask everybody, I think, that might be interested in being in the pool. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, I wouldn't be surprised if the candidates are not interested anymore. But I mean, I do appreciate, mayor, the memo, it does incorporate a lot of the concerns and a lot of the items that five of us put into the April 21st and subsequent memo regarding the process. And the memo indicates that you are listening to the concerns of many of us. Some of the issues that we take up can be how we determine the top tier candidate and so on. Whether the office reviews it or we do, the main idea is it is a process that can be trusted. I think your sentiment that the entire council, as open as can be in that sense, my feeling, and in having the attorney do it, was to just make sure that all the legal ramifications are taken into account. But I think that we can always refer questions to the city attorney's office. The main concerns I had were -- appear to be addressed for the most part which include the opportunity for other individuals to apply, if they -- if they desire, a determination of what the makeup the community panel would be. I know there was a three different community organizations, as well as law enforcement. I know that the police officers association is indicating interest of having someone from the local organization be a part of it, and those are all the issues that I think are important that need to be discussed. And also, what Councilmember Campos indicated to allow all of us to make determinations as to the viability of the candidates in the interview process, and that includes the selection of the firm that will be helping us through this process. So if it looks like we've gotten in a direction now where at least the concerns that to me and four other of our colleagues had and put out there now, are being addressed I'm confident going forward we can have a system that everyone at least for the most part can feel very confident and know that it's open, thank you.

>> Mayor Reed: The request from the public to speak, we'll take the testimony now. George beattie, George is going to pass. I see Cora.

>> Fred de senior. I was here last night. National association of La Raza. Getting some others to apply, having people in the panel, I hope that's true, what I heard. I had the impression this was a done deal, a setup, a coverup. If you want to clear that up, one thing you want to do mayor, recuse yourself from being a leader on this. I also talked to the chief about thinkth perception, he said he didn't want anything to do with this, and if that's true he should recuse himself too, thank you.

>> Mayor Reed: Socorro Mccord. Any other public testimony? We have a motion on the floor. All in favor, opposed, none opposed, that motion is approved.

>> Councilmember Constant: Mr. Mayor, before we move on --

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Before we move on in your opening statement I thought you asked for two things, and we were going to handle them in separate vote. We handled one and went on. I want to make sure we handle both things that you wanted to address.

>> Mayor Reed: I had two things, one was the disclosure of the vote and the second was authorizing me to disclose what I said in the closed session. But I think that the disclosure of the votes adequately gets the information out that the public needs to know. And so I'm willing to let the vote stand, as taken. With the disclosures that were made. Unless somebody else wants to -- unless somebody wants to make a motion. We will move on.

>> Councilmember Constant: Well, if it's something you've fine going ahead with, I guess I'm okay with it. But I guess I personally feel that there is something we should do, I might make a motion as I'm doing talking here. But I'm really concerned, and this is not the first time this has happened. This is a frustration that I've had, but this time it happened to a much larger magnitude, greater magnitude. But as a councilmember, it's very difficult to be confronted with allegations of what you said or did in closed session, and then you can't defend yourself because you can't say what you said or did in closed session, because of the necessity to keep closed session confidential. I think in this case, Mr. Mayor, you are done a great disservice where there was a significant media shot taken at you for something that you didn't deserve. And I don't believe that you did. And I think that it's very important that you have an opportunity to clear the air. And I think -- and it's another reason why I say, and I will be bringing this back at some appropriate time, that we need to revisit our closed session policy as it relates to sunshine. So I'm going to make the motion and hopefully someone will second it, that the mayor be allowed to disclose the comments that he made in closed session in order that he can answer the allegations that have been made against him.

>> Mayor Reed: Okay, we have a motion on the floor. That's the second part of the discussion about disclosure of closed session. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I will not be supporting the motion. Because if we pass this motion, then it sends the message that -- and it goes to the vote that was taken on the 28th, that I believe was made by Sam Liccardo, which I think was 6 to 4, there are several councilmembers that did not hear, or don't remember, or I'm trying to be as broad as I can, the mayor did not say that Chris Constantin's brother was a police officer for the City of San José. And so if we're going to disclose that, then we in fairness need to be able to disclose the whole conversation that took place in that particular session.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you Mayor. Again, if we're just going to go bit by bit, and reveal little information, I mean, I think it's appropriate discussion to have in closed session to decide if we're going to reveal everything or not. Otherwise, there's already -- there's already an impression against all of us, that -- I have to be cautious what I say. I can't reveal anything we voted in closed session because we haven't voted on that. So my concern would be that those of us who may have a different recollection are -- they're not allowed to speak on it. So either we all speak on it, or none of us do. And again, I think it's a better discussion to have in closed session because we can talk about the details of the merit of whether we do or not. And so that's -- that was a discussion -- that's a discussion that I'm having difficulty even talking about because I don't want to violate the rules. And so again I think it's a more appropriate discussion to have in closed session to decide if we want to do that. But rather than revealing what one person said without having an opportunity for all of us to reveal what we either said or heard or did or wrote or what have you. And so that's the trouble I have with this motion, is that it's -- it's clearly being put forth for a purpose, but the purpose, I don't think, serves the public interest unless we all have an opportunity to discuss it more fully and that's a appropriate discussion for closed session, to decide if we want to discuss it fully in open session rather than just, again, one piece of the puzzle.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just inquire, Councilmember Constant, would you consider a friendly amendment that we allow all councilmembers to --

>> Councilmember Constant: Yes.

>> Councilmember Liccardo: Thank you, I'll second it.

>> Mayor Reed: So the motion is amended to not just allow me to speak about what I said, but to allow all councilmembers to speak, as to what they had to say. So Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I just believe that the appropriate time and place to discuss a policy or viewpoint on closed session should be done here on the dais in the public and that the merits of it pro or con shall be debated publicly. So I will be supporting the motion, thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: So I will retain my comment, now the motion on the floor is to -- everybody to disclose what's been said in the closed discussion?

>> Mayor Reed: Disclose the discussions, plural.

>> Councilmember Chu: Okay.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Councilmember Herrera made a substitute motion earlier, she didn't get a second. Maybe I wasn't paying attention or I didn't hear it but I'd like to make a substitute motion that we bring this back and have a discussion in closed session so that we can have a fuller discussion in terms of who said what and if we want to bring this out in open session and have a fuller discussion so we can clear the air. But I'm not ready to vote today to have a full discussion. I think it can be said both ways, I think that the mayor's image has been damaged greatly with the reports in the media, and I think that's really unfair for him. But at the same time, you know, if you flip a coin then other councilmembers, some of the comments they made, that they didn't hear that mayor disclosed that Chris Constantin has a brother on the San José force, police force, that's also damaging for them, too. So I think that there's a lot at stake here and we need to be extremely careful of how we move forward with this. So I think that I will feel more comfortable if we have a full discussion in closed session. So that would be the substitute motion.

>> Councilmember Pyle: Second.

>> Mayor Reed: Okay, we have a second, a motion and second, substitute to have this -- refer this discussion to closed session. Councilmember Constant.

>> Councilmember Constant: Well, I don't think it's ever good to have a discussion about sunshine in closed session. And that's exactly what this substitute motion is all about. And I know some you are watching at home or perhaps on cable and you can have a little TIVO, you can rewind it a little bit. I just want to point out that just a few minutes ago, Councilmember Campos made a comment about what happened in closed session. She said the mayor did not say that in closed session, just like it was said in the paper. And it's not fair to take a shot and then say but you can't answer it. And so there was just a disclosure made about what happened in closed session. Whether you believe it's accurate or not is a whole 'nother story. If that can be made, if you can go to the Mercury News and have it printed and have hundreds of thousands of people, hopefully they have that many readers, hundreds of thousands of people, yet you about king's X and nobody else is allowed to talk about it. I think that's terrible, it's not right, discussions of the sunshine belong in the open, not in a closed rooming, where no one can hear unless they're recorded and they are discoverable at another point. I urge my colleagues, this is not the way to go, do not vote for this motion. It is not fair for any councilmembers out here, the horse is out of the barn. We can't just close the door now, we have to continue this conversation in the open.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. I'm glad you brought that up Councilmember Constant. Before I made a comment to the Mercury News, I consulted with our legal counsel. I believe the mayor and you had already made a comment. And I'd like that to go on the record. So before I said anything, it was after the comment that the mayor had made, publicly, and yourself had made publicly.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you. I will be supporting Councilmember Nguyen's motion. I think the bigger subject is whether we should be recording in the closed session or not. I mean, again, I question what do we chief by keeping disclose more and more during this conversation? I will be supporting the substitute motion.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Again, the policy discussion is a different discussion. I've not made any decisions since I've been on council that has discussed policy or not. All I know is there was information revealed from closed session, that was surprising to me because I thought that that was not supposed to happen. The fact that that happened, is what caused all this. If that had not occurred, there wouldn't be a discussion of whether you reveal anything in closed session. If there are rules as to why things are in closed session, those are rules. If you want to talk about changing it, let's talk about changing it. But I don't agree that we can have a full discussion about whether we revealed something in closed session in open session. Because by nature, you're going to reveal things that happened in closed session. And in closed session, there's a lot more that all of us can reveal as to the merits of whether, on this issue some it makes sense, whether it's more hurtful or harmful for all of us, moving forward and trying to select independent police auditor to discuss it. And to say that, you know, to conduct sunshine, well, the reality is just a lot of items that we have in closed session because that's what the rules say. So if we want to have a discussion about revealing everything we do in closed session let's have that discussion at the proper time. And so it's unfair to characterize any of us. We can discuss changing policy on closed session when it's properly put before us on the agenda. And you know, this is not a situation where I'm accusing anyone of anything. I haven't made any effort to do this, this entire time. I'm only trying to make sure that I'm doing my best at trying to select an IPA. We've all made -- I think we've all been put in a light that makes us look irresponsible and silly. I don't think by discussing closed session here, today, without having that full discussion, will put us in a better light, not that that really is our goal, to put us in a good or negative light, but I also don't think that's productive. I think the productive discussion should occur in closed session. I think the issue that this is being brought up in open session, when we already had a vote as to whether to discuss this in open session that was revealed, moments ago, is disturbing. Why do we have discussion in closed session? Why do we have votes in closed session? The bottom line is let's discuss policy when it's time to discuss policy, on this issue, so we can all speak freely about it in closed session and then we can decide if it's a right thing to do or not. But it's unfair to make insinuation as to any of us that are trying to keep things covered up or do things in secrecy when all I'm doing is trying to follow the rules that have been given to me.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I don't think I'm going to persuade anyone, there's no accusations to be made. I think Councilmember Kalra put it well, I don't think anybody is out here simply trying to blow smoke. But clearly the public has called for greater transparency as to the selection process, as to what happened. Several colleagues called for greater transparency as to the April 21st memo. It seems to me that we push this back into closed session should seem ironic and that irony is not lost in the public. Seems to me this is something that we ought to simply let the public discussion ensue, and to move on.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. Can't think of a better example of a slippery slopes. We talk about revealing votes, now we're talking about conversations, everybody can put their input in. Brown versus the board of education came about to protect people and the items that are discussed in closed session are generally

designed for that very purpose. To protect people. And I don't think any police officer out here, any of us out here that had a matter that came before closed session, would want any of that discussed in public. And where do we stop? Where do we stop? This is -- I find this offensive. I find this a dereliction of our duties. We made a pact with the people of San José, the people we served to honor and obey the laws of the City of San José and the state of California. And with that, I rest my case.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I think we took a vote on this. My interest has been my interest from the beginning. I was surprised that the controversy ended up at the tail end of the process and the things weren't resolved at the beginning. The reason I offered up my motion earlier was because I see a problem in trying to discuss pieces of this, without revealing in this open forum here. What it will take down to is we don't have a recording of this session is going to be, he said, she said. It's going to be replaying everybody's recollection and they're going to be different. And we certainly can do that, I mean, that can happen here. I don't know how much benefit that is going to be for the public, I also take closed session very seriously. I refused to talk to the media about anything in closed session. I was asked and I did not respond. I take this very seriously. There are going to be many other items talked about in closed session that someone might want to reveal for whatever reason. I think we need to redo our policy on closed session, that necessarily needs to happen in closed session. So I will be supporting the substitute motion.

>> Mayor Reed: It is almost 6:00, we still have work to do after we get done with this. Councilmember Constant.

>> Councilmember Constant: I promise this will be the last time I'll talk maybe for the whole meeting. We can take a vote on that, guys. There are no laws that say, this is something we must do. There are some guidelines, the state sets minimum standards. But we hold the privilege, and we can vote to do this. What we're doing is not saying that we're going to violate some state law or city rule or anything like that by us voting to disclose what happened in closed session. You know, we work for the people, and the only people we're protecting by keeping this in closed session are the 11 people up here. We're not protecting anybody in the public. I think that's wrong. No more than I can control the weather and make it cloudy, I don't think the council can decide when we can do it in the sunshine, sometimes put it on partly cloudy conditions or solar eclipse.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Like Councilmember Liccardo said, there's been calls from the public, and we received a request from the NAACP and ACLU to receive all discussions, all those are appropriate for closed session, if they are asking for materials from closed session. I have no problem to speak about those in closed session because that is what the rules dictate. If a substitute motion passes, that could be something else, that can be discussed, and determine whether it's something that's valuable to do or not. All requests from the -- the requests from the public that happen all the time for closed session materials, that we can't get, and we don't. And so to say that well the public is asking or the public is demanding it is not by itself enough to just release information. That needs to be discussed. And it needs to be discussed on its merits, as to what the information is and what the issues are. So just like with the same groups asking for 4,000 police reports. That has to be discussed in regards to other issues. That has to be discussed as well. And here we're talking about closed session information. And so I just think that an appropriate place to discuss it is in closed session and that's where we can also take up any other request from this process. And so if -- I don't know if it's appropriate to make an amendment to the substitute motion that take into account all requests for information in this process, whether it is right to do, I'm going to do it or not, I think that's an appropriate way to handle these kinds of requests when closed session materials or confidential materials are being requested.

>> Mayor Reed: Okay, I think we have exhausted ourselves on this. Motion was the substitute motion which was to take this decision into closed session. All in favor? Opposed? Oliverio opposed, Constant opposed, Reed opposed, Liccardo opposed, that was quick. Motion was approved with 6-4 vote with Oliverio, Constant, Reed and Liccardo opposed. Totally done. 8.2, this will be simple. Consortium for police leadership and equity item, that we took up a couple of weeks ago and wanted to take a couple more weeks for further discussion. It is back on this agendas for us to make some decisions. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Given the lateness of the hour I'll be brief. I'd like to make a motion incorporating the three paragraphs of the recommendation of the memo dated April 30th authored by the mayor and myself, at this time, thank you Councilmember Constant.

>> Mayor Reed: We have a motion on the floor based on on the memorandum of April 30th authored by myself and Councilmember Liccardo.

>> Councilmember Liccardo: Regarding an outreach plan and process to allow political input for agenda development of the Public Safety committee, I think certainly it's appropriate [No audio]

>> Councilmember Liccardo: I can take a hint. Should I try that again?

>> Mayor Reed: I forget to tell you that after 6:00 we have this new procedure, 30 seconds and it goes off.

>> Councilmember Liccardo: It's just designed to get the lawyers. With regard to the last sentence there, regarding the Rules Committee discussing outreach plan and process to allow public input and agenda development and certainly would invite specific council direction on those issues now as well.

>> Mayor Reed: Okay, we have a motion on the floor. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Councilmember Kalra and I put out a memo two weeks ago dated April 17, and we also issued a supplemental memo dated May 1st, 2009.

>> Mayor Reed: Can we get the hand-held as a backup? Councilmember Nguyen is yours back on?

>> Councilmember Nguyen: It is. At this time I'd like to offer a substitute motion, move the supplemental memo, co-authored by Councilmember Kalra and myself dated April 21st, 2009.

>> Mayor Reed: Supplemental motion based on the memorandum from Councilmember Kalra Nguyen.

>> Councilmember Nguyen: We hope we can approach this issue in a more practical and inclusive manner. I want to make sure we have the community's best interest in minds moving forward with this issue. We put forward four recommendation to help all the stakeholders including the City of San José, CPLE, if we decide to take them on board, and the members of the public intoxication task force and the community, this is not about the ethnic minorities in our community but about all of us. I agree bringing CPLE on board to help with the research, hopefully they will provide an unbiased analysis, I want to emphasize the urgency of resolving these issues. The longer we prolong this process the more antagonizing it is for residents and community members who want answers. The issue of disproportionate arrest in the City of San José is not a new issue. We have been hearing about this for years and the time to act and address it is today, not a year later. And I'm certain that the process of approaching this issue in an inclusive manner will help us move forward and hopefully find solutions that will be beneficial to the entire city. So with that said, it is critical that we continue to engage the community to be a part of this process. For me, I just believe that people who have had interactions with the police who have been questioned by the police and also maybe previously have been arrested with the police probably know this issue more than all of us here and I want to have -- I want us to be able to engage these folks as we move forward and we bring CPLE on board, that Dr. Phil Gough has the opportunity to engage some of these folks. And so I hope with the council adoption of these recommendations that Councilmember Kalra and I put forward that we, with the community's input we have an unbiased neutral recommendations at the end of the day. Thank you.

>> Mayor Reed: I'm not going to support the substitute motion. I think the work that needs to be done should be focused through Public Safety committee. There can be community outreach, that all of these issues can be worked and it's not just CPLE or the public intoxication task force, there are other issues that are going to be brought to our attention from the La Raza round table summit. As to the public safety committee, we have four councilmembers who sit on that committee and their work comes up to the city council for approval that will ensure that the issues that people are concerned about get the highest level of attention and that it's a way that we can ensure that the kinds of discussion that people believe need to happen, actually happens. And so I think I'm not going to support the substitute motion for that, and some other reasons, as well. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I wanted to ask the maker of the motion, I know that you're asking for the City Manager to continue the task force forum, and I think that since she is -- her department and the police department is entering into -- well, and the the City is entering into an MOU with the CPLE, I think that it may be more appropriate if councilmembers like yourself and Councilmember Kalra chair this, moving forward, if that can be amended then I would be willing to support this.

>> Councilmember Nguyen: That's fine.

>> Mayor Reed: Who's got the second? Acceptable to the maker of the second. Councilmember Constant.

>> Councilmember Constant: Well, obviously I support the motion that I seconded in this one. I already cautioned, put political members in there and I think that's a bad idea.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I agree with the amendment because I think in some sense it is unfair to have the City Manager deal with what is inherently a political issue and has been. And I don't think we need to have any more summits and task forces and so on to know that there is a real issue. In terms of the very least a perception in many folks in the community. Now, it doesn't mean that all folks, in fact most folks as survey indicated have a very positive view of police department. But this issue doesn't exist in a vacuum. This issue exists along with the IPA discussion we just had, along with the public intoxication issues, along with arrest data that people are interpreting in different ways. Along with you know, years of at least discussions that have been occurring with the city leadership, with police department and so on. In regards to the supplemental motion that's on the table right now, I really would have liked to continue to be able to have support from the police officers association. I think that ultimately, regardless of what changes or policy changes that we do make, you know, we clearly have to have them incorporated in what we do. But ultimately the reason why I signed on to the motion that's on the table is that we can't ignore even if it's just political, we can't ignore the issues that are plainly in front of us. I think the memo that Councilmember Liccardo and Mayor Reed have put forth can help to address some of the issues. But the reality is that there are issues, now, that need to be addressed. And when I had the opportunity to speak with Dr. Gough from the CPLE, it's very clear that you need to have all community members, including those that are most ardently against the police, as part of that analysis process. And then they do their research and they make a determination as to what policy changes maybe effective. Keeping in mind that we all know they're going to be -- there are some issues that aren't going to be solved by policy changes. Some of it is just political. Some of it is how we interact with each other, how we interact with community members, how we interact with the police department and how the police department interacts with those community members. I think the memo that Councilmember Nguyen and I have at least acknowledges the concerns that came out of the task force that went beyond the mission that was given the task force and allow them to have it here and now, allow them to have that further discussion. I believe that the community members that have expressed concern will at least have the opportunity to continue to express their concern, however I've made it clear that I've had an opportunity to talk to some of them that our goal is constructive changes. Our goal is to actually create changes that may lead to real policy change. And so I'm hoping that by moving from the public intoxication task force to some other venue we'll have the opportunity do that. And it still does not preclude us from doing anything that's mentioned in the mayor's memo as well. And so I hope that we can be supportive, frankly, of both memos. I think that they can work in parallel and unison with each other, and essentially, work as a way to get everybody back to the table. Because right now there's a lot of friction, there is a divide that appears to be even greater than when the public intoxication task force began. And that's my concern, that we get everybody starting to heal again and have the voice of community members and the police department before we make a decision as to how to proceed forward. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I appreciate the intent behind the memo. And I certainly understand the desire to respond to the concerns in the community and certainly of the council as well. My concerns are, in some ways, that this round table tries doing too much, in some ways it doesn't do enough. Let me explain. It seems to me one thing we don't have any shortage of in this city, despite our fiscal deficits, we don't

have any short of task forces and commissions. I'm sure if we were quizzed as to what the commissions and task forces in this city do, we'd fail, at least in being able to identify what they do. With very few exceptions, for example, the Planning Commission, there are very few that have authority to agendaize items for council consideration. That seems to be an important element in this. On the other hand, if this round table is going to be a successor to what we've seen, that doesn't seem like constructive dialogue. I think both sides were unhappy with how it went, there was a consensus around the table that it didn't work, you would probably reconstitute a group that was representative of communities of color, civil liberties group and police officers association and other law enforcement groups as well. But having an enormous 25-member round table isn't going to move the ball forward, see it, in terms of coming -- as I see it in terms of coming to any kind of consensus. If we end up in the world of a police commission, that's not something I'm supportive of. So it seems to me we need to be very clear about what the objectives are with this group, the round table. I'd be happy to support it, if we had some assurances that this was actually going to be both productive and constructive. In some of those different ways that I mentioned, that you'd actually have a referral to be able to get an item on a committee referral, such as Public Safety committee. But there has to be concerns of this group, I think if we're thinking long and hard about all our commissions we'd probably think about maybe a single commission which we would park various concerns about civil liberties and equity. I know that we have a human rights commission that does this. We had a sunshine task force, we could really talk intelligently and have a meaningful group that addresses equity and sunshine and police accountability in a policy way, and in a meaningful way. The other concern I have is in paragraph 3, six modifies arrest reports, I would venture to guess is a substantial number. And I don't know what the cost is. I certainly had concerns when I saw the 30,000 figure suggested, roughly 34,000 for 282 reports that we had in our last go-round. I don't understand why the cost is that great. Perhaps I'm not really understanding what it takes to get these reports out the door. But if that's true, then six months' worth of reports is going to be an enormous cost at a time when we simply don't have the money. So it seems to me we ought to think of what the cap is going to look like in the cost of producing reports. I said privately and I'll say publicly I think we're providing more heat than light. If we're thinking that any of these reports are going to say, I, a sworn officer, arrested somebody without probable cause, I think we're pretty much mistaken. I think the reality is that the IPA did a thorough search of those complaints that clearly aroused someone enough to make a complaint. We should certainly think that those are some of the complaints that contain some of the behavior we should be most concerned with, and that should give us a pretty good indicator when what we need to work on in terms of solutions. My concern is that we're spending a lot of time and money look backward when I think we can safely look forward when there seems to be some consensus among both the department and the community as to what the concerns are that have been raised. So I would be happy to support many of the concepts here. It just seems to me, we need some constraints and we also need some better direction to actually make this productive.

>> Mayor Reed: City Manager ought to enlighten us on the task force request for six months of reports, how many that is, how much it might cost, and then there was a question raised whether or not they can be released without some meet-and-confer under POBOR or police officers bill of rights issues.

>> City Manager Figone: I can start it, and I'm not sure if the staff has done any more research. Very simply based on our experience with releasing the 200-plus reports, it is a timely process. We know that we can do it. It does take redaction, there's interaction with the County in order to pool the reports, so the staff I see them lining up there in my mind at this stage Mr. Mayor, members of the council, it truly is a resource allocation decision and it's one where if you wanted to proceed I'd want us to bring you a time line and a budget and have you consider it as part of the budget process. We can do that through a supplemental memo and I do believe, given the thinning out that's happened in TD and what you'll see in terms of the proposals in front of you, it's most likely a task that we would do on overtime. And so unless Deanna has additional comments, that's what I would suggest that we do, is bring you that estimate and have you make a budgetary decision.

>> I would suggest that we just issue an MBA so that the council can have that through budget deliberation. We have some initial information but I would like the opportunity to put it in writing and do some further analysis.

>> City Manager Figone: Would you like to give the council though just an early estimate and Councilmember Liccardo did ask about the time, we could also clarify a bit here, councilmember, and then also put it in writing to you.

>> Okay. So I have Tom here from research and development in the police department to help me out. The cost to produce the 280 reports was \$34,000. And that is a cost that reflects coordination of five different offices some which are not within the police department. We had a lot of lessons learned which we outlined in the Rules Committee report, physical reports, multiple warehouses to retrieve the reports and multiple county members to marry the 647 incident report. We anticipate that there were some efficiencies that we were -- and lessons learned going into producing the six months worth of reports and so our estimates were just picking numbers here from preliminary analysis, we estimate that we would probably gain about 30% of efficiency, so the cost of producing a report would be between 85 to \$100, and that staff cost on an hourly base it was just a blend of regular and overtime, I would advise the council that the offices or the units that produce the reports were the pad unit as well as the research and development unit, and within the budget discussion you will hear the budget reduction proposal related to the pad unit which is why it's important for the police department to issue an MBA on additional information. So with that said, if we just do simple math, about 85 to \$100 per report at 2,000 reports roughly, we're looking at about 170 to \$200,000 as a preliminary estimate. These are preliminary numbers, we'd like the opportunity to better scrub through them and come back through the MBA process on refined analysis that we could share with the council and further discuss.

>> City Manager Figone: And Deanna, I also remember part of the rework program is when juveniles were involved or there was something that required that we -- when we randomly selected the reports that we could not release them. And I'm not remembering what the issue was at the time.

>> The random search to identify which reports to pull at that time, and I'll ask my police department colleague here, the random search surfaced reports that had juveniles or cases of 5150s. And so we had to do multiple finds in order to accomplish the random sampling number to provide a statistically significant amount of reports. So there was the multiple finds which was the lesson learned that the 4661 number of reports in there are case with juveniles as well as other penal code sections for which we would not release reports. So the universe is no longer, that was another lesson learned, not 4661. We have to look at pulling out those other additional reports so it's less.

>> Mayor Reed: Okay, before we run through council again on this I'd like to take the public testimony. We have only four people requested to speak. Bobbie Lopez, Schuyler forest, Jesse Dominguez and Ross Signorino.

>> I'm Bobbie Lopez, president of the San JosÉ police officers association. I had a prepared report to read to you but frustration is set in. Part of the problem is we've got 1353 officers. That's 33 less than we had last year. Our numbers are stretched so thin we can't guarantee your safety this summer. We've had all kinds of requests. Number 1 we're going to be cutting the mounted un. Who is going to patrol the parks? We certainly can't. You have over a million population, we can't contribute to the public safety on that aspect. Now, you're asking us to put out all these reports, the cost be damned, pardon my language. That's a process by which an officer has to pull somebody over, he's counting on those facts for his personal safety. We have a limited bunch of resources out there. Your officers are being tasked to the limit. Added to the fact is you're demanding that they take their vacation time off. There is no time for off. We don't have the personnel to do it. You're asking us to go out there with 33 less people. Your morale is low because you're asking them to take every Thursday off when they don't have every Thursday off with their family. This department they come in sick yet they're being grudged for coming in sick because we don't have enough sick time. It's a very frustrating portion. I'm asking to you refocus, to recommit yourself for the public safety. There's a signature that you can put on each one of those letters to refocus. Our kids are killing each other over turf, over colors, brown on brown crime, black on black crime. We've got violent people we need to put in jail. We've got residential burglaries that we need to put in jail, cars that are being stolen. We need to return San JosÉ to the safest big city. I'm going to need you to commit to do that. You need to support your officers. Please think about signing it.

>> Mayor Reed: If you would hand those over to the clerk. Schuyler Forrest, Jeff Dominguez, Ross Signorino.

>> Mayor, council on behalf of the ACLU of Northern California, as well as the La Raza round table, the La Raza lawyers forum, the NAACP and the African American services center, I would like to commend Councilmember Kalra and Councilmember Nguyen to work with us to find common ground to begin to address some of the much concerns raised by ourselves and other community stakeholders. I urge you to support the memo that Councilmember Kalra and Councilmember Nguyen drafted. In the past several months decisions related to the

public intoxication task force, the CPLE and the hiring of the independent police auditor have created a chasm of distrust. But today the city has taken the first step to bridge that quite. The statistics that we agree don't tell the whole story have impacted people's lives. We agree that we will work collaboratively with the police department and the city, this memo which would create a broader forum for discussion, giving us access to the reports, I ask for the council's full support.

>> Mayor Reed: Dominguez I don't see. Ross Signorino. Ross.

>> Ross Signorino: Thank you, Mr. Mayor. I was prepared to talk on a completely practically completely different subject on this particular subject regarding racial profiling but that can stand. And the arrest that the police have to make in the downtown area, because of bad conduct, drunkenness in public and certain groups seem to be arresting more than others, and we bring that up, we had that other session, too, in other council meetings. But I think what Sam Liccardo just brought out was interesting, too, how much the cost of all this and what is it, \$100 just to make out a report? Well, how about the fact that they have to go before a court, and what is the cost of that? So that's another cost, over and above that, I do believe and I don't think that's being mentioned here. Then regarding police expense and what they do, about a year ago, Sam Liccardo mentioned about a grocer that was killed, about a year and a half ago, it took the police about a year to investigate this, they did come up with a suspect, that's a big cost too. I think they have to congratulate the police department. Sometimes they come under heavy criticism but I think they're trying to solve this vicious crime that took place on first street and I think they deserve a lot of credit and congratulations to our police force. Thank you.

>> Mayor Reed: Raj Jadev, George Beattie and Shivaun Nurre.

>> Good evening this time. This is my second time up here, but they're both important issues. I just wanted to say, I really support and appreciate the initiative of Councilmember Kalra. I hope that you create this forum that would allow us to dialogue more around issues of law enforcement and the community. It's clear that there's a dire and urgent need for us to build bridges and examine and converse. There has not been a street response about all the news about racial profiling and the alarming arrest rates in San José since news broke in October of 2008. What that signals is the community has been very patient, the public has been overwhelmingly patient, in hoping that city leadership would step forward and offer a way for us to collectively problem-solve. But I could tell you right now having just left a rally outside, and that's why I have this nice shirt on, that their patience is running thin. They're wondering if you'll allow us into the conversation, that we don't get shoehorn intermediate small charges, to examine the entire aspect of police practices. Thank you.

>> Mayor Reed: George Beattie.

>> George Beattie, vice president of San José police officers association. I wanted to briefly state that the reason why the police officers association bought off on the consortium to come in and review our association is we were looking for an unbiased opinion. We took a great chance with our membership in making that commitment. First of all, our primary fear is, they're academics. They don't walk in our shoes, don't know what it is like to be a police officer. But we're willing to take that risk, to have an unbiased team come in and look at us. No problem, we welcome it, we're not afraid of it. Many of the folks who come up here have a known bias towards the police. Known fact, just the way it is. For them to want to continue to be involved in a process that we've agreed not to be involved in, and now you know, put it in somebody else's hand is just another layer of scrutiny upon us. And quite frankly, we are the most scrutinized profession in the United States. I'd like to point out someone who has more scrutiny than we do. I ask you as council people, mayor, support the men and women out there. We are tired of getting beating up by the press. We don't get the access that their very vocal organizations do. We are professional, we're bunch of human beings, we're not perfect but we're certainly willing to work with the city and the other groups and I urge you just to use the consortium to resolve this current issue, instead of bringing in another dog and pony show. Thank you for your time.

>> Mayor Reed: Shivaun Nurre.

>> Good morning, mayor and council. I'm the current IPA. Concerns that the community has regarding issues that the community has regarding the task force and the selection of the CPLE, I would like to assure the council that the offices of the IPA are open, we have a committed staff. We are still taking complaints about officers, policy

complaints, please feel free to come into our office and contact us. We can do a thorough job, we are under and I urge you to not forget our office in this time controversy. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. Bring it back to finish --

>> I would like to say I did misspeak on the universe of records, 647F marijuana, Toluene and LSD.

>> Mayor Reed: Right back to the council for further discussion councilmember Constant.

>> Councilmember Constant: Thank you. I wanted to point out, we do have the public safety committee. I wonders if anybody noticed, Sam and I agreed on almost everything today. We get a little tired. This is an ongoing avenue to have broad participation. Let's face it there's 999,000 residents of the City of San José, that love our police department. I hear it every day when I'm out in the community. We have a police department that is known nationally and internationally, being the best. We have the highest homicide closure rate. We have a department that works very, very well, it can always be improved. We have an opportunity as Bobby Lopez pointed out and George beatty did, to look at our department, to look and see how we can improve. Someone who is independent, no ax to grind, not getting paid by us, I applaud the POA of being supportive of it. But let's forget that at least 999,000 of our residents love our police department. It's not a relationship that is prone between our community and the police department. There's a segment of the community that is disenfranchised. And they have some issues and concerns and we owe it to them to look into that and the mayor and the council's memo address that, looking for methods of improvement. That's where we should be going because I know most of the people in the City of San José are like me and are 100% supportive of our police department. And I hope my colleagues all sign the letter that I just had delivered to Bobby, because it's the right thing to do.

>> Mayor Reed: Councilmember Chu.

>> Mayor Reed: Thank you, Mayor. I'd like to thank Councilmember Kalra and Nguyen for coming out with this memo. I support the community round table but my concern is the timing of it. I would like to defer that decision until we have a new IPA, so I can have a chance to talk to the new IPA after we bring this person on board and I'm just looking forwards to see the results the CPLE. So I will not be supporting the substitute motion.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Just a question for clarification, with regard to paragraph 3. As the maker of the motion and the seconder accepting the City Manager's suggestion that that be a budget item that we consider at council at the time we're evaluating the entire budget?

>> Councilmember Nguyen: I'm actually more concerned about the timing of the suggestions. I don't mind, and I know that we're facing a lot of difficulties with our finances. But at the same time, again, I would like to emphasize and stress the urgency of the issue. I just don't want us to, because we're -- we're dealing with such a difficulty in our financial state at the moment, I don't want to have to wait another four months or six months to be able to obtain some of these reports. And that would be my concern.

>> Councilmember Liccardo: Okay. I just want to understand for clarification, if this is going to be an issue for us to consider at budget time or not. And it sounds like the answer is, maybe?

>> Councilmember Nguyen: If we -- I guess if we're voting on the final budget towards the ends of June, that would give us one month, a month -- it's fine with me.

>> Councilmember Liccardo: Okay.

>> Councilmember Nguyen: So I guess that would be okay.

>> Mayor Reed: I had one question earlier, whether releasing a couple thousand of those reports, whether that creates a POBOR situation or anything, and I didn't get an answer.

>> City Attorney Doyle: The fact that we already released 200 reports, it's not a police issue, I've asked my staff to look into, I can't give you a definitive issue but it doesn't raise an issue under the police officers bill of rights.

>> Mayor Reed: Would the name of the police officer be in the records that are released?

>> City Attorney Doyle: We did go through a lot of redaction, the police officer's name did appear but that doesn't make a personnel issue. We could look at that and come back with a more definitive answer.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Sorry, I think I spoke already.

>> Mayor Reed: Okay, Councilmember Campos.

>> Councilmember Campos: Mayor, I think Councilmember Nguyen answered my question, this can wait until it comes back as a budget item.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I certainly understand, and have had the opportunity to talk to Mr. Lopez in regards to concerns of the a batch of the police officers themselves, and I know that particularly, when you look at the budget situation we're in, with the news that oftentimes doesn't tell the whole picture of overtime, that some of the officers get, or when the arrest data are put out there, with different people interpreting in different ways, it's not easy being a police officer in the City of San José. Writing this memo and signing onto it with Councilmember Nguyen is purely an effort to try to get everybody back to the table. There's a lot of mistrust between a lot of groups, some of the groups that have been involved for a very long period of time. There is a lot of mistrust and anxiety that's out there. It's an effort simply to get people to start looking at each other as human beings again and to get to the table and discuss some of the issues that Councilmember Constant said is true, if you talked to most people there isn't an issue that they have with the police department. But that's not -- our role is just not to be concerned about that, as Councilmember Constant also said, we do have a concern for those who feel disenfranchised and who is voice is not being heard. I've tried to make clear to all folks on both sides of the issue, we'd like to say that we are both on all sides of the issue. But if my house is broken into I call the police just like anybody else. The question is, how do we get back to the table to discuss these? CPLE, in order for their results to be trusted, we've got to be engaged. Regardless of my and Councilmember Nguyen's memos, whether they're approved or not I do hope going forwards that we still try to make efforts to try to get people on board with CPLE and at least talking to them about the concerns that they have and whatever thoughts or opinions they might have of the police department just as the police department's going to be involved in talking with them and all of us will be as well. And I do think that there can be something constructive out of the other recommendations that Councilmember Liccardo and mayor that you're making in your memorandum but it's only if we have a meaningful effort to dialogue with folks. And that's where the concern was, and the fact that Councilmember Nguyen and myself are willing to put ourselves out there and put ourselves in that political fire storm to try our best to get some constructive results, I think, I hope at least speaks to our desire to really get somewhere positive here. And that we're not just telling the City Manager to do it or the police chief to do it, that we're willing ourselves to roll up our sleeves and be the ones that will be in the middle of that discussion. Thank you.

>> Mayor Reed: We have a motion on the floor. I think we're done with the discussion. All in favor, opposed, opposed, Oliverio, Chu, constant, read, Pyle and Liccardo. So the motion fails on a four-six vote. That was a substitute motion. We have another motion that is on the floor, that was a motion based on the memorandum, April 30th from Councilmember Liccardo and myself. On that motion, any further discussion on that motion? Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Just some clarification questions. I guess on number 3, as the chair of the public safety, finance and strategic support committee, since I'm the chair, I'm not sure how we're going to do this. Is this like a town hall style, round table, or if Councilmember Liccardo can explain a little bit.

>> Mayor Reed: Well, actually we were kind of hoping that the public safety committee would figure that out.

>> Councilmember Liccardo: Yes, it's intentionally vague. Because obviously this is something that requires community discussion as to how the forum can be best effective. We need to have something more than commissions discussing the issue and then nothing happens. How that is best effectuated is up to you and the committee.

>> Councilmember Nguyen: Okay, I guess that explains it. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: In regards to the memo at this time, one is again in regards to CPLE, one of the issues that, in talking to Dr. Gough and others, it appears that an ideal world, the way that this type of effort is intended to be rolled out, is that you get the buy-in from the police department and the community stakeholders and then you go to the city council. And I think that we may have missed part of that in make sure that we had full community buy-in. But I'm hopeful that, you know, I never think it's too late. And I'm hopeful, and I'm more than willing to still put my efforts into trying to make sure that if they are going to be part of doing any analysis of the San José police department that all people who have had any issues, opinions, favorable or otherwise have an opportunity to participate so that again the results of the research have more credibility than if you just get a portion or a segment of the community that's involved. So with that, in item 3, talking about going to the public safety committee, I -- it's my understanding that at the committee level there's always an opportunity for the committee if it deems it worth while to create subcommittees to look at things more narrowly or specific issues. Again, I'd like to offer myself, I believe anyone could be members of the subcommittee, I'd like to offer myself, so we could incorporate some concerns that Councilmember Nguyen and myself had in moving forward. There's value in, there's no issue about having the downtown or the La Raza round table to have input. But if it doesn't become just a venting session, but constructive ideas on how we can improve, more importantly, that the relationship that all of us have and the police department has, we're in a better position to create policy change or not in a position that we're not communicating or communicating in a way that's negative. Thank you.

>> Mayor Reed: Councilmember Constant, it's been so long since you made your motion, let's make sure we got the whole motion here so we know what's on the floor.

>> Councilmember Constant: Okay, so my motion was to accept the staff recommendation which talks about the scope and time line for CPLE and the memo that was authored by you and Councilmember Liccardo.

>> Mayor Reed: Okay.

>> Councilmember Constant: I don't know if I was clear on that earlier but that's what I meant.

>> Mayor Reed: It's clear now. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor, I just wanted to thank those who joined us this evening. And I ask you to continue involving in this community process and I ask for your patience, thank you.

>> Mayor Reed: Okay, we have a motion on the floor. All in favor? Opposed, none opposed? That motion is approved. So that completes the work on 8.2. Our next item is open forum, in conjunction with city and redevelopment agency. So I've got quite a few cards for open forum. I invite you to come down, so you're close to the microphone. Brian helm. Alisa Alvarado, Monica Castillo. We'll shift some people around as we get ready for the redevelopment agency agenda. Okay, Brian helm. Alisa Alvarado.

>> My name is Brian Helmle. We are cop watch. We formed because we wanted to holds the police department accountable. The affairs of the independence police auditor are wholly insufficient, because if police are obviously not talking to you because you would never allow them to act the way they do in terms of brutalizing and racial profiling in the community. Basically, we are calling on people to take responsibility in this community to film and record all behavior by police, and that is the way that we expect that real accountability will be brought about. Regarding the decisions so far in the process of selecting the independence police auditor, I would imagine

that most of the folks that I work with are very disappointed and all credibility is lost and we encourage you guys to start talking to us a little more respect and we look forward to that, thank you.

>> Mayor Reed: Alisa Alvarado, Dolores Castillo and then Marilyn Kirby.

>> Organic, thank you for this opportunity to address the council. I'm here representing myself and I'm just asking that the process moving forward to hire a new independent auditor be truly based on an open and transparent process and community voice of the community, real genuine community involvement in this process. I also would like to express my concern that in terms of hiring a consultant to manage the process, it just kind of strikes sort of moving forward on this process, when we really haven't, in a sense, processed what has taken place already. That concerns me very much. It's kinds of things are moving very, very quickly without having corrected or reconciled errors that have been made already in this process. Thank you.

>> Mayor Reed: Maria Dolores Castillo, Kirby and Ross Signorino.

>> Yes, good evening. I'm representing myself. Just to let you know, you guys all sit there in your post but you don't know what it is to be a victim of a police, use excessive force. I am a victim, because of that I am talking now with two front teeth that were knocked out. I am right now going through City Attorneys, I am going through IA but everybody seem like they don't really care. I am somebody just as you are. Gods forbid that any of you somebody in your family had to go through what we had to. All behind me, only by the grace of God mayor that I am survivor. Hopefully, with all sincerity, that you will really listen to us. I don't know what the big issue is all about. You know, you don't know, if you were to walk in my feet, for at least a week, you would really come to know what we have to -- what I have to go through. So you know, I voted for you. I thought you were a good person to represent us as a community. But as a community I'm seeing differently. Maybe Debbie Figone has to instill in you that there has to be a date for you and chief Davis to really get with it because there are lives being lost and our voice really need to be heard. Forget about the staff, really, take some action, enough is enough, thank you. [applause]

>> Mayor Reed: Marilyn Kirby Ross Signorino and Erin easy Chavez.

>> My name is Marilyn Kirby, it's not easy to bring forth complaints but it is because of my strong opposition that I'm here today. I'm here to state my strong opposition to the rental reserve fee. I'm in Councilmember Nguyen's district as a mobile home park other than. I have met with several people with the city and the mobile home advisory commission is now defunct so I'm going to just briefly say a couple things. My fee went from \$946 to a whopping \$2,046. It is a 120% increase. For 30 years, the increase is 286%. In the last year, it was raised 120%. Since this is a pass-through, not only are park owners affected, but the residents and homeowners of my park affected because they pay a portion of that fee. So that is also 120% increase for the people that rent control is supposed to protect. My homeowners did complain and continued to complain. That's one reason I'm here today. My -- while the park owners' fees increase 120%, the apartment owners' fees were reduced 20%. So that's an overall 140% spread. I think this is wrong, I think it's unfair. In preparation for my complaint today, I have prepared a fee history that I'm willing to leave with the City Clerk, and if you would kindly look at it and possibly when it comes to setting your budget for this year, I hope you'll review it and possibly give us a roll-back on that.

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

>> Thank you.

>> Mayor Reed: Ross Signorino, followed by Ernest Chavez and Donna Wallach.

>> Ross Signorino: Thank you, Mr. Chairman. On Thursday night, on Thursday evening, I should say, I went to the election committee to watch that process. And what I was witnessing was the inquisition and the burning of witches, noose-style. What we did there to former mayor McEnery and putting him before this election committee, with an anonymous person, we don't even know who that was, making all kinds of accusations against the former mayor, he had to defend himself. I sat there and listened and I got up and spoke on his behalf. I think it's shameful where someone anonymously can come along and accuse someone. I think the election committee should be revamped somehow or another that if you're not willing to give your name, testify in person, what your complaint

is, then you should not hear the complaint at all. You can't do that. Even sometimes I call up the rules -- the code enforcement, they want to know my name, who I am, my address, telephone and I give it to them. I have no problem with that. I make accusation for certain reasons and I'm willing to give my name. Tonight it's been a rainbow of a meeting. I mean it's just about covered everything. But there is one thing I would like to say in regards to the financing of the -- that Citigroup, if our bonds go bad, or the financing go bad, that institution that we have our money with, if it goes into bankruptcy, how long would it go into bankruptcy? And in the meantime, if it stays in bankruptcy too long, would there be inflation? Would our money be as valuable as at the time when it went into the Citigroup, at that time? -- as it is when it went into the Citigroup data? I didn't have time to speak on it, but I think we should look into inflation. Thank you.

>> Mayor Reed: Your time is up. Ernest Chavez.

>> I'm Ernest Chavez. Two nights ago I was at a fast food restaurant, police had detained someone and they went up to someone, I think he was 17 years old and he went up to his brother, 13 years old and the officer asked him a question, the kid didn't want to talk, the officer said don't tense up on me, he put him in a head lock, slammed him on the ground, he put the kid on his knees, someone said, "that's my 13-year-old cousin." That's nothing compared to the stuff that goes on. The least that you can do for us is hold these police officers accountable and to give the community power, and you know when I asked -- when I asked for the officer's name and badge number he wouldn't turn around. The officers crowded around him and wouldn't want me near him. Just to hold him accountable to enforce your own policies, letting the public know what the badge numbers are. Thank you. [applause]

>> Mayor Reed: Donna Wallach, Luis Castillo.

>> I'm Donna Wallach, here for justice for the Palestinians. When we started to speak chief Davis walked out. Shouldn't he want to hear this? I don't understand what you're talking about, consortium for police activity. I have seen numerous incidents of police harassing, I've done cop watch many years in San José and it's despicable what I see in Downtown San Jose. How the cops stand on Santa Clara street and pull over car after car of Latino youth and pull kid after kid over, look for tattoos around they go searching the cars, it's really December pickable. On Cinco de Mayo, they totally shut down the streets. They completely shut down Story and King. They totally shut down on Saturday night they totally shut down Santa Clara Street at 11:00, preventing people from celebrating the holiday. I'm seeing groups ever cops standing on corners or near cubs, six cops at a time, going overtime, it's wasting taxpayer money, it's an outrage. [applause]

>> I'm sick and tired of the police terror and harassment of the people. People have a right to live their lives and be here and drive down the street and go out and have a good time without being harassed and terrorized. I'm sick and tired of people getting away, not being responsible for their actions violating the law, violating the civil rights of human beings, coming down into the Downtown San Jose, it has to stop and we the people of San José are going to make you make it stop. [applause]

>> Mayor Reed: Noreen Salinas, Luis, carelo. Go ahead.

>> I'm here speaking on behalf of myself. On behalf my father Stephen Salinas who was murdered in Downtown San Jose. It's a shame to see you Chuck Reed up here with your job, I follow the papers, I follow every little thing. It is safe to say you're wasting our tax dollars. Chief Rob Davis, there you are. Why do you have a job? You're hang by a string, you know that, right? My lawyer will be down here in may --

>> Mayor Reed: Excuse me, you're here to speak to us, please speak to us.

>> I am being respectful.

>> Mayor Reed: No you're not.

>> That's how I feel.

>> Mayor Reed: You need to talk to us.

>> You're wasting our tax dollars.

>> Mayor Reed: I'm listening.

>> I'm in front of you and in front of the Chief of Police and I don't sugar coat anything. You should know me by now. It's okay. I'll see you guys in May. My court date. And I hope you guys go bankrupt because that's what's going to happen. You guys keep killing the public and you guys really need to clean out that San José police department because you're going to have tons and tons of lawsuits. And yeah. It's sad.

>> Mayor Reed: Luis carillo. [applause]

>> Mayor Reed: Flosas Kagalas, and Sal Moya.

>> I'm Luis carillon. I was listening to a radio the day, and the lady says, if police don't look at us, the people look after each other. Youth against violence education. There's a community center being built there, you should when you get -- when you talk about building programs, in that -- in the Solari community, you should provide programs that prevent youth, from them not to go to jail. Because a lot of our brothers and sisters are going to jail because at early age they do not have programs that help them to get out of situations that there are. So when -- and to you Madison Nguyen that you know more, that you get to know who Yave is, that you listen to the people. We voted for you, we voted in this reelection that the Latino community voted for you, that you listen, that you listen to the Latino community and also the Vietnamese community because those are the ones that are struggling when it comes to joining gangs and being stereotyped by the San José police department and just taking them booking them in jail for no reason just for petty crimes. We urge you that you listen to us and what we have to say. [applause]

>> Mayor Reed: Woza Skagalas, Sal and Javier.

>> I my name is Woza. I want to say one thing, the police don't work for us, they work for you. And we want to control them. And our demand is we want a citizen review board that is popularly controlled. We know you're not going to give that to us, we know, that's why we're going to organize. We are going to organize cop watches and other groups and put our control on police and we're going to control them if you don't control them yourself and all of you, thank you. [applause]

>> Mayor Reed: Ale Ronoma. (saying names).

>> So my name is Ali, I was arrested about two years ago. Went to a popular night club called the agenda in the entertainment zone. I didn't have a single drink that night. I was practicing ramadan which is a religious month, time of reflection and abstaining from certain things, alcohol being one of them. I was a designated driver, I left the club to organize my friends to get them in a car. I maids a lewd conduct and the police officers approached me and took me and arrested me. I didn't have a single drink. I was a designated driver, took me away from the situation endangered my friends. It didn't may any sense, he just came up and said you're going in. The police proceeded to arrest my friends who asked me what was going on. The police by default assumed that I was Latino. I'm not Latino, I'm from Afghanistan. I am Afghan and the police officer actually said hey, we thought this guy was the guy from the other night club. Insinuating that he thought I was Latino of a reading my name on my driver's license. My friend who is actually of Caucasian descent. His last name is Welch. I didn't know who was defending me. I didn't know if it was the public defender or the attorney general. Their lines were blurring. They both approached me and said you should go to AA and we'll take this off your record. I was appalled. The courts are supposed to be the defenders of justice.

>> Mayor Reed: Your time is up.

>> And in times of --

>> Mayor Reed: Your time is up. Sol Laya is our next speaker, Javier and Patricia and Martha.

>> Hi, my name is Sol Loya. All the elm immigrants who were out here marching, this Thursday, I would like to thank the Chief of Police for being here. We have the freedom of speech and that's why we have great troops serving. First of all we have the immigration issue going on right now and I think that's what leads to part of gangs, part of issues, and why there's trouble with police, why there's so many gangs in San JosÉ, it's because the police do not respond or sometimes they don't care about the issues that's going on or they're just tired of hearing the same issues in the same communities and that just gets them tired and the community gets tired of them doing nothing and that creates gangs among the community. It gets handed down from brother, cousin uncle. If the police doesn't care then the community is going to defend itself. They become criminals, they don't have jobs, they are criminals, felons. They don't have the right to remove elected officials. That's the problem. I was going to thank Mr. Oliverio, for his great work in the Willow Glen community at pizza my heart. I like to thank all of you guys for giving us the chance to speak forso thank you very much, and maybe one of these days in the future I'll be standing on the right or left side of you guys. That is my goal, politics is what I like and that's what I plan to do in the future, thank you very much.

>> Mayor Reed: Javier Perez, Patricia, Art Calderon.

>> My name is Patricia, I am a single mother, the police charge me \$60 per day in the -- when they took my cars, the fine for 1,000 and I paid \$3,000 and that money is my kids need the money. I driving because I need to drive, and I need to go to work. I think the policemen uses this business and target Latinos. We need to stop this, please, we need -- driving is a privilege and we need to have a driver's license. We are doing this because we need to use them. That's that's the driving. And also, I think that policemen use this as a business. Please listen to us, we need this service and the right to do it. Thank you.

>> Mayor Reed: Javier Perez, Martha Cadeno. Please come on down when I call your name so you're close to the microphone.

>> Mayor and council, I wanted to just express my feelings as a citizen and former city employee here. I take a lot of pride for having worked for the city for over 30 years. Having seen the newspaper articles in the mercury, extensive analysis where you see a lot of statistics that really don't look like the way they should. Where we have the highest percentage of Latinos being arrested for petty items, where there's no interest or intention to try to deal with it, in a way that it's actually a positive way, instead of just coming down and arresting people, having them get a criminal record for items that are really rather petty. There seems to be a little more consciousness that's needed, there's more control perhaps by the council. I would encourage all of you to consider as to the role of you as elected officials, I realize that a police officer's job is tough, but a citizen when you are helpless and when you are being rounded up and profiled, I use that word cautiously but you need to consider, those statistics come out much harder than any other city in California, there should be concern on your part as elected officials. Something is not working in the system. We are here for that reason. And there is a lot of young people who are on the other side of that. I would urge you to consider policies that are transparent and a system of review that would be independent. Thank you. [applause]

>> Mayor Reed: Art Calderon, Aaron Racindez. Steve Revelo.

>> Good evening everyone. My name is Art Calderon. San JosÉ police department should build a relationship with our communities. And I mean it. I mean it. Because there is a lot of wrongful arrest, and a lot of police brutality. You need to know. You need to know this because it's hurting us. Before an officer used to assist little kids, and youngsters, and used to look for them to cross the street. Now, they're looking for the youngsters to go and beat them with a baton. Is that the new process? Where is customer service? I was driving home and luckily I saw a number of officers beating up on a man. I stopped, it was my own father! It was my own father! He's standing back here. He is -- he doesn't have the power to come and tell you. What's going on. But first, they beat him, then they arrested him, and then they beat him some more for asking a question. Where is customer service? Is this what you have as a model for San JosÉ, California? Where do I complain? Now, I can't complain. That's the new process. And I'm sorry, but we want to push to a new citizens' review board. That's really what we need. As I was entering here, where is freedom of speech? I had my sign, one and a half by two feet. The officer over there, I think that's why he's got a gold badge. I can't bring my signs no more. This is -- it's gone out of proportion. So you guys know what -- [applause]

>> You guys know what to do. Do the right thing.

>> Mayor Reed: Sorry, your time is up. [applause] Aaron Recendes and then Steve Revelo.

>> Thank you mayor and all city council here present. I think I already talked to many of you but, you know, the only reason that I'm here is because last year, when my wife was arrested, was a simple thing that the Chief of Police, Mr. Davis, couldn't have, you know, justice needs, and he didn't lead the police department, that's what I think. One of the things that also motivate me to do all this rally for today is the people that are in jail, innocent people. The sisters, missionales, friends of my family for a long time. I'm just telling you there, my wife is not a criminal. If she was fired Mr. Davis should be fired from the police department. That's all I have to say, thank you.

>> Mayor Reed: Steve Arevalo, Timoteo Velasquez, Sherat Lynn.

>> Good evening, council, thank you for giving me the opportunity to speak before you. Several years ago I was pulled over by a San José police department on 17th and Santa Clara right in front of the fire station there. It was about 1:00 in the morning, and I was going on my way home, I live right off Alum Rock. And apparently, they pulled me over for a violation because my light on my car was not in my -- my license plate light was not working. Do you know how many police responded? Seven police cars. Why did seven police cars respond? And many of you know me already. But why did seven police cars respond to 17th and Santa Clara at 1:00 in the morning? I don't know. I think it's time for an independent review board. Because of the power of the POA, the power of the POA, some of you might be intimidated by the POA, we need a counterbalance to the POA to keep an eye on the POA. It is shameful what happened to Mr. Calderon. Shameful. If any of you know him, he is an honorable man. He is a successful businessman in this community. Why was he attacked by the San José police department in East San José at Jackson and Alum Rock? Why was he attacked like that? Thank you very much. [applause]

>> Mayor Reed: Timoteo Vasquez. Sharot Lynn, Jaime Alvarado.

>> Mr. Mayor, members of the council, respected audience, I was born and raised in San José and I'm not proud of that anymore. This town amazes me, particularly in reference to the growth of a police department that has gone out of hand. And it's time that you as elected officials and as private citizens begin to reel in some of that power. Today is Cinco de Mayo and we celebrate Cinco de Mayo because of a great leader from our community, from San José, California, a nonviolent leader, Cesar Chavez, who fought against forces much greater than this city and brought them to their knees, nonviolently. We need to look at nonviolent change, and nonviolent laws. Not violence. We need to continue to move forward just as Mahatma Gandhi did and bring about change in south African government and we are here to discuss the nonviolent energy and spirit and we hope you will be there to support us because we can no longer stand by and watch individuals, private citizens, good businessmen as Mr. Calderon be beaten and arrested and all things dropped that is very, very shameful. And I'm hoping that you will come forward and stop the racial profiling in San José, California. It's embarrassing to see that a Chicano, Mexicano, Latino population that's created this city, created the infrastructure, continues to be beaten. Thank you very much. [applause]

>> Mayor Reed: Shiro Lynn. Followed by Jaime Alvarado.

>> Thank you for this opportunity to speak. I've been not much involved in the issue of police policy in San José until recently. I just took a walk down Santa Clara street between fourth street and Market Street on the Cinco de Mayo celebration on Sunday, between 6:00 and 8:00 p.m. In the span of one hour in which I was there walk down back and forth between those blocks, I observed no less than ten cars that were pulled over, the officers issued citation, and in one case made an arrest. And that means one every six minutes. And then I walked down to San Carlos street and found that the largest concentration of people on the street was actually at the Montgomery theater but those were not Latinos. There was not one single policeman at that location or anywhere on San Carlos street at that time. Mr. Davis, I guess is not here, but he was offering a good deal of hope at one time, in the previous Cesar Chavez walk in 2008, he walked with us. And I wonder, what has happened since then? So what I'm asking is, the city council and chief Davis to really look at what's happening in this city and we have to go back to police engaging and trying to build a relationship with the community. One final point as far as the citizens review commission, we've had in this city a lot of controversy about the independent police auditor. It seems to be

a system that doesn't work. I can tell you from long experience in the City of Berkeley and in the City of Oakland, these cities do have citizens police review commissions that seem to work. Thank you. [applause]

>> Mayor Reed: Jaime Alvarado, Adrian Sanchez, Victor Gwendolyn.

>> Thank you for the opportunity to speak on this issue for all of you. I would not want to be in your seats, it must be a difficult seat to be in, where angry people are talking at you. People's anger is part of an anger that has built up for years and decades and decades. It began long before any of you were in office. You're responsible for addressing and dealing with it now but it's an anger that has roots that go way back in our community. I, we, perhaps you as well, are frustrated by the dialogue and the relationship that the city and the community has. That's also at the heart of what's going on here tonight. The very nature of our relationship is at question. And it is the question that is being presented in this issue about the community's role in ensuring public safety in San José. In spite of the anger, in spite of the frustration, it's not too late. Everyone is angry now, and that has to be dealt with. That has to be processed. But we're still here, because in spite of the anger that we're expressing, we still believe that a better way is possible. Now, I'm asking you to hold onto that, as hard as it is to be in your situation, to hold onto that, that underlying our anger is an unwavering belief that we can all do better, and that we can all be part of the problems facing our city and that can be at the heart of new policing in San José. You've heard people here today, other ideas from around the country. But people want a role in ensuring the safety of our community. We're asking you to understand that, appreciate that and let's find that way, thank you.

>> Mayor Reed: Adrian Sanchez, and then Victor Gwendolyn.

>> Good evening. My name is Adrian Sanchez. I wanted to share an experience I had in June of 2008. My question is are the police officers there to protect and serve or are they there to victimize or terrorize people, which they're doing to me. I was walk home at 12:00 that night, I was not drinking that night. Police officer Smith approaches me and attacks me with a billy club. Good thing he didn't hit me, good thing three cars actually stopped, it made him stop, otherwise, I'd be dead meat. I look at it as attempted murder much that's the way I look at it. I've got insomnia, panic attacks, anxiety, this is not good. I'm suing the city right now and somebody's got pay. I'm angry like many of these people are angry too. And that's all I want to say tonight. Thank you thank you very much. [applause]

>> Mayor Reed: Victor Gwendolyn is our last speaker.

>> Good afternoon, I'd like to say thanks to the community that show up because this issue is very important. And the reason why it's so important, and why there's a lot of anger is because there's a lot of distrust between the community, especially the east side community, the community of color and the police department not to mention the city. When they do these D.U.I. check points and I've been there, I've witnessed, as white folks pass by and I'm not saying this out of disrespect, I'm just being realistic, they pass by, officers greet them with a smile and sort of go like this to them. Us Latino folks walk by or drive by, and the majority of them coming from work, what do they do? They pull them over, you know they search the car or whatever, they ask them have they been drinking. The relates to the Mercury News statistics that have shown there's a disproportionate number of Latinos who are being arrested or being charged with D.U.I. Now this is racial profiling. The reason people don't trust them is because of that. How do we solve them this, we have been for so many years asking for accountability. It just doesn't happen. It's up to the community anonymous. Up to the community to take it to the responsibility and saying we're demanding from you. We're not asking, we're demanding a review board, independent civilian review board. We need to hold those officers accountable, I've been a victim of police brutality but it doesn't compare to the victims that have been tasered, beaned. I grew up in the east side. The fear is not of a rival gain, it's of the police. It is something that has to be taken into consideration. Many of you can't relate, you guys can't understand what it's like to be a person of color growing up on the Eastside. It's tough. It's tough. And I'm telling you it's up to the community and we demand the creation of an independent police review board.

>> Mayor Reed: Your time is up, thank you. [cheering and applause]

>> Mayor Reed: That concludes the open forum. We'll now continue with the redevelopment agency, consent calendar. Is there any item that members of the board would like the pull out? Motion is to approve, all in favor, opposed, that's approved. Item 3.1, executive director, quarterly project status report.

>> Harry Mavrogenes: Mr. Mayor, we can defer this to the 19th.

>> Mayor Reed: No objections from the council? Okay. We'll defer it to the 19th then. Item 4.1, agreement with Segal and stream architects for architectural observation services.

>> Harry Mavrogenes: Mr. Mayor, recommend your approval of this, the new community center in the Hoffman Via Monte district.

>> Mayor Reed: Councilmember Pyle?

>> Councilmember Pyle: Just wanted to know if the architects were here. They've done a fantastic job. Thanks.

>> Mayor Reed: All in favor, opposed, that passes. Motion for 1444 fourth street, also known as the 44th street bowl. All in favor, opposed, that's approved. 8.1, other than participation agreement with UI Kai, Japanese American community services. Motion is to approve, all in favor, opposed, none opposed, that's approved. 8.2, authorization for collection of tax increment from the Diridon area, SNI project area.

>> Move approval.

>> Mayor Reed: I think I have some things I need to say before we take action. First I have to see if there's anybody here to object on this. Public hearing concerning proposed amendment to authorize tax increment collection from the Diridon strong neighborhoods initiative project area. So far the council has received no written objections to the amendment. Anybody else that wishes to submit a written objection, this is the time. City Clerk sitting right here, you need to hand it to her before we close this public hearing. Anybody wishing to speak on this item? There's no one here who wishes to speak. No one has a written objection. The public hearing is now closed. Motion is to approve, since there have been no written oaks filed, there's no need for staff to respond to written oaks, correct? None filed. Okay. We have the approval of the report that amendment to the plans approval of amendments to the publication, all items, discussion on those? All in favor, opposed, none opposed, those are approved. I think that completes the work on that. The lawyers get all the Is dotted and the Ts crossed an all that stuff. Okay, that is the last item on our agenda. Councilmember Constant.

>> Councilmember Constant: Thank you mayor. Since we're here late I'm going to make this brief. Many of you remember the square root day we had. We were recognized as one of the top 10 displays of square-root day, and we got a certificate. I mentioned odd day is coming up, 5-7-9 is coming up in two days. Many of us are lucky to be odd, others of us are lucky to represent odd districts, and even fewer of us are lucky to represent districts that are numbered odd. So we just want to make sure that we don't miss this, because three consecutive odd numbers make up a date only six times a century. This is the halfway point of odd days. It actually started on 1-3 of '5. The last time that happened was in 1905. As odd as it is, the day will be fine. You see it's the numbers 5, 7 and 9. Three odds in a row will tell you the date. We have only three more, then a 90-year wait. So be odd this month on 5-7-9.

>> Mayor Reed: Oddly enough, we are done. We are adjourned.