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>> Mayor Reed: (gavel strike) good afternoon. I'd like to call San José city council meeting to order for March 30th, 2010. We will start with the invocation. Councilmember Liccardo will introduce the invocators.

>> Councilmember Liccardo: Thank you, Mayor. Today we are pleased to have with us the San José high academy string quintet. And the quintet is led by Sophia Flohas, the music director, who founded this ensemble three years ago. And she's accompanied by Fis Wong, Andres Carrasco, Jesus Horajel, Nick Evisu and Joshua Castillo. We're thrilled to have them. They recently performed a very successful spring concert and will be performing an independent try at the 2010 California Music Educators Association orchestra Festival on May 14th and 15th. You can catch them there before they become incredible, raging successes that will take the world by storm. Today they are going to be performing the first movement of Brandenburg concerto number 2 in F Major by a German fellow by the name of Johann Sebastian Bach, and first movement ragtime fiddle suite jazz string by local composer Ken Kunning. Welcome. [Music] [applause] [Music] [applause]

>> Mayor Reed: Our next item is the pledge of allegiance. Today we're joined with some people who are going to help us with the pledge of allegiance. The success academy, third graders and they're up at the top. Hi. Please everybody stand up for the pledge of allegiance. [pledge of allegiance]

>> Mayor Reed: First item of business are the orders of the day. I have a couple of requests for changes to the printed agenda. Item 2.3a, the rules report of March 17th, needs to be deferred for a week. And I would like to take item 5.3, audit of community center staffing, just before we take up item 5.1, community center reuse update and RFP. And item 3.3, the procurement report and related proposed amendments to the municipal code, need to be deferred for one week. Any other changes to the printed agenda? Motion is to approve the orders of the day. All in favor? Opposed? None opposed those are approved. Closed session report, City Attorney.

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

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to invite Councilmember Constant and representatives of Boynton high school to join me at the podium for the first item. Today we're recognizing Boynton high school as the 2010 model continuation high school. Happens to be in Councilmember Constant's district. I believe.

>> Councilmember Constant: Yes, sir.

>> Mayor Reed: We're going to find out in a minute.

>> Councilmember Constant: Thank you, mayor. Yes, Boynton high school is in district 1, in fact right around the corner from my house. It's really close to where I live and when I went to school at Blackford High School. Today we have several people with us accepting the commendation. First is Michael Madalinski. He is the principal of Boynton High School. Patrick Votow, Jolissa Reed and Kendra Landry, who are all students at the school. Boynton High School is a continuation high school in West San José that exhibits excellence in school management, curriculum, instruction, assessment, counseling and educational climate. Continuation high schools design programs that are highly effective at helping struggling students stay in school, graduate, and succeed. More than 70,000 students in California attend 525 continuation high schools within the state. And the state superintendent of public instruction Jack O'Connell, along with the Department of Education and the California continuation association recently named Boynton high school one of the 12 model continuation high schools in 2010. Boynton high school was the only high school in Northern California to be selected. Boynton High School's new merit was made possible by highly skilled teachers, of course the determination by principal Madalinski who is here with us today, the perseverance of Boynton students, the very structured and successful programs and the guidance of the high school district and of course the support of our local community. So today, the mayor, the city council and I would like to commend Boynton high school, the administrators, the teachers and especially the students for being chosen as a model continuation high school and for all the success that they're achieving. And mayor, if you could present the commendation. [applause]

>> Thanks for the support of Councilmember Constant and the city and the students at our school who work really, really hard to do this. Especially in today's rough economy. Their perseverance is really what made this happen, so thank you.

>> Mayor Reed: Next I'd like to invite Councilmember Herrera and the San José State university women's studies department, the girls for a change organization, and the Latina coalition of Silicon Valley

to join me at the podium. Today we're going to recognize March as women's history month in the City of San José. And Councilmember Herrera has some of the details.

>> Councilmember Herrera: Thank you, mayor Reed. Today we're recognizing March 30th as women's history month and day. At this time I want to introduce and thank the organizations who have joined us here today at the podium. The program coordinator of San José State university women's studies department, professor Shaheen Jarami, representatives from girls for a changed Silicon Valley, Linda Gold, Terry Allay, and Maria Dable, and representatives from the Latina coalition of Silicon Valley, Melanie Espino, Diane Dulan and all the other members from your organization who are here today. I've asked these organizations to join us to recognize their efforts in educating our community about the history and changing roles of women. These organizations have encouraged leadership development, showing young women they, too, can be leaders. Organizations, like girls for a change, serves to empower young women to create social change and provides the support young women need to gain the ability to realize their full potential. Also, the Latina coalition of Silicon Valley works to educate and prepare the youth Latina community in the areas of civic engagement and leadership, and the San José State university women's program continues to teach students the important role women have had and continue to have in the history of our nation. Today I am proud and honored to proclaim women's history month in San José together with Mayor Reed and my colleagues, and at this time I'd like to ask the mayor to present the commendation. Or the proclamation. [applause]

>> Councilmember Herrera: And now I would like to invite professor Shaheen Jerami to speak about this annual day of commemoration and recognize the contributions that women have made to our nation.

>> Thank you, congressman, and thank you, this is a great honor. Just a few points. That at San José State, what we try to achieve is to teach all our students to know their history and remember that they cannot take it for granted. Any right that they have, they need to know and be vigilant about it. For instance, young women need to know that playing full court basketball is not a God given right. Somebody fought and won that battle and they need to know it and appreciate it and be vigilant about it. Furthermore, they need to know that individual challenges are separate from institutional challenges. We all have those individual challenges that we face. But there are some challenges that they need to be recognized as institutional. Every woman has a right to be comfortable in her own body. A woman's body is not a sign of advertisement for commercial enterprises and therefore, we need to teach our young women to be comfortable in who they are. And recognize that that's not part of the culture. It is something that requires collective effort, on everybody's part to teach our women to be striving for something beyond their appearance. And know and take ownership of their own body. We also try to strive for global understanding of all women's strifes and struggles. They deliver role models that go beyond manufactured role models by media. Women who work in sweatshops and make designer jeans are valued role models for our women. Those who stop the spread of AIDS are valued role models and our women need to know about those African women. Those who stand up to any kind of oppression, again, these are valued role models. So we try to achieve understanding of role models besides what it is produced and manufactured in the media. And to promote the idea that you appreciate the history, but you don't stop. You keep make the history by make collective and concerted effort on part of everybody. Thank you. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Nguyen and members of the San José Giants to the podium. As we recognize the San José giants for winning the 2009 California league championships. Councilmember Nguyen has the details. [applause]

>> Councilmember Nguyen: Good afternoon. As they come down let me just say a few words. It's definitely no secret that I'm a huge San José giants fan but that's not the reason thee are here today. They are here today because as Mayor Reed alluded to we want to recognize and commend them for winning the 2009 California league championship. And for those who are not familiar with the minor league baseball, let me tell you, it's a giant deal. The San José giants housed in the San José municipal stadium in council district 7 has been provided our residents with a safe and affordable way to enjoy America's favorite pastime for the past 60 years. Nonetheless, 2009 was a big year for the San José giants. They won the third California league championship in five years, completed their regular season with record breaking attendance figures, and surpassed all revenue numbers in the franchise history, which earned them the minor league baseball top honors, the John H. Johnson president's trophy. Aside from their excellent performance on the field, they also appear off the field. The giants have a long track record for raising much needed funds that support youth sports organizations, schools, and other nonprofits in our community. Just last year alone they raised over \$300,000 for youth sports organizations

and over \$100,000 for local nonprofit groups. They also held their first annual education day which complements the team's literacy program that serves numerous schools in our area. The event provide the opportunities to recognize outstanding performance from students and over 100 math teachers in the region. It is truly an honor to recognize the San José giants for their ongoing efforts in promoting a better quality of life for residents of San José and this time I'd like to ask Mayor Reed to present the commendation to Jim wireman president and CEO who will accept the commendation on behalf of the San José giants. Please give them a round of applause. [applause]

>> How many of y'all were at a game last year? Clap, clap. [applause]

>> All right. Thank you very much for your support. I just want to say without the leadership of Madison and the mayor and this council it would have been impossible for us to achieve what we achieved last year, which was truly an extraordinary year and contrary to whatever gets reported every once in a while we have tremendous respect and honor to this administration and to this council for digging in and helping us figure out how to take a stadium that's 66 years old and keep it running for you all up here. We hope to see you out, April 12th is opening day. We're going for back to back championships. [applause]

>> Mayor Reed: Thank you very much. Back to back, that's all we ask. Next I'd like to invite Councilmember Herrera and members of the Vietnam veterans groups at the podium. Councilmember Nguyen is going to stay. As we recognize March 30th, 2010 as welcome home Vietnam Veterans Day. We know it's been a while since these folks came home, but as a Vietnam vet I'm happy to see all these guys. It's always good to see them. I know Councilmember Herrera is a Vietnam era vet as well. We're pleased to see them. Councilmember Herrera.

>> Councilmember Nguyen: Thank you, mayor Reed. I'm personally very honored to join Mayor Reed and Councilmember Herrera, who are also veterans, in proclaiming March 30th as welcome home Vietnam Veterans Day in San José. I was born in 1975, the year that the Vietnam War officially ended. My parents and I were among the many thousands of refugees who came to America, after the war to find freedom that was not possible in the land of my birth. America welcomed us and provided us with the opportunity to rebuild our lives and to call this country home. I know that many veterans who serve in Vietnam did not receive a warm welcome when they returned after the war and were often treated with mistrust and even outright hostility, despite having served bravely and having made great sacrifices in service to their country. This failure of America to acknowledge the service of these young men and women on their return made the tragedy of Vietnam all the more painful and deepened the wounds that so many sacrificed and suffered. It is my sincere hope that welcome home Vietnam Veterans Day will help to finally heal these wounds and assure those who serve and their families are accorded the respect and honor that they deserve. So on behalf of my family and my country, I'd like to say thank you, and at this time I believe that councilmember Rose Herrera has some more words.

>> Councilmember Herrera: Thank you, Councilmember Nguyen and Mayor Reed. I'd like to thank the Vietnam Veterans of America, the San José Vietnam war memorial foundation, and the American legion post 791 and other veterans for joining us up here today. On September 25th, 2009, the governor signed AB 717 into law declaring March 30th welcome home Vietnam Veterans Day in the State of California. Today our city joins communities across the nation in thanking Vietnam veterans for their service to our nation. When the war ended these veterans returned to a deeply divided country. Our country did not always welcome them and provide them the support they deserved. Today we offer that heartfelt welcome and we thank you for all the sacrifices you made during your service in Vietnam. We also thank you for your dedication to this community, and to this nation after your return. I would now like to make brief remarks about one of the groups assembled here. Formed in 1978, the Vietnam veterans of America, VVA has 50,000 members and 630 local chapters. This organization seeks to demonstrate a positive image of Vietnam veterans, and VVA advocates for access to quality health care for all veterans. We're honored to have the VVA and all these veterans organizations that have joined us today and with that I would ask the mayor to present this proclamation and we have one copy for the Vietnam veterans of America, the San José Vietnam war memorial foundation and American Legion post 791. And I would like to ask Bob Johnson, the California state president of the Vietnam veterans of America, to come up and say a few words.

>> Mayor Reed, councilmen, gathered citizens of San José and Santa Clara County, although today is Vietnam Veterans welcome home day, it's a day of remembrance and also a day of national healing are from the scar left from 40 years ago and the war. Although it recognizes the Vietnam veterans and their service, today is shared with all veterans of all wars, past, present, and future, VVA's founding proclamation in our first national convention, declared never again shall one generation of veterans

abandon another. Based upon that, that is the driving force behind today's recognition. Never again, let any veteran that goes off and serves his country, answering the call to duty, be chastised or blamed for what he has asked to serve. Remember to separate the war from the warrior. It is their responsibility in answering the service of their country that they do what they do, politics set aside. On behalf of all the members of Vietnam veterans of America nationwide here in California, to all those veterans assembled here today, I say to you, thank you, and welcome home. [applause]

>> Mayor Reed: See if we can form up for a group photo. We need the wide-angle lens. See if you can squeeze it in. Thank you very much. Is.

>> Mayor Reed: Next item is consent calendar. Are there items on the consent calendar that council would like to pull for discussion? Motion is to approve the consent calendar. All in favor? Opposed, none opposed, those items are approved. Item 3.1, report of the City Manager.

>> City Manager Figone: Thank you Mr. Mayor, members of the council. Last week the city council directed the administration to seek a second 5% in concessions from our bargaining units in the area of personnel cost savings, including the ongoing and these would include either ongoing or one-time savings to achieve a total reduction of 10%. And I was also asked to report on the status of our discussions today. So on Friday, I had a meeting to brief the bargaining units on the preliminary budget information that was released yesterday. Since many of the groups could not make it, a second meeting was scheduled for yesterday morning. At that meeting all bargaining units attended except local 230, our firefighters union. And at my invitation, Bob Brownstein from work partnerships was also in attendance. Our purpose was to hear ideas, and seek to understand those ideas, so follow-up evaluation could occur. At that meeting we received 13 ideas from the bargaining units, four of which are subject to meet and confer. Two of the 13 ideas are already on the table with our bargaining groups, and those would result in personnel cost savings. The bargaining units acknowledged that some of the ideas could not be implemented in the coming fiscal year because they need more research. Among the ideas suggested yesterday are fees, legislative changes, borrowing some level of funding through the issuance of commercial paper as an example to provide for services, and health care reimbursements under the federal health reform policy. Also included was a suggestion for reducing the cost of contractors, which as we have been reporting, is currently underway however we will continue to strive to maximize our lowering cost through looking at the cost of contracts. I have another meeting scheduled with the bargaining groups on Thursday, April 1st, at 2:00 p.m. and so by the end of the week we will be posting a list of the ideas on the City's Website under labor negotiations. I've also continued to receive questions about what management might be doing, in regard to the response to concessions. As the council knows, the majority of our managers are represented and so those discussions will be with their bargaining groups. However, regarding unrepresented management who primarily make up what we call unit 99, I can assure you that this group will be participating in concessions. I met with the unit 99 forum. They are not a bargaining group but we do meet to discuss the issues and to ensure that those voices are heard, I met with them on March 29th. We have discussed with them not only the ongoing 5%, we have received their ideas on the ongoing 5%. I was also asked to provide you with an update of where we are at in negotiating with our 11 bargaining units. And as just noted although we did receive suggestions yesterday during our informal round table discussions, we have not yet to date received any official proposals at the table that would reduce ongoing personnel costs for the next fiscal year and do not yet have any agreement. And so as we do receive those proposals we will bring them to your attention and post them on our Internet, and let me just say, in closing, these are scary unsettling times. As we engage with our bargaining units, in concession discussions, those are not easy conversations for any of us. And I commit to you that our approach will be as open and as collaborative as possible. While at the same time, assisting the council by keeping what are technical procedural requirements on track given we're operating under some very tight time lines so you have the options available to you as you go about making your difficult decisions in balancing this year's budget. And that concludes my report.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just wanted to thank the City Manager for not only taking the time out Friday as was indicated last week and in recognizing that many of the bargaining units couldn't make it, but by taking the time out Monday to meet with them as well. I know you're juggling a lot of different tasks and responsibilities, many of which we put on your shoulders. So I certainly appreciate that. It sounds like there's some dialogue that's occurring and suggestions put out there. I think that's precisely some of what was desired by the council direction last week, is that some of these ideas in more of a free flowing format was allowed to be discussed and that the direction of the 5% ongoing with 5% of

either ongoing, one-time or other options that would get us that 10% goal that we have all -- we all reiterated last week. So I just wanted to thank you for doing that and I think these updates will be very helpful going forward.

>> Mayor Reed: That concludes item 3.1 taking us to 4.1, the annual action plan fiscal year 2010-11 for impediments to fair housing choice. This is a public hearing for city's consolidated plan for this time period. These documents are previously released to the public on March 22nd. Today's the opportunity for the public to comment on them. In addition to making comments at today's meeting, residents can provide comments in writing or in person through April 26th, and the city council will provide for public comments on May 5th at the council meeting before approving a final document. Documents are available and can be found on the housing department's Website, SJhousing.org. Everybody should take a look at the draft plans, there is lots of information about our goals and what we're trying to do. With that, I would see if Leslye Krutko wants to add anything in terms of today's presentation.

>> Leslye Krutko: Thank you, mayor. Leslye Krutko, director of housing. I really just wanted to give a real quick summary of what is part of this public hearing. We do have three different documents. This was -- is our five year period where we are redoing the consolidated plan for the upcoming five years. We're also looking at our annual action plan which we regularly look at, every year at this time. And that action plan is for the year 2010-11. And then also our five year impediments to fair housing which is another plan required by HUD. All of these documents are required by the federal government to receive federal housing and community development funding. And the next slide here, if I can get it, oops, shows -- shows the funding that we're looking at. The majority of the funds are for these four federal entitlement programs. The community development block grant program home, the emergency shelter grant program and the emergency shelter housing for people with AIDS program. We do however in the document go into much more detail about other federal funds that we expect to receive and how those funds will be used. One feature that was different this year is that our five-year fund was developed through a county collaborative. So rather than in past years where we've done this for San José itself, the county and all cities but one in the county proceeded along with San José to look at our needs together. What that means is that we all have consolidated plans going forward that have the same goals in them, so we're looking much more regionally at how we respond to our housing and community development needs. We did have three consolidated plan public workshops and four workshops that related to the analysis of impediments. As the mayor said, we have a public comment period until April 26th. There will be five public hearings and opportunities to hear from folks. We also mailed out notices to over 450 organizations and printed information about the consolidated plan in various local newspapers. On the CDBG process and recommendations again just wanted to mention the change that was made this year. This year, we did two different things than we have in the past. First, we have panels, not just staff review, the applications that we have panels of subject area experts who worked with us to review the applications. We also provided up to 15 minutes per applicant to give a presentation and to answer, have an answer and question session. We did break out the funding into four categories, access to health care, basic needs, self sufficiency and legal and fair housing. So rather than all of those competing and scoring against one another, they were scored by panels, in like areas. The last but that I have there is an 80s on city projects. We did make more of an effort to fund city projects this year given the current financial situation. So we are funding about -- nearly \$7 million in city infrastructure projects, fire apparatus, code enforcement, housing rehab, minor repair and LED street lights. The CDBG process there is an appeal process for that that ended last Friday. We have received six appeals and we will be reviewing those appeals and responding to them. And then when we come back to the council on a believe it's the 4th of May, we will end that presentation, let you know what the response was to those appeals. The final consolidated plan is due to HUD on May 15th. So with that? If there are any questions, I'm available here.

>> Mayor Reed: Thank you. I need to clarify what that date is. Because I said May 5th. You said May 4th. What does the clerk say about the council meeting that week? I don't want to confuse people. We'll come back to that after we figure out the exact date.

>> Leslye Krutko: It is a Tuesday.

>> Mayor Reed: It is a Tuesday, we meet on a Tuesday that week, May 4th, that the council will take additional comments before approving the final document? Any comments by the council? I do have a few cards from the public. Please come down when you hear your name called. Jim Gno, Trang Nguyen, Trini Ayala. That was Jim Gno, Trang Nguyen and Trini Ayala.

>> Good afternoon, mayor and city council members. My name is Jim Gno, I'm here today on behalf of Vietnamese Voluntary Foundation, to appeal on the CDBG recommendation on VIVO proposal about employment services to Vietnamese community. You know that Vietnamese community make 10% of this community and also they contribute significantly to the city growth. But Vietnamese community now are underrepresented and underserved. Especially at this time, we are facing the economic downturn, and Vietnamese community is most vulnerable community. First thing, a mass layoff, high competition in job search, they don't have enough skill, they came from nonspeaking English country. And now, they need to be self-sufficient. Instead of rely on public assistance. But to help them to be efficient, CDBG open for self sufficiency at this time and return in the proposal requesting money to provide employment services to Vietnamese community. But our proposal rejected. Even we score 89.5 points, that means hire than 21 agencies are recommended for funding. We have -- we have a current program providing employment services. Our performance is wonderful, we exceed the goal and our proposals look good. I don't know why our proposal is rejected. I don't know why we have no chance to continue to serve our community and to contribute to the growth of the city. Please reconsider to give Vivo a chance to serve our community, thank you.

>> Mayor Reed: Trang Nguyen.

>> Hello, I'm also going to be talking on behalf of Vivo. First of all, this is only as relates to Vivo's funding. During these difficult economic times, people out of work and we need to find them jobs. And under the self sufficiency category which Vivo applied this grant for Vivo is the only agency that actually finds people jobs, go out and actually take people out there and get them a job. But is not being recommended for funding. So it seems a little contradictory to have a self sufficiency category that does not actually fund job creation. Secondly, only CDBG funds allows VIVO to meet the needs gap. Other VIVO is currently allowed to do that under Santa Clara County funding, that funding is very restrictive, only CalWorks participants at this time, people work ten years or more, all of a sudden finds themselves laid off. Most of the funding out there does this where it only funds certain restricted categories like recent refugees. Third of all, the recommendation doesn't seem to reflect the scores and the quality of the programs. Even though VIVO scored 89.5% which is only .5 difference from another agency that did get funding, Vivo didn't get funding even though scoring higher than 25 other organizations and in the other category it scored only two programs under access to health care scored higher than VIVO, why seven programs receiving lower scores were funded, only programs under basic needs category received recommended for funding. Only one program under the legal services.

>> Mayor Reed: Sorry your time is up.

>> Okay, thank you.

>> Mayor Reed: Our last speaker under this item is Tili Ayala.

>> I was told that it was not my time to speak. But if I'm given the opportunity to speak, I feel that I should say something. I first of all --

>> Mayor Reed: What do you want to talk about?

>> I'm here to talk about the Alma center briefly.

>> Mayor Reed: Then you're going to have to wait. Lots of other people want to speak about that. This is not the time.

>> I do apologize. I apologize to the cannabis folks. I was a little bit rude to them outside, I apologize.

>> Mayor Reed: We'll get back to the community center item. That concludes the people that wanted to speak on the consolidated plan. Any additional council questions or comments? I would like for the staff to, when this comes back to us, I'll have a question about Work2Future and how they do training because I know they have lots of other training programs that may or may not relate to the kinds of things we just heard about and I think there's some resources there that might help on some of those issues. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wonder, I want to know if this is an appropriate time to answer those questions addressed by the VIVO people regarding people with the lower score end up getting the money and they don't.

>> Leslye Krutko: Yeah, councilmember I would like to be able to look at their appeal. We just received it on Friday so I'd like to be able to do that just in explanation, though, we did, as I mentioned very briefly in the presentation, we did have different categories of funding. And those different groups may have scored differently. And so that's one of the reasons for the differences in scores between the different groups. But I would like to look at their appeal and consider it more thoroughly.

>> Councilmember Chu: Thank you.

>> Mayor Reed: Any other questions or comments? We're not going to close this public hearing, we're going to continue it, is that the way we run these particular hearings? Okay so that concludes today's part of the hearing. We will take this up as this plan gets back to us ultimately for a final approval on May 4th. So that concludes the hearing on this item, 4.1. We're now going to take up first item 5.3 and then item 5.1 regarding community centers. 5.3 is the audit of community center staffing, done by our City Auditor, Sharon Erickson, and her staff, and then we'll take up 5.1 which is the community center reuse update and the RFP recommendations.

>> Sharon Erickson: Thank you very much, Sharon Erickson, City Auditor. Mayor and city council, you have before you the audit of community center staffing. I don't need to tell that you that over the past decade, the city has improved public facilities and infrastructure through an expansion in its capital improvement program that has been known as the decade of investment. Unfortunately shortly after that decade began, the city entered into an extended period of projected budget shortfalls. To close the budget shortfall, PRNS, the Parks, Recreation, and Neighborhood Services department has been actively seeking alternative approaches to managing community center operations, including reorganizing and flattening the community services division, introducing the facility reuse program, and undertaking efforts to improve its revenue generation. However, the need for efficient community staffing of community centers has never been greater. Building on PRNS's efforts to improve community center operations, we reviewed community center staffing, and identified several areas where additional improvements can be made. First, there are a variety of inputs that inform PRNS's management staffing of community centers. But we did find that PRNS lacks good data to track community center cost, usage and efficiency indicators. Second, PRNS can improve its facility reuse program by clarifying required service levels for reuse service providers with multiple sources of city funding, by improving cost monitoring and cost sharing at reuse sites, by allowing for a tiered approach to cost sharing and reuse contracts, by periodically reviewing the city's cost for reuse facilities and assessing the couldn't value at reuse sites of reuse sites, and by allowing for-profit entities to potentially compete for reuse facilities under a modified reuse arrangement. For example other jurisdictions have partnered with for profits to deliver aquatics and fitness programs. Third, PRNS can make additional progress towards cost containment and recovery goals for community centers by making greater use of its class registration software to publicize programs at community center and to limit staff time devoted to scheduling classes that garner low or no interest at community centers. Finally community centers are open limited hours on weekends. Staggering and shifting staff schedules could mitigate some of the impact, of further staffing reductions. We specifically recommended that PRNS identify community centers where staffing schedules can be modified to allow for weekend operations, and to identify community centers where staff schedules could be further staggered to increase community center staffing efficiency. Our report contains a total of 17 recommendations. The administration agrees with these recommendations although there are budget constraints around some of them and the public safety, finance and strategic support committee accepted our report on March 18th. I want to thank the staff at PRNS for their cooperation and assistance during this review, and with that we're happy to answer any questions.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor. First of all I wanted to thank the City Auditor and her team for the excellent audit report and also, to Albert Balagso and his team for the response they provided. There are a couple of recommendations or items that actually in the report that I wanted to speak briefly about. And Sharon actually alluded to in her presentation. But before I do that I just wanted to recognize and commend you for how timely this is that we're actually looking at this report as we're going through different discussions in trying to keep some of our community centers open, while we're going through this really hard, difficult times. Some of the things that the report actually pointed out was the examples of the discrepancies between the revenue generated versus the services we provided. I speak at length at the Public Safety, finance and strategic support committee meeting that for some of these centers it's eventually the centers that serve low income populations which I put them in the category of highest need. It's really difficult for us to track the number of attendees who actually attend and participate in some of the services and programs. Apparently some of these older community centers don't have the kind of system that we actually have in place with the newer community centers, and so as we move forward with our discussions I just want my colleagues to be mindful that in terms of equity and fairness, we need to look at these older community centers and realize that the actual numbers of attendees, the report that staff actually bring forward to us does not necessarily reflect the numbers of attendees that actually attended these services and programs. So that's one thing that I wanted the to

bring up. The other part is that we really need to revisit the city's reuse policy. Apparently we're going to talk a little bit at length on this in the next item. But there's just a lot of burden placed on alternative service providers at this point in terms of trying to compete for the RFP process and it deterse a lot of them from participating in the process. We definitely want them to be part of the process to help us come in and look at the various community centers to see how they can help us as we're encountering some of the financial challenges. So again, I wanted to thank the City Auditor for your work and with that I move to accept the audit report.

>> Second.

>> Mayor Reed: We have a motion to accept the auditor's report. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Sharon, thank you again for another excellent job. I think like Councilmember Nguyen I was concerned about the extent to which we're not very effectively able to track cost and usage in the number of attendees, leaves us without very good metrics for assessing where we can best most effectively use dollars to serve folks. And in particular on pages 33 and 34, when you look at the recs data on class enrollment. And it's broken down into various categories. And I'd note that it appears that while most classes were successful, that is, they seemed to attract some minimum number of attendees in several categories, you look at for instance senior special events where 97% of the classes were cancelled or you know several of the others arts and crafts, dance enrichment where more than 60% of the classes were cancelled, the question I have is, are we really using the rec's data based on your analysis to inform us about how we can best perform services that meet the needs of the community?

>> Sharon Erickson: The system as staff becomes more familiar with this system, we believe that staff can use this data to advantage. For example, we recommended here that we start looking very closely at the percent of classes or the number of classes that are being cancelled. There are going to be a certain number of classes where staff guesses wrong on what the community needs and we go ahead and expend the staff effort to schedule a class and end up cancelling it for whatever reason or there could be other circumstances. What I was concerned about is the quantity of staff time that's set. It's not simple to set up a class, to publicize it, to reserve rooms, to line of the instructors, then at the end of that to cancel. We have to look at every way we can to use that data, to inform us where we can be spending our effort more usefully.

>> Councilmember Liccardo: I agree. The other page I wanted to draw your attention to is page 22 where we look at the expanded service areas for hubs. And I recognize that your tools for studying what's going on are limited. We don't expect you to go out there and visit every community center and understand the demographics of every community that's served. But sort of piggybacks on Councilmember Nguyen's point which is we have community centers which maybe neighborhood or satellite centers that serve communities with particularly high levels of need. Because they're communities that struggle because of income, poverty, the various indicators, crime and so forth. So when we look at the service areas and how well the City's covered, I assume you didn't look for instance at whether or not children or youth or young adults may be concerned about crossing gang lines to get from their neighborhood to a hub that maybe in a different neighborhood that may put them in Sereno and norteno territory where they're very much at risk or feel unsafe, is that fair to say?

>> Sharon Erickson: That's absolutely correct. What we were struggling with was the lack of data here, and that's not something that we're going to see in census data even, but how we can use the data to help inform what community centers we keep open. So what we saw was, you know, in that as council reports come forward for council discussion so many anecdotes about a center or its importance. And when we went in to find the data, we couldn't find hard data to support those anecdotes. It is my feeling that we've got to get to a place due to budget constraints it may not be this year or next year, where we have more hard data to help inform those decisions. There are going to be things outside of the data, things like you just brought up which we may never be able to capture in a GIS system.

>> Councilmember Liccardo: Sure.

>> Sharon Erickson: But hopefully this kind of mapping can help to show us where there are overlaps, where there is potential. The idea of data for me is just to start the discussion. So it gives you a base from which to discuss. Here you can see the overlaps and then the policy makers who know this can use that data to decide whether or not those are the overlaps you want to see for some other reason. But at least we have the data to help us make that decision.

>> Councilmember Liccardo: I appreciate that, Sharon, and I agree with everything you've said. I guess and I'm mindful that on the top of 22 it talks about the survey that is away done with residents to figure out

how far they might travel, for instance, another criterion we might consider. I know the valley transportation authority has data at least that they've produced that describes which neighborhoods and which people have the least access to automobiles and other kinds of transportation where people might be most confined geographically. Would you agree that's the kind of data we should also be considering as we look at how effective our coverage is?

>> Sharon Erickson: Slum.

>> Councilmember Liccardo: Okay, thanks a lot, Sharon.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Sharon, I appreciate the fact that you did clarify that this is data, and that sometimes the policy makers who really understand the dynamics within certain boundaries of the City of San José, as my colleague previously outlined. This is to serve as a guideline of data on where we currently have centers, hubs, that may be overlapping, but not necessarily excluding a satellite center from being there, considering that there may be other data, whether it's somebody has access to public transportation, whether it's safe for them to be traveling into a particular neighborhood, or other items of that nature, is that correct?

>> Sharon Erickson: That's correct.

>> Councilmember Campos: I appreciate that because I think as policy makers, we the dynamics from a humanistic standpoint, on what is going to impact someone being able to travel to a hub. Let me take for example two centers that we'll be talking about and one of them has to do with my district which is the Hank Lopez and I know another one has to do with Councilmember Nguyen's the Alma. We know that seniors are faced with other challenges. We know that these are two communities that currently are underserved in certain amenities. And for them to be able to travel, whether it's having access to a vehicle or having the luxury of having them so I appreciate your added points to the fact that this serves as a starting point for us to be able to have that dialogue. And bringing in the other information from a policy perspective to make the decisions. Thank you for that.

>> Sharon Erickson: If I could just add to that, what I would like to see is staff able to bring you better data to help inform those decisions as well. So right now as staff is telling you they don't know how many people are in attendance at a center, how many people are walk through the doors, I'm here to tell you they're telling you the truth, they really don't know. It's not that somebody is withholding information. We don't have a means to count those kind of things. It's a kind of information that I think long term the city would be better served to have. But it's also a cost factor.

>> Councilmember Campos: And I appreciate that. I think that one of the things that councilmembers tend to be very good at is that we visually go into these centers. And whether people are counted as they walk through that door, I know that I can go to the Alum Rock senior center and, in any given lunch time, there is a room of more than 75 to 100 people that are having lunch. And we may not be capturing all of those bodies. But we know that visually, we have people that are using those services. So I would like to be able to see that, too, that the numbers are brought forward, and I know that we are facing very difficult times and we may not have the capacity to capture that. And I think my colleague Nguyen alluded to the fact that some of the centers are older and they don't have the capacity to have the technology that we need to capture some of that. So thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor, thank you, Sharon and thank you, Albert. I appreciate this report. This is a very comprehensive report and what we're used to expecting from the auditor's department so thank you for this. I guess I had a couple of questions kind of in the same vein as some of my other colleagues have already been talking about. I'm very supportive of the idea of cost recovery certainly and it seems to be working in some of the areas with the large hubs and I can see that having those centers is a good idea in terms of being able to do that. I guess I'm concerned where I'm wondering how cost recovery works with some populations and particularly in areas where there's greater need where there's low income, where we have seniors that are very dependent. I know in my district in district 8, I'm concerned, and I do spend time going to the center and kind of eyeballing it myself, evenly though I'm not totally sure of all of the data as we're talking about, I like to go there and spend some time there. I think walking around is a very good idea what I heard from seniors is when they had cost recovery when they started having these classes, they opt -- for whatever reason, partly because they can't afford it, they stopped going. It was not for lack of interest, the cost recovery model put into place didn't work with this population, that's one of the things I'm questioning whether that is appropriate. And so we have seniors that may be no longer getting that exercise that they would have gotten by coming to those classes. And

I'm wondering what the consequences are going to be for that population. So I'm concerned and I'm talking about a specific community center but this could apply throughout the city so I'm just kind of wondering about programs where we're seeing the numbers go down, as Councilmember Liccardo pointed out, 90, you know, like 97% cancelled, that's in terms of special events but I'm told in one center it's that kind of a number for classes for seniors. So I guess I want to comment about those populations and you know the same is true, I'm worried about, although they're still there but on the reuse list, Mill Brooke community center provides after school and childcare programs that allow parents to work. And if those programs aren't there we're going to have other consequences as a result of that. I guess I wanted to get your comments, either you or Albert on a senior aspect first.

>> Councilmember Herrera, angel Rios, director Parks, Recreation, and Neighborhood Services we are in the shift of the way we have done business. I think historically or traditionally we have provided fully subsidized programs pretty much to all our clients. That no longer is a possibility so as we've been shifting towards financial sustainability the whole focus has been on how do we prepare for the future, how do we continue to maintain this level of service and we recognize that in doing so the first challenge we run up against is affordability. So as we've been launching this I could assure you that price shouldn't be a deterrent to a senior or to a young person accessing any of our programs because what we've also done on a parallel track is launched a scholarship program. We have the authority under the fees and charges to go ahead and administer that scholarship. So I think we've done a very effective job in letting folks know so when somebody has that need we make sure that we meet their need. At the same time, what it's also triggered for us is some greater outreach to the foundation community to subsidize our scholarship program. Moreover what we've also done is we've applied internally a 3% off the top use of funds to actually subsidize our scholarship program. So as we continue to grow and move towards this cost recovery model we're also looking at how do we ensure that those that cannot afford access still receive our services. Nonetheless it is a challenge yet it's one that we're handling in that way.

>> Councilmember Herrera: I appreciate that answer and I guess I just want a reminder, the parks and rec department had a rabbit run to raise scholarships for that purpose for youth. Some of the seniors I'm afraid because of how they were raised their cultural inclination are not willing to go and say I need help that's my concern actually after talking to some of them. I think they don't want to come forward and say I can't afford this. So I think if we can look at other paradigms where people's pride can be preserved without having to say you know I can't afford it, and I'm just raising that as a concern because actually talking to folks, that's what's come up. And I really appreciate the report. Thank you.

>> Mayor Reed: Thank you, Sharon. That concludes council questions for now. Are I'm going to take public testimony on this item. Please come on down when I call your name so you're close to the microphone. Tili Ayala, let's try it again. Dee Urista and then Aaron Karerra followed by José de Guzman. I'm sorry. I'm getting ahead of myself here again just a little bit. Just be close. This is on the audit. We're going to deal with the audit then we're going to take up the community center reuse. I want to see if we can get done with the audit. There was a motion to approve the audit. All in favor? Opposed, none opposed, that's approved. All right now we're going to take up 5.1, I do have request from the philanthropic speak. We'll probably have a presentation first, sorry for the false start. Albert take it away.

>> Albert Balagso: Albert Balagso, director, Parks, Recreation, and Neighborhood Services. Recommendations for the six sites that we are currently addressing. Next slide, please. Just to give you a bit of background, in April 2008 council approved the reuse policy, 7-12 which established a formal guidelines for the free use of community centers, reuse sites by nonprofits, neighborhood groups, school districts and other governmental agencies. In 2008-2009 we did do a -- we added subpoena community centers that we took into this reuse process. We were successful at that time in utilizing an RFP process in that of those 17 we were able to place other providers, and 16 of the 17, the 17th one is in Alviso and has some issues as far as the infrastructure so we're not able to safely habitate -- habitat -- utilize that facility. In 2009-2010 budget process six more facilities were added to that list. And council provided one time funding through June 30th, 2010 and directed staff to find alternative service providers with the understanding the facilities would be subject to closing if staff's efforts were unsuccessful. The facilities that we were contemplating at this point in time are capital Goss neighborhood center, Hank Lopez community center, Straight and James senior center, Alma youth and senior center, JTS Northside community center, and Los Paseos community center. The process we utilized to review the reuse assessment, was conducted over the past seven months and the four items categories are up there that we staff went through. We looked at the conditional space assessment, community input engagement. We had a community advisory task force that consisted of community stakeholders and

other groups that had interest in helping us solve the reconciling these facilities, and this group helped us in shaping the RFP as well as helping in evaluating the RFP proposals as they came in. On the next slide, of the six sites on the reuse list, staff identified alternative uses for three of the sites and those are listed here on this slide. These three sites identified for other city uses are listed as capitol Goss, Hank Lopez and I'll briefly go over the recommendation. For capitol Goss neighborhood center, SNI staff will take over that facility and continue the operation of it. With the Hank Lopez community center our recommendation is to centralize our youth intervention program at that facility. We would relocate the senior program to the Mayfair community center and combine the two elements together, and through a grant we're able to continue to provide early childhood classes in the facility and to the comment of Councilmember Herrera earlier, this would be fully subsidized and so it provides services through the use of the grant from autoresource. With St. James community center we're recommending relocation of the senior program to the new Roosevelt community center and looking at demolishing the St. James facility because of the age of infrastructure. It would cost us over \$800,000 to bring that up to standard where we could continue to safely occupy it. We would then convert St. James back over to park land as we have relocated the program. For the three other facilities we have on the list, they are the Northside, Alma and Los Paseos. We have conducted an RFP process which have -- we were able to garner a master provider for Northside and that the that is the community childcare council for Santa Clara County, otherwise known as 4 Cs. They would serve as a master tenant, and coordinate at the facilities that would include services to teens, seniors and the veterans services that are out there. We were not able to find providers for Alma youth center and senior center or Los Paseos and our recommendation is that the City Manager be authorized to work on sole-source negotiations with other providers. And the reason I'd like to expand on that if we can go to the next slide. What we learned in the past, in the successes that we had in 2008, was that the facilities were smaller and older and more compatible with single users, so it was much easier to find providers who could come in and provide simple Services and keep the doors open, keep the lights on and keep services going out to the community. In 2009, with the six centers that were moving forward with they're much larger than those that we were utilizing before. And as such they require greater resources even though the city is providing the utilities and the maintenance costs for these facilities. And in this economy we're also finding that a lot of the nonprofits don't have the resources to operate a lot of these larger facilities and there are many other variables in there from the desire to have the city continue to operate it, as well as the different variety of programming, versus agencies would like to come in and provide one specific program. And in the full service community center, we have a wide variety from different age ranges and from different levels of service from youth to enrichment to seniors. And we're not being able to get many agencies that have that full range. So what we're suggesting is that we look at the ability to provide more negotiations or brokering of different agencies and bring them together in partnerships that we could bring into the remaining community centers. The success of the previous centers were the ability to work with these individual groups and broker them and create a program that filled the day. And our objective with the remaining two sites is to look at how we might, again, be able to bring these different agencies together, through sole source negotiation and broker a program that could keep these services open and available. So the next steps that we would be looking at is to provide in May an information memo on the status of staff's efforts to do these negotiations, and if successful, than to bring the service providers in, no later than late June. And if the solicitation efforts with the sole source are unsuccessful then the site closures would be effective June 30th. That concludes our presentation and we're ready for any questions that council may have.

>> Mayor Reed: Okay, thank you. Before we get into council discussion I want the City Attorney to talk just a little bit about the limits of the scope of what we can do today, based on the Brown Act and the noticing of this. Because we have two council memos out and I know that councilmembers have a wide range of interests here. But we are somewhat limited by the -- what's in front of us on the agenda in terms of what action we can take, not necessarily what we can discuss. I want to let the City Attorney let us know what the rules of engagement are here.

>> City Attorney Doyle: Mayor, thank you. The council agenda item which is the public noticing contemplates action on six -- I believe it's six -- facilities. Staff recommendations are set forth in item 5.1 A through D. There are council memos out there, I know there's discussion and staff has talked about the remaining community centers. It is appropriate to have that conversation and have a discussion. However, with respect to those facilities that aren't on the agenda, however, if any action would have to come back and direct staff to come back with some proposed action, would be in order. So

the short answer is, you can take answer on the six that are contemplated in the agenda. You can give staff direction to come back and address the others.

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

>> Councilmember Liccardo: Thanks mayor. Rick, I was hoping I could flesh out a little bit your direction, because it would help us understand exactly where we can go. I understand certainly we can't be make decisions about the 21 centers that are contemplated for closure in June. But with that in mind, we also know that as we look at this as a citywide issue, how we deal with either those or in fact the other hub centers have significant impacts about whether or not we can keep programs or services going at some of the centers that are contemplated here, and specifically I'm thinking about Los Paseos and Alma. And the question is, can we take action on anything relating to our broader community center approach in light of the fact that all of it has funding impacts for how city staff is allocated citywide.

>> City Attorney Doyle: Well I think the staff clearly has its recommendation and you can take action on as per the staff direction. To the extent that they're all interrelated or there's an interrelationship, again to the extent that you're looking at specific direction, what I really have in mind is, and I'll take your memo as an example.

>> Councilmember Liccardo: Yeah.

>> City Attorney Doyle: You talk about a number of facilities, you talk about using the municipal code section that allows for unique services.

>> Councilmember Liccardo: Right.

>> City Attorney Doyle: Or unique situations which is an alternate process to competitive process.

>> Councilmember Liccardo: Right.

>> City Attorney Doyle: Or pure competitive process at least. It would require a waiver of certain policies, the community reuse policies which contemplates a competitive process. There are additional policies including the service delivery evaluation, which isn't mentioned in your memo, and the private -- the public-private competition policy potentially as well.

>> Councilmember Liccardo: Right.

>> City Attorney Doyle: And those all would need to be waived by the council if you wanted to go with an abbreviated process understanding the time is short. adopting the exceptions to the Municipal Code now but you could direct staff as part of this discussion is hey, we're interested in pursuing this, come back you know at a date certain and let's get this moving.

>> Councilmember Liccardo: At the very minimum, then, can we at least direct staff to conduct negotiations and discussions future makes to be able to make a decision about going forward with waiving RFP process?

>> City Attorney Doyle: I think you can ask staff to solicit interest and maybe if that means negotiations as well, yes.

>> Councilmember Liccardo: Okay so soliciting interest is okay.

>> City Attorney Doyle: I don't know what's out there.

>> Councilmember Liccardo: I don't either.

>> City Attorney Doyle: That's something that ask staff to report back on that meeting.

>> Councilmember Liccardo: That's helpful, appreciate that Rick. Obviously the concerns I think that many of us feel are both because we know very important centers like Alma are in peril right now. We also know that because we're facing such severe budgetary realities, another 21 centers are slated for closure. And those 21 that are sort of in the pipeline foreclosure are going to be on us very quickly, that is, if we don't have partners out there to help us between now and July 1st, they will be closed. And so I'm hopeful at least that we can talk about how to move forward in a way that might be constructive to try to at least in those communities that have the greatest needs to be able to keep services intact, I wanted to thank staff certainly Albert and angel and Julie for their hard work. I know this has been an incredibly time consuming process. I hope we can make it less time consuming for you by setting aside some of these policies in a hope that knowing we have a very urgent situation in front of us and not very much time to act. I also wanted to thank 4 Cs in stepping forward and helping other partners as well at Northside. Various members of our community certainly have been there for many years and we want to keep them there and we want to ensure that we continue providing services for them there. But obviously I know there are many folks here from Alma and I appreciate them coming. I've expressed concerns for some timer about sort of the hub approach that we've followed in this city, which assumes that city staff should be allocated to hubs, first and foremost, and any other service providers that might be out there would be relegated to neighborhood, or neighborhood or other centers. And the problem is, is that it's not

obvious to an awful lot of us as to whether or not that's really the most efficient way to be using our resources. And whether or not we can in fact serve more people by allowing city staff to move based on where the needs are if in fact the hubs are well taken care of by ore providers, nonprofit providers or other providers. And I've set forth in a memo dated March 26th an approach that I think gives us at least an opportunity to help centers like Alma and the approach that I followed was one that agreement between two memos about suspending RFP requirements, I know we can't do that today but at least we can direct staff to come back to us and provide us with a means to do that. But secondly it enables us to start a process of at least asking the question about whether or not some of these hub community centers, as well as any other community center, might be attractive to other service provides with the explicit requirement that if a provider doesn't meet the needs of a community and the council office and most importantly of course the community and council, then we'll guarantee that there's funding for city staff at those centers. And that nobody, no hubs will be lost. But to take them off the list, so that nobody can even consider the prospect for instance of a nonprofit coming into Roosevelt community center and providing the services that the city is providing limits our ability to stretch and provide services elsewhere. I know at Roosevelt if I had a nonprofit willing to provide some services that would enable us to shake loose two or three city staff, that we could redeploy to a place like Alma or Washington or Gardner I'd do it in a second knowing that the alternative is that those centers would close. So I'm concerned about the hub approach because I think it limits our advocacy. I'm concerned about the hub approach because it makes certain assumptions about coverage that I don't think are realistic based on the realities in our communities, surrounding for instance gang turf and whether or not gang prevention programs at one center are really going to serve kids in another neighborhood across gang lines, given the mobility of a loved seniors are not able to get to a lot of location so I think we need to look at how we can best leverage city services and not simply focus city services at hubs and say that's where all city staff will be and I think staff is implicitly accepted some portion of that notion because even at the new Edenvale center my understanding is we are leveraging the help of lots of nonprofits to be able to help at Edenvale, where a smaller group of city staff presumably so we can stretch city staff to serve in other areas. And I know the goal there is to try to get to 100% cost recovery. So I think given the fact that we recognize that can work at a place like Edenvale we ought to be able to open ourselves to the question could it work at other places as well and if we don't like the proposal we can always reject it in June and go forward with what we have but at the very least we have to ask the question or else we will be confining ourselves to writing off the centers like Alma and I don't want to do that. So I'd like to make a motion that the recommendations set forth in my memorandum dated March 26th along with staff recommendations would be accepted.

>> Councilmember Herrera: Second.

>> Mayor Reed: We have a motion on the floor. Want to clarify the motion. Vis-a-vis what City Attorney has said because the language is going to the memorandum is more directive --

>> Councilmember Liccardo: You're right, I'll try back off given where the city attorney's directed us. Regarding paragraph 1, the suspension of any formal city services, the direction would be for staff to come back with a proposal to suspended those requirements and then secondly for staff to come back with a staff memorandum describing the pros and cons, evaluation of how -- whether or not we should reevaluate our approach to hub centers. So we don't make any decision today, we simply have staff analysis about whether or not it's worth to continue with the current policy. And I really think that takes care of paragraph 2 and 3. Nothing will be evaluated, simply reported back to council as well as paragraph 4. Errand understand with regard to paragraph 5, I believe Albert would say that San José parks foundation is currently equipped to take contributions for community centers, is that right?

>> Albert Balagso: That's correct.

>> Councilmember Liccardo: Okay. So hopefully with those -- with the qualifications directed by the City Attorney I'd make that motion.

>> Councilmember Herrera: Second.

>> Mayor Reed: I believe we have the ability to act today and we have a motion on the floor. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. And I think the one thing I can agree with my colleague, Sam Liccardo, is that we do need to start this discussion. I think that's one thing that we all agree on. I just want to clarify one thing, Albert, from the motion that is currently on the floor. That would mean that every hub in the City of San José would be at the same, I guess, level to be on the RFP process process as the satellites, is that your understanding as well?

>> Albert Balagso: My understanding is all facilities would be available for reuse or consideration. Is that correct?

>> Councilmember Liccardo: Well, yes but the important part is that there's a guarantee here that we would -- if there's not a satisfactory provider out there then there would be a guarantee of city staffing consistent with the current direction of the City Manager's proposed budget. So in other words, no one's going to lose city staff there if there's not an adequate provider found. For you clarifying that. Let me share the concerns you have with that particular component. I know currently now at the Mayfair community center we do have nonprofits that are providing a huge service to a lot of the constituents that live in one of the areas in the City of San José that is poor in resources, underserved. And we have been able to stretch city staff as far as we can and we've been able to partner. I think it is serving as a model and I think you would agree with me Albert as a model of how we were able to partner and bring in nonprofits to provide alternative services for our youth and our families as well. And I think we've done a pretty good job. The concern that I have about doing that is that when you start putting the Mayfair, the Berryessa, the Camden, the Almaden center, which are currently being serviced, and people are secure with those services, I think that's why they're not here is because they know their funding will be there in June. There is no uncertainty, that they will lose services come June. They've gone through a process where they know that if anything that I can count on, I can count on that my hub center in my neighborhood will be open come June, they're not worrying about what if, and the uncertainty about whether their services will be provided. What I'm hoping to be able to do today is be able to put a substitute motion. And I will make the substitute motion, and then see if I get a second on it. And I will try to use the language that has been set by the City Attorney so that I am asking staff to come back with other items before we can vote on it. So the motion will read as to accept city staff's memo with the six centers, is that correct, Albert, six centers, is that correct?

>> Albert Balagso: That's correct.

>> Councilmember Campos: Six centers and move Councilmember Kalra and my memo which was dated on March 26th, 2010, with the following additions. The City Manager's directed to set up a process by which any cost savings realized through employee concessions, City Auditor's recommendation changes or other efficiencies in operations are allocated towards providing staff or other assistance to centers which are designated the highest need in the City of San José. And if I can get a second on that, I want to speak to the motion.

>> Mayor Reed: I thought I heard a second. Councilmember Campos if you could clarify, the language of your memo is directive beyond what the City Attorney says we can do here today.

>> Councilmember Campos: So would it be appropriate, City Attorney, to ask staff to come back with appropriate noticing and policy considerations in relationship to the memo?

>> City Attorney Doyle: You're not directing staff to do that or to suspended the process, it's to come back with recommendations as to how to move forward.

>> Councilmember Campos: So then I'll substitute that with come back with appropriate noticing and policy considerations in relationship to my memo and Councilmember Kalra's.

>> Mayor Reed: Okay, and Councilmember Kalra has the second, so that's okay. All right, Councilmember Campos on your did you want to speak further on it?

>> Councilmember Campos: Thank you, mayor. The reason why I believe that this memo, or this recommendation would better serve the city is, given the extent of our challenges and keeping our community centers open, I strongly believe that if we have limited staff resources that we need to be focusing and putting all of our energy on the centers that we know are currently facing the challenges of being closed. It is not my intent to close any centers. But we know that we are facing very difficult times. And I am very, very hopeful that our city employees will come to the table and be able to negotiate with us, as our team moves forward in negotiating influence the City Manager. I think that with -- and Albert has said it over and over and the City Manager has said it over and over. We have limited resources, and we need to be thinking about how do we make the Alma center whole, how do we make sure that the seniors at Hank Lopez are whole, and that their services continue to be provided. This is a priority for me and I want to believe that it's a priority for my colleagues. And to the community. I think it's fair to say that we hear you. We know that this is not just about a facility. It's about the quality of life for the people that you serve, and the constituents that go to the Alma center and the Hank Lopez and the other centers that are considering to be closed. So I think that it is fair to say that this is the beginning of a discussion. We still have opportunities to be able to find money through the budget. I'm really banking on that we're going to have everyone come to the table and really find a solution to this. The last thing that I

think I want to mention is that, by allowing this particular motion to move forward, I truly believe that we will be able to continue to keep the hubs whole. At the same time provide -- and I'm going to use Alma because you have been the most vocal, continue to provide the quality of service that Alma needs to serve their seniors and their youth. So I'm hoping that my colleagues will support this motion so we can start the discussion now, and before the final budget is out, that we will have some concrete solutions on how to provide services to the satellites.

>> Mayor Reed: Councilmember Campos, can I get to you clarify the part of your motion that you added that wasn't in your written memorandum, about the process? City Manager come back with a process regarding use of concession to apply towards the community centers? I wasn't clear on --

>> Councilmember Campos: Mayor, could you repeat that? I didn't quite hear you.

>> Mayor Reed: You had wanted to add some language about the process, have the manager come back with a memo on the process to use concessions to keep the community centers open.

>> Councilmember Campos: Yeah, my hope is and this is kind of I think alludes to what the attorney said, that we can't direct at this point, but I know that the City Manager and our team are actually meeting with the unions right now for concessions. And if there are any concessions, and we have some savings, that we have the opportunity to understand how much are in those savings that could be applied or staff at some of our satellites.

>> Mayor Reed: Okay, well that to me sounds like the budget process.

>> Councilmember Campos: So then we can ask that to come back to the budget process, I'm comfortable with that.

>> Mayor Reed: Okay. Councilmember Constant.

>> Councilmember Constant: I was going to speak to Sam's memo so I'm still trying to figure out the differences between the two. So I'll just make some editorial comments. When we're talking about needs and needs of the community, I think there's some things that sometimes fall out of the discussion. Because I know a lot of times people think of district 1 and don't think that there's necessarily a big need in district 1. But with areas like Cadillac that have significant gang issues, the Williamsburg area, off of Boynton, the underwood Keltner area, there are some areas that have significant need yet they may be surrounded by areas that don't necessarily share that need. That doesn't America the need in those particular areas any less. I think we also need to when we're talking about need, talk about capacity. And when I refer to capacity, like capacity of each center. For instance, in district 1, kind of skipping ahead to the budget process, the one hub center that should remain open, is the cypress senior center, yet it's only 9700 square feet and almost completely maxed out on programming. Compared to every other district I think except district 8 that have facilities that are in the 20,000 plus range that have a much greater capacity to serve. The other is the availability of transit. When you have a district like my district, that is primarily suburban, if you don't live by Saratoga boulevard or Winchester or Stevens Creek you don't have a bus to get to where you need to. We're experiencing a situation by cypress center awwhere the van driver due to knell situations is off for a week, and we have members who have no way of getting to that senior center for anything, even though they rely on their nutrition that they get at the senior center but because of the lack of transit it complicates or compounds the need. All I ask as we go forward whichever memo we end up going forward with and wherever we end up going in the budget process as we're dealing with the staffing, that we kind of broaden allow we define or refine the subject in need, and include capacity of not just in square feet, because you have a big building that does nothing, but capacity to serve within a building or a center, capacity of people to have transportation to and from that center, because if you can't get there it's of no use to you, and then, of what happens when you have areas of extreme need like the ones I mentioned or the area right around Anderson elementary school, which everyone knows has a grade need, but no access to any community centers. Thank you.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: Thank you. I just wanted clarification by the maker of the motion. I know in your memo, it talks about the 21 centers, you narrowed that to the six, right?

>> Councilmember Campos: For today's discussion, yes, to move forward with city staff. But I'm also in the language that the City Attorney said to come back with the remaining satellites. But with this motion what we'll do is remove the hub centers from any further discussion.

>> Councilmember Chirco: And so this is a --

>> Councilmember Campos: Focusing basically on the satellite centers.

>> Councilmember Chirco: But either you know your motion or Sam's motion, one of the questions I want to ask staff, I realize this will come back for additional discussion. But maybe you can bring back

kind of the -- and I hate to ask for a workload assessment. But I've just seen over and over how thin our staffs are. Because this is a motion that I will be supporting. But I'm also really concerned with the short time line and the staffing that PRNS is dealing with, what is a reasonable expectation of you being able to implement some and when it comes back, you'll have even less time.

>> Albert Balagso: Thank you, Vice Mayor Chirco. The first order of business we have is dealing with the six. If we don't deal with the six then there's potential for closure of those, come June 30th. So we have two sites that we have to find providers for. And that's where our emphasis is going to be. The other proposals that are on the table are still proposals that are going to be vetted through approach that to Councilmember Constant's point of where do we start with maybe what's the greatest need of a grouping. And then we can approach it in that fashion to try tackle 21 at once would, I don't know that I could handle that and come back with anything that was really feasible. So I can put a work plan together of how we might approach it, and then maybe look at a tiered approach of how we might look at the task ahead of us. And then focus our energies for the next coming months on the first six.

>> Councilmember Chirco: You think --

>> Albert Balagso: The six that are on the table now.

>> Councilmember Chirco: I know this is coming back for additional discussions. One of my concerns and I'll submit it so you can bring back is, pitting one community against another. And the equity issue, and equal access to resources. So when we're taking, I'm going to savor away from one area, to increase resources to another, how do we look at that in providing services to our community, especially in this time where there are no resources? And I know we've been using the cost recovery model. And I know they've been using that most especially at Alameda and Camden. And there's been a significant recovery of the cost. What about some of the smaller centers, have we been able to use the cost recovery model on those?

>> Vice Mayor Chirco, as we've been rolling out and implementing our whole cost recovery, financial sustainability strategy, the larger hubs lend them cells to greater cost recovery clearly because of the newer amenities, more room, staff is in better position to provide multiple fee activities, so forth. What we've seen is our bread and butter basically comes out of the hubs. And what we've done in a lot of ways is have redeployed some of those revenues to fund satellite sites. Because when we take a look at our staffing ratios, when we look at our staffing ratios as they exist now, most of the staff load are tied to the hub. what allows us to keep a center like Alma open or a center like Hank Lopez or Alum Rock youth center, the way we could redeploy staff is to create the revenue to pay for large time indirectly hours we've used the hubs to do that. I'll give you an example. In the area of the cost recovery for Almaden. Almaden is one of our flagship hubs. It basically costs us on an annual basis about 1.5 million to run that facility. We generate about a million 29,000 in revenue. So the net cost to the city is \$483,000. Today we've achieved about 68% cost recovery. If we didn't have the access to that revenue, the budget proposals that we've submitted to date would be more dramatic than they are now.

>> Councilmember Chirco: So our hubs are already generating revenue that allows personnel to support other needs in PRNS.

>> Correct. Now the challenge we do have of course is the need at this point in the game is starting to outweigh the remaining resources.

>> Councilmember Chirco: Absolutely.

>> Yes.

>> Councilmember Chirco: All of these things are things you will get to bring back and I will be supporting Nora's motion. I'm just concerned about looking at our hubs. Because at this point, for example, in my district, that's all I've got. Everything else has already been closed. And used for fee classes and other resources. So I'm very concerned about looking at our hubs, when some of the districts, that's all that they have. So I'll be supporting Councilmember Campos' motion.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. First of all I wanted to thank my colleagues, Nora Campos and Sam Liccardo and ash Kalra about their passion and interest in keeping what I deem as the highest need community centers open. And so I know that we're giving staff a lot of directions here, but as you continue to work on this issue, one of the things that I wanted to distract is the important of community centers that serve high risk youth as well as seniors who actually look to these centers as the second home, I know that we'll get a chance to listen or to hear from members of the Alma community center shortly. But if I may I just wanted to speak a little bit about it since it is in my council district. And it's in the last four years it's actually been on the chopping board every year. And we have to consistently fight to keep it

open. And with the numbers of seniors and youth who are here today I think it really, it's very compelling to understand how important it is to keep this center open. The Alma senior program actually has over 180 seniors members and we serve an average of 80 senior meals per day. A lot of these meals are actually the most nutrition meals for these seniors and the Alma center actually serve about 745 youth on a monthly basis. These are the kids that would rather play hand ball than play with handguns. And I think it's worth noting since the beginning of the Alma youth program in 1995, crime statistics from the San José police crime analysis shows there have been a number of gang incidents in this area have been decreased to the point that we couldn't even imagine so the reason I'm stressing this is as a member of the gang prevention task force we continue to encourage the allocations of different funding and resources into the various crime prevention programs especially as it relates to youth, so it's very peculiar to me, and somewhat absurd, to actually look at an existing community center that actually provides the one important aspect of the program that we encourage to shut this center down. And then, secondly, over the last three years, I've also fought rigorously to make sure that we allocate funding to provide various improvements at the community centers. So after all these years when you're starting to pour resources into a community center like this and it's actually work, it's keeping kids off of the disreputable now it's under the chopping board again. And so I think it kind of defeats the purpose of away we're trying to do in terms of telling our community that we are here to provide a safe haven for you. And once you get it right and once you start getting these kids and these seniors to come we're telling you we're taking it away from you. And so I know that, you know, getting a bit personal because it's in my council district but if you look at the audience of the people here today, it really tells you know all the things that the City of San José is doing right. And so as we move through this process I hope that staff really consider that this is a gem, it's a jewel in the City of San José and it's not just you know a cultural gem in my council district. So thank you. [applause]

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and I want to thank all my council colleagues for the discussion on this and I'll be supporting the memo that I co-signed with Councilmember Campos with the amendments and the changes per the city attorney's office and I want to thank Councilmember Nguyen for the fact that the Alma center is open today is a testament to year in and year out you fighting for it. It's important to let the community know that Madison, you continue to make sure services are there for the community. And I want to allude to or refer to a comment by the Vice Mayor and I think Councilmember Constant also kind of discussed it in terms of his specific district. We have a city of a million people very large city it's very spread out. And I certainly agree with the comments in the memorandum from Councilmember Liccardo that the term public safety really goes beyond just what our police and firefighters do, the public safety does include and should include community centers and having pools and having after school programs and senior centers. We should have a more comprehensive vision and understanding of what public safety means. But at the same time, you know, there are resources that are enjoyed that the city provides and should provide to the entire city and sometimes the perception that there aren't -- there's not necessarily a need in certain areas and I appreciate also the fact that the mention of revenue generation at some of the hubs is important. You know, the Vice Mayor indicated there's just one hub in her community and in my council district 100,000 other than Los Paseos has .75 FTE there's only one community center. And up until earlier this year up to the 30 years I've lived there only had one library. We're growing as a city, as we spread out unfortunately some of the issues that have been prevalent in some areas are also spreading out and I think that it's incumbent upon us as representatives of our individual districts, but even more importantly of our entire city to really see what we can do stowing, collaboratively and not pit our districts against each other, our neighborhoods. The reality is that we all care, maybe not as much as Councilmember Nguyen but we all care about Alma and making sure that the folks are taken care of just as much as we care about the folks in our community being taken care of as well. And so the memorandum is being put forward, speaks to I think the one common source, the common ground you'll find is it does speak to making sure that as resources do become available, whether it be through concessions or otherwise that we do allocate them to the highest need communities and the highest need centers. I think we can all acknowledge that there are certainly some areas that are going to need those resources more than others. Speaking briefly, regarding the Edenvale center it is a unique situation, because before the first shuffle of dirt was would be difficult to replicate because of that because it was made built next door to a Boys and Girls Club. So it has unique benefits because of that, that maybe other centers couldn't necessarily learn from but there are certainly are some aspects that we all can learn from in terms of looking forward and how we can maximize

partnerships in terms of other centers. The last thing I'll mention is I really commend the folks from Alma being here, I know during the budget discussions we had a lot of folks that came here from Los Paseos, which although it is a small center, 25 to 30 young people because of the size and because of the faculty it's only open three hours a day it actually has average attendance compared to other centers we had 30 to 40 people advocating for it and I bring that up, because, you know, the reality is that we all love our centers especially those that use them then take advantage of them. When I go to Southside and speak to the seniors there they love it and I agree with Councilmember Herrera, even the moderate and modest increases in some of the fees for the classes because they're trying catch up and do some class recovery is having an impact on a lot of the seniors that are on fixed incomes and lower income and I've heard it from the seniors in my neighborhood as well but that's part of the process we're going through as well to make sure we can get the services to everyone. In regards to lose Paseos however, it has afternoon annual operating cost of \$45,000, which is a lot more modest than others. It was built in part as mitigation to the power plant which is the number one polluter in the county. There are a lot of the factors that can't necessarily be put into a simple matrix because each individual center has its unique qualities. And I think that those should be brought out including some that were mentioned by Councilmember Liccardo and Councilmember Campos that some of the unique qualities that sometimes you know at the council level or at the the neighborhood level we may recognize and may not be recognized in a more standard matrix. And so maybe that's something that each us needs to point out in temps of each of our individual centers but I think that allows for a more full discussion and at the end of the day I know that we're really hopeful that we can get some -- we can get some to make sure resources to make sure off the similar sources that they get now.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to thank my colleagues Councilmember Liccardo and Councilmember Campos and Councilmember Kalra for these memos. I think as has already been pointed out, there's a lot of agreement on the memos. The fact that I think we're all concerned about making sure that we, any savings that can be gained from any of this will be used in the highest needed areas. The idea of really looking at San José parks foundation, other ways to bring money into helping our centers. And I think that there's actually very little that is not in agreement, so I would -- I actually would like to support a combination of both of these. But since I can't really do that, I am not going to be supporting the substitute motion but I think there's a lot of good things in it. I just would like to see the maximum possible flexibility in looking at other options. And since we are not making a decision today, I want staff to be able to come back with the most flexibility to be able to make sure that we can look at options in terms of how we're going to move forward with providing services to our community in these centers. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I wanted to go back to the statistics that you provided in reference to the Almaden community center. And I'm trying understand where the money comes from . Because it's almost at cost recovery, if the moneys that were provided, that go back to the general bucket were there, we would practically be, we would be self-supportive. But that money generally comes from courses that are taught, is that how it would get there?

>> The fees generated come primarily through fee activity classes, that's probably the most significant bulk of the money. The other sources are grants. One of the things that we've done within our department, within our division is aggressively seeking out nonprofit -- partnerships with nonprofits for grants that offset some of the cost.

>> Councilmember Pyle: Is that something we can be aggressive with on centers that are struggling?

>> Absolutely.

>> Councilmember Pyle: I'd like to make the caution that increasing the fees is not something that would be desirable. I'm already hearing complaints about the fact that courses were high, they were lower before and they are higher than they were. I would advise you not to do that if -- as a caveat. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Just one comment about we directing the city staff to negotiate on the sole-source basis. Also would like to see we include some for-profit operator and not just limited to the nonprofit. And the other was very technical question, I was reading at Councilmember Campos's memo on item 2. Stated any saving from the reuse of any city facilities. The question to you Albert is, do we know how to calculate the net savings from the reuse of any city facilities?

>> Councilmember Chu, this was a bit challenging and the reason why is the savings usually come in the form of cost avoidance. The reuse study we placed in 2008, that resulted in a cost avoidance to the General Fund of \$1.1 million. So the savings ask really on the back end in terms of in the avoidance area as opposed to money that becomes liquid cash that you could then redeploy.

>> Councilmember Chu: As long as you know how to calculate the net savings, I'm fine with this proposal.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I agree with the sentiment that's been expressed which is I think we would all like to get to the same place ultimately, and we'd like to all save Alma if we could find the money to do it. the question I have Albert is based on the motion that's been posed most recently, the current motion on the table, if there are no employee concessions is it fair to say then there is no money to be able to fund for city staffing either at Alma or any of the other 21 centers, they're slated for closing in July?

>> Albert Balagso: The 21 that we have proposed, again it's still a proposal through the budget process -

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>> Councilmember Liccardo: Right.

>> Albert Balagso: We would look at operating through the summer, and then closing in the fall.

>> Councilmember Liccardo: Okay. So let me rephrase the question, Albert.

>> Albert Balagso: If we did not have an alternative operator.

>> Councilmember Liccardo: Right. So let me rephrase the question. If we don't have any employee concessions do we have any money to be able to find to deploy staff to any centers like Alma when all of these centers are slated to close this year?

>> Albert Balagso: Well, the proposal we have is based on -- correct me City Manager if I'm not correct - of not having employee concessions at this point in time.

>> City Manager Figone: Correct. At this point if we don't receive concessions or able to certify revenue beyond what we're now seeing --

>> Councilmember Liccardo: Right.

>> City Manager Figone: That is correct.

>> Councilmember Liccardo: The response to the question if there are no employee concessions then there is no money to be able to redeploy staff to centers like Alma, is that fair? Is that correct?

>> Albert Balagso: Yes.

>> Councilmember Liccardo: The reason I'm saying that is it's important that we go in with our eyes wide open. Because saying that we will find money through the budget is not a strategy. What I'm hoping to get at some point is a broader fully vetted discussion about how we want to deploy city staff citywide to best meet the needs. And I don't pretend to know, as Councilmember Constant said, it may well be district 1 has critical as I think we all know has critical needs regarding gang prevention and abatement. That can all be sorted out through some of the familiar indicators I think we all know and see. What the problem is, is that we're not having that discussion because we're glued to a model that says hubs at all cost gets city staff, even if there might be a provider who could come into one of those hubs and provide the same city services that would enable city staff to serve somebody else like Alma. I fully agree with Vice Mayor Chirco's comment which is we shouldn't just be out there taking resources from one area to provide to another and getting into a fight over which districts the money and the staff go to. We need to have a principled discussion based on where we think the needs are and how best to apply city staff and resources before we ever start talking about are which centers get which. And that's also why my proposal contains an explicit guarantee that at a minimum guaranteeing city staffing for every center if another provider isn't found. resources moving from one center to another, we're closing a senior nutrition center at Alma and it's going to Mayfair. I understand staff has justifications for doing that but we haven't had discussions about why Mayfair is the higher priority. And it may be completely appropriate. But we just haven't had that explicit conversation. And so that's really my concern with this approach, which is we are going about this approach by default which changes and doesn't give us the flexibility of being able to see how we can stretch resources. Let's be clear, I know the Vice Mayor mentioned her district and other districts only have one hub. That's the reality starting at the end of summer of virtually every center in the city. One hub in every center plus one in D 5 and one in D 3 the one in D 3 is going to serve primarily residents who have mental disabilities. And so the reality is we're all basically going to be down to one hub. And after next year and we know where the cost lines are going and the revenue lines are those hubs are going to be shaved too. And so if we try to hang onto the hubs I

guarantee you we're going to lose those too. So the question shouldn't we start the conversation now to start thinking about how to efficiently deploy resources rather than hanging onto a model that we know over time is just going to see couldn't erosion of city staff and resources and we're going to be visiting this experience of having our residents coming here year after year about the closures and the shut down programs. The concern I have is that we're not having that explicit conversation. If we simply decide there is the existing category of community centers is off the table even for discussion. So I appreciate everyone's passion about doing what I think we all would like to do which is to keep as many community centers open as possible. I just disagree about the method. [applause]

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. In regards to the motion and item number 4 in the memo, it talks about directing staff to examine options Hank Lopez distribute 6 that can be followed 30 on to look at transportation options for the seniors if they have to be moved to Mayfair?

>> Albert Balagso: Transportation options on Hank Lopez have already been reconciled. That was part of what was approved in the budget last year.

>> Councilmember Kalra: So there's already a solution?

>> Albert Balagso: We were working on solutions for the six facilities we already had so we worked on St. James for sending seniors over to Roosevelt and we did that with Hank Lopez, as well. Base those are the ones where we were retransporting them.

>> Councilmember Kalra: Okay. And then in regards to whether there's concessions or not, in addition to concessions I know that there was some recommendations made by the auditor in regards to changing shifts. Maximizing the amount of staff or finding ways to reduce current staffing levels, could though is used in any way to reduce the staffing levels even within the hub construct, using the hub concept, reduce staffing levels or free up some staff to be used at some of those centers that are considered highest need? Because you currently indicate that right now you kind of use the hub kind of staff floats to other satellite centers with further efficiency do you see an opportunity to continue to do that or to free up some staff for some of the other community centers?

>> Councilmember Kalra yes, as part of the budget discussions we've been elaborating on how we anticipate redeploying staff in the new budget proposal at which time you'd be reviewing that and either approving or modifying it.

>> Councilmember Kalra: But the redeployment contemplated is to have the hub centers, and would there be an opportunity through further efficiencies to free up some of those, to go to some of the -- because as Councilmember Campos indicated, as is contemplated in the current motion on the table, is that whether it be monetary you know concessions or what have you or other resources that are made available that they go towards the highest need centers. So it could very well contemplate having staff available by maximizing the staff at some of the hubs. So by freeing up some those hubs we can get some of those staff to Alma or other centers that are of the highest need.

>> I believe that the motion, which was originally put forward like that, was then modified through discussion with the mayor and the City Manager to state that those kind of discussions would be deferred to the budget process, could you help me clarify it that was the modification?

>> Mayor Reed: That is the appropriate place to have those discussions.

>> Councilmember Kalra: So I'll just end by saying that as Councilmember Liccardo indicated that concessions would be the only way to do it but in fact there could be other ways to free up staff by further analyzing through the budget process current staffing levels to free up some of the staff at the hubs to go to the centers that might be considered highest need by whatever other criteria set forth.

>> Yes, in the budget discussion we could have conversation about staffing level at each locations and the appropriate staffing level and where they should be deployed.

>> Councilmember Kalra: Okay, thank you.

>> Mayor Reed: City Manager had a comment.

>> City Manager Figone: And typically you see a tier 2 set of proposals in the event we either have to go deeper or council wants to substitute what we bring forward. We're also going to be thinking through if there are resources freed up through could be sessions or other methods, a criteria and a tier for adding back services. So I think in many ways, this discussion today will help us developing those criteria to assist council in discussions during the budget process around how you would add back services.

>> Councilmember Kalra: And so if the current motion peace I hope and it's clear that that's the direction going forward is to set up some kind of structure to get the resources to the highest need structures.

>> City Manager Figone: Yes, I see whichever passes I see the resources going to those embedded needs .

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. As you stated earlier in your presentation that we may not get nonprofits that may want to operate our hubs and then we have everything on the chopping block and the reality is that we have no savings. And you've state earlier that we have limited resources. You may not be able to bring the full scope of what we need. And one of the things we need to not lose sight of is that our priority is to make sure that we are able to staff the higher need facilities. And I think we can't lose sight of what we're trying to do here. You said it, some of the hubs are too big, some of the facilities cannot handle the capacity. With all due respect, Councilmember Liccardo and I hear your passion but I think we're all very passionate. But I think we cannot lose sight of what is the scope of what we need to do. We need to make these underserved centers whole. And with limited resources, and limited ability within the staff's capacity, we need to focus those attentions. And because this is just the beginning, it's going to come back through the budget process, I think of sending that same assumption that a nonprofit is going to come, and be able to manage a Mayfair center with their limited resources, is false information to, or false picture to send to our community. And I've heard you loud and clear, Albert, not at this meeting but at other public meetings. So I'll leave it at that, mayor and I'd like to hear public comment.

>> Mayor Reed: Okay. I think one councilmember who handy spoken, that would be Councilmember Oliverio. p.m. thank you, mayor Reed. Clearly the councilmembers care about the community or we wouldn't be emotionally attached to a community center that provides for seniors and youth in any capacity. But we have a reality that we can't afford and this discussion will continue again and again about this topic, libraries or code enforcement on firefighters, the reality is we only have so much. When we look at the Alma center, it is really a small line item. What is the line item for Alma, a small facility that brings a lot of good things?

>> It's a little under \$4 that,000.

>> Councilmember Oliverio: A little under \$400,000. When I visited one of the medicinal cannabis collectives in the city of Oakland, that one collective is going to bring the city of Oakland \$550,000. [applause]

>> Councilmember Oliverio: So I think -- [applause] [applause]

>> Councilmember Oliverio: So with that said, as we make the choices, we do have choices to bring in revenue to the city, it won't solve all the issues but a small item like this can go a long way.

>> Mayor Reed: All right, I'm going to take the public testimony at this time. We have a lot of people who want to speak not just on this item but others, in fact everyone in the audience I think wants to speak before we leave and there are a lot of people here. So I'm going to limit public testimony to one my knowledge on this item as well as the following items on the agenda. Tili Ayala, finally I'm sorry, third time is a charm. Would you lead off. And then Dee Arista and Erin Carrera.

>> Hello, my name's Tili Ayala. I'm a Philadelphia guardian angel relocated here. I'm here to say that Alma means soul. There is a history book and Alma was a strong and mighty map. He he did not divide in bloodshed. His soul did joy in the liberty and freedom of his country. My son will grow up to be a man like Alma who will not delight in bloodshed or who will not delight in drugs, graffiti and all the negativity that is out there. I support Alma 100% and if you close Alma you are closing the vision, the vision of the young people, the ying people that may not have a voice and i'm here to stand up for my six-year-old son. I will bring him from Philadelphia and raise him here if you keep Alma open that will be a great thing for my son. I support Alma and if you close it, it will be a mistake. And I'm willing to give half of my paycheck --

>> Mayor Reed: Your time is up.

>> To keep it open. Thank you.

>> Mayor Reed: Dee Arista Aron carera and José de Guzman. Don't come up here.

>> If you want him to have it, I will give it to the clerk's office.

>> Mayor Reed: Dee Arista. (saying names).

>> Good afternoon, mayor and city council. Thank you Sam for that. I'm from gardener community center and my concern is I went to a meeting last night with redevelopment center people and under workshop study, they presented a map for the SNI group. And in that SNI thing, they showed the communities that were in crisis starting with the color red on down. Gardner community is one of those that are impacted by that study. And I would suggest that maybe you all look at it. Because Gardner has great needs, and we are one of those communities in crisis with the redevelopment department. And so, like we say, our

community is very needed. Our seniors and our youth need Gardner community. It is a safe place for them to go.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Aaron scarera, de Guzman, Jane hills. Please come down. Some people may have left. Aaron carera, Jane Hills, Kepferle.

>> Good afternoon, Mayor Reed and city council members, my name is Jane Hills and I am director of Catholic charities programming for children youth and family development and I am here today speaking on behalf of the Washington eunt youth center which our agency has successfully operated for over ten years in close partnership with the city, right in the heart of Sam Liccardo's district 3. We do realize the daunting task that you are facing today to balance the city budget but I'm urging you to understand the critical importance of the Washington United youth center to our community and to maintain as many of its funding streams and as many of its youth and community services as possible. The Washington center provides vital programming for literally hundreds of youth throughout the community giving them a safe place to enjoy enriching activities and recreational opportunities together with our experienced youth staff, giving them a safe haven away from the gang lifestyle and a solid chance to realize their dreams.

>> Mayor Reed: Sorry your time is up.

>> Okay thank you.

>> Mayor Reed: Greg Kepferle, Tony Sanesrenoeh Leigh ah marts.

>> Councilmember Pyle: .

>> My name is Greg Kepferle, we are a leveraged by four additional dollars through additional grants through volunteers and through our nonprofit partners. We definitely support a creative flexible solution to the neighborhood center problem. One of the issues that we would say is look at this as an ecosystem so figure auto creative way of the public services leveraged with the nonprofits and for profits coming at an ecosystem model. So think of that as kind of the hub and spoke system. Look at the situation of the high risk neighborhoods and consider this as public safety as you all have said. Thank you very much.

>> Mayor Reed: Tony San Soreno, Elena Martinez. Marion.

>> Councilman Sam Liccardo, Madison Nguyen. Ash Kalra and all. Thank you for your work in finding a solution that works for communities in need. The group of us here today the Alma action committee are a group of concerned citizens working to preserve the Alma community center and strengthen the Alma Washington neighborhood. We represent over 186 seniors and almost 100 youth. We know firsthand what a vital resource that center plays for our youth and particularly us seniors because the Alma center is working well, meaning youth and seniors are thriving under current staff arrangements. We are committed to ensuring the stable ability is provided. Our membership has worked closely with the city for more than 40 years to make a difference in the lives of the members of our community. And to make this center what it is today. We continue our commitment to the center and need the city to support us in return. We are here today because the city of City of San José.

>> Mayor Reed: Sorry your dime is up.

>> Oh.

>> Mayor Reed: Elena Martinez, Marion, Maraya Molino and Augusteen.

>> My name is Alana and I'm a member of the action committee for the Alma center. The community center has provided us with hot meals when we have no other place to go, with friendship and smiles when many of us will be withering away within our four walls. Our daily exercise has kept me strong. The field trips and special events have kept me busy and lost without Alma. I'm 94 years old and I have been with Alma since 1963. So if our center closes what is going to happen to all the seniors that are going to be left hanging? How about the young guys and the young girls that are in the youth program? When we've been told that we could just go to another center, baloney, I don't want to go to another center. For us that is knots not an option. For our youth that is not an option we are a family.

>> Mayor Reed: Sorry your time is up.

>> Closing, God bless you.

>> Mayor Reed: Marion. [cheering and applause]

>> Hi, my name is Marion I'm a volunteer at the Alma center an a volunteer at the Alma garden that we just -- the community garden that we just began. Every day seniors help each other prepare for the smallest gesture of serving each other to the largest helping each other mourn for our loved ones. Every day soccer games take place, sol attitude, nutrition exposures to the gangs. For us this is not just a community center that we visit and leave, Alma is our second home. Alma in Spanish is soul and that is

exactly what it is to us the calf this neighborhood. Every day we invest in this center we invest our time our resources our energy and I have -- we have done this for the past 40 years. I have some testimonies from the youth because they couldn't be here. I'm a long time tenant at the Alma youth center. Without this center I don't think half the kids in this community wouldn't have made it as far as most of us that did.

>> Mayor Reed: Sorry your time is up.

>> Okay.

>> Mayor Reed: Araya Molino Augustine.

>> Good afternoon, Mayor, all the persons here. My name is Maraya Molina I'm a member and volunteer withality ma center action committee for eight years. Because people like Helen Gonzales official coordinator have been able to achieve everything. She's a generality dedicated public servant at Alma. That's what we want. Not just another nonprofit to come Mr.. Any changes to staff arrangements will have a terrible effect on us. Our relationship with the center, and ultimate our well-being. For many years, we didn't have any gerontologists, secretary or even a van or a van driver. However, the community step up, and we made things happen. We survive because our volunteers, because our staff, and because we feel Alma is the best. Thank you very much. God bless you.

>> Mayor Reed: Augusteen. Followed by Rosa Pareda, Francisco and then Carol Ann.

>> Good afternoon, my name is Augustine Mayan, I've been a member of the Alma community and part of community for 14 years. During these years Alma is a place where I come daily with my friends, celebrate with wonderful entertainment every month. The fact is we do not want a nonprofit organization to take over and run the Alma center. We know that a new organization means change of staff, programs, cooks and volunteers. We will not have the same service and activities and most importantly we will not have what makes the center unique, a feeling of being part of the family. A family is there when you need them through difficult times and joyful times. If the center is reduced, seniors will not attend and they will confine to their homes and finally the center will lose its heart and soul. For me it's quite simple if not there, not anywhere.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Francisco, Carolina.

>> I'm a member of the Alma action committee. Economically disadvantaged communities are often first to the discarded and earmarked to eliminate city services. Closing the Alma center denies the seniors to a safe place to gather not only provides stability to the center attendees but to the community as a whole. We're in a better position to continue to build relationships with the police PRNS and other city departments. The youth that attend this center don't have other alternatives. Alma center provides our at risk youth with an alternative to help them achieve their goals finish high school and continue on to college. We need the City of San José to stand for public safety and to preserve community ownership of the Alma community center. Thank you.

>> Mayor Reed: Francisco, Carolina and Apollo.

>> My name is Francisco Alvarez. I've been coming to Alma center for five and a half years ago. The center has been good to me and I have been treated especially well with. When I attended I also appreciated staff and the people who worked here. Alma is like a second home to me and that's why I don't want the Alma to be closed. Thank you.

>> Mayor Reed: Carolina, Apollo, Ernesto.

>> My name is Carolina, good afternoon. My name is -- Carolina, I'm a member of the Alma action committee. I have been going to the Alma community center for 20 years and for me it's very simple. Alma center is my second home, it is my second family. I have bent to a lot and other things come and go but Alma and the people in that place are always there for me. Every day I'm a volunteer there, and give all my time and love. Alma is more than a community center in the city must see that. The community benefits otherwise the costs. City of San José, don't turn your back on us in our time of need. Thank you.

>> Mayor Reed: Apollo, Ernest oh and Steve Barnietos.

>> Buenos Tardes [speaking Spanish] his name is Apolonio. He says when you require, you're at home and very sad and alone. He said a friend invited limb to the Alma community center and he and his wife have been going there for the past three years, are extremely happy to be there and extremely happy with the services provided there. Thank you.

>> Mayor Reed: Ernesto and Steve Bariato and Debbie Marillo.

>> My Nombre Est Ernest tow Spanish.

>> My name is Ernest tow around I've been coming to the Alma community center for 20 years. [Spanish]

>> And this entire time it has been a huge benefit to have the center not just for myself but for my entire family as well.

>> Spanish]

>> Because we've we really enjoyed wonderful programming at the center. [Spanish] the most important program that we before from is nutrition. [Spanish] base the center has specialized people to make the nutritious meals. [Spanish] and that they know the meals that they're making to make sure they're very nutritious.

>> Thank you.

>> Mayor Reed: Steve Barientos, (saying names).

>> My name is Steve Barientos, I'm vice president of Washington NAC and member of Alma neighborhood association. We need to keep our neighborhood centers, our kids don't need to get to the stated number of Richmond Oakland and we need to save the center, thank you.

>> Mayor Reed: (saying names) Linda didis.

>> Al a.m. ma neighborhood association and Wac. The Alma community vision is to promote neighborhood vision health families nblght integrity other communities, quite evident that Alma's at the table. We're engaged committed dedicated to our comution. We have an exceptional partnership with the City of San José. We have invested CDBG money, cap grants, butte figures grants, exceeding grant expectations. One thing that I've been taught that's very important is to know today our community stands here United I was also taught that our fire's at our table and our fire is lit every day at the center and we have a strong fire. We're asking the city to be fiscally sprart, our community center provides plaichtd at a low cost. We live among social ills constant struggle to proceed public safety and quality of life and.

>> Mayor Reed: Sorry your time is up.

>> I want to thank all councilmembers for your support.

>> Mayor Reed: Linda Didis, you Jaime astled.

>> My name is and veterans of old wars, old and young. As their home and a safe place for them to seek help and services, maybe VA benefits health care benefits and Social Security benefits and most of all especially connecting them to mental health services. We're hoping that the directions of councilman Sam Liccardo to the city staff to arrange meeting for but it didn't happen. I'm very concerned what would be the fate of our srsz and veterans, north side community center, please reconsider so that services to our veterans and seniors at Jacinto Northside will continue. Thank you all for your support.

>> Mayor Reed: Linda Didis. (saying names).

>> Good afternoon, I'm Linda Didis I'm the business agent for AFSCME MEF, I'm 38.2 positions which are full time positions which doesn't include all of the employees because we have plenty of part time employees in that group, are slated to be laid off this coming just July. In the last two city council meetings, I heard group after group come before you and talk about what will happen if 35% of the money, that they receive from their HNVF funds is reduced. Form that was a reduction from 3 to 2 or from 7 to 5, services will be drastically reduced they said services that are essential tot community. Some of those centers before you being closed. Or being slated for closure. These two are centers that are provide services to our youth and seniors services that are important to the community. Organizations that receive HNVF funds and money depend on other funding sources and still have the money to take over community center are very few. If the city continues to take money from the --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Jaime Alvarado, Rudy might be Martinez I'm guessing.

>> I'm opposed to setting in motion the closing of the Alma center or any other community center at this point. Given today's discussion more experiences than Mayor Mayfair, it's clear that the overall strategy is not well thought out yet and what's really needed right now is a full discussion with the community about how best to approach this. Our experience in Mayfair couple of things I want to note, program the priorities over the last year have been ever shifting at the Mayfair community center decisions seem to be arbitrary and appear to be political at times. On the issue of cost recovery I want you guys to know that what's taking place is programs and people are being priced out of the centers. The price charged for programs can be excessive for people who are extremely work poor. For agencies that want to do programs the fees are expensive. Last night we did a two hour program on the census the Mayfair community center cost us nearly \$1,000 to do that. We wanted to do a candidate forum at Mexican

heritage plaza, in early May, that is expected to be about a thousand dollars, that is way too out of affordable to keep up.

>> Mayor Reed: Time is up.

>> Sacred heart exund service and we stand here in solidarity with our neighbors and our friends here in Alma. I think one of the things I'm glad I'm not in your position right now because I think you sometimes -- I think sometimes in your position it becomes very difficult to be able to really understand the impact of all these decisions, from a different perspective. What I'm saying by that is, not that you don't understand that these centers are really important but these are the greatest manifestations of your work as a council aand as a community by providing these critical resources to folks in your neighborhoods.

And looking at this as not as being a challenge or how do I fill a need or how is this a problem and how is this addressing problems but this is your success story, ladies and gentlemen. [applause]

>> This is what our community looks like, when we pull resources together and try to make a difference in the lives of real people and by looking at it from that perspective, it would be a folly to go down this road and not make a commitment to say, not just that we want to support finding --

>> Mayor Reed: Your time is up.

>> But let's keep a commitment that we're going to keep it open.

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

>> Good afternoon, thank you for your time. Mayor councilmembers, I'm president of the Gardner advisory council. I'm -- want to point out that you develop programs to bring us and lift us up in the communities and now we're feeling like we're being stabbed in the back. We're just asking for what we feel we deserve. Most of the volunteers are the true heart of the community. And the centers are there but the heart of the community is truly the staff that's there that works with us. Gardner community is not in agreement with any idea of shutting the centers down. The police, that's fine but it's police and community not just police. So I ask that you maybe go back and try to renegotiate. And fit comes down to it maybe you should file bankruptcy so we can go back and negotiate.

>> Mayor Reed: That concludes the public testimony on this item. We'll bring it back FOB for council discussion and acts. We have a motion, we have two motions out. The substitute motion is the motion in front of us. That's a motion made by Councilmember Campos. If that motion does not pass then we'll have the motion made by Councilmember Liccardo which was first put up. Councilmember Liccardo.

>> Councilmember Liccardo: Just a question regarding an issue raised by Penny Aguilar. I wondered Alberts, if you would like to respond in any way, the meeting at four Cs will that likely be happening soon?

>> Albert Balagso: We'll be facilitating and bringing everyone together. If council approves then we'll be bringing forward the community and stakeholders.

>> Councilmember Liccardo: Right, thank you.

>> Mayor Reed: I believe discussion is concluded. All in favor, opposed, we have opposed Herrera, Liccardo, constant, Oliverio, that's four. So that motion passes on a seven-four vote. So the motion is approved. That concludes our work on this item. We will now turn to item 7.1. And if you're going to leave that's fine. You're not required to stay for the rest of the show but we do have more work to do so please be quiet as you exit so we can keep working. Item 7.1 is dealing with amendments to our solid weighs services agreements. Before we get started on this I want to disclose that in preparation for this meeting my staff and I have met with Steve Jones Tom Sagau, regarding guarantee city solid waste, and Sagau Derillo councilmember Chu.

>> Councilmember Chu: Thank you, Mr. Mayor In counsel with the City Attorney I have asked to recuse on this item.

>> Mayor Reed: I believe there is presentation.

>> John Stufflebean: John Stufflebean. I believe it's a summary of what's in the memo I did want to do one technical issue that is a minor typo on, the memos are correct but on the agenda itself, under item B 1, excuse me under item B recommendation, we need to delete the language that says for a term of eight years. It might be a little confusing so with that correction, we stand ready to answer any questions you have. All right, see if there are any questions. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd like to disclose that I've met with Rich Chris Tina, Dustin Derillo I believe representing I'll think it out in a moment but in any event I met with several folks john, I just want to make sure I'm clear about right now the staff recommendation is to look at the longer term the eight year and begin negotiation on eight years or are we sticking with two years in the march 18th memo? Just want to see if I'm clear.

>> John Stufflebean: Yes, we would see advantages to the eight.

>> Councilmember Liccardo: Okay. And I know that there's -- I'm guessing we're going to hear a chorus about the desire to consider the Evergreen proposal as well. Is it, if we are going down the road of eight years is that something that you can discuss with our partners in the private sector and then come back with both alternatives so at least we can have a full vetting of what each of them look like in terms of concession and so forth?

>> John Stufflebean: With respect to the Evergreen agreement, we would have concerns about coming back to June without thoroughly discussed and thoroughly set out by staff. Our preferential would be to come back with a full eight year negotiated agreement and potentially look at the issues remitted to an Evergreen agreement at a future date but we think over the next several months we need to really focus on early the two or eight year agreements there are a lot of issues there and with the Evergreen it brings in a bunch more issues that we won't really have time to cover in that short period of time.

>> Councilmember Liccardo: Knowing that to be the case then, would in terms of I understand the timing in which decisions need to be made by this council is it conceivable that study of both options could be made in order for us to come back in the fall would that still give you enough time to be able to implement contracts and go forward?

>> John Stufflebean: So our recommendation would be to try to -- to reach a decision in June on the two or eight year. The existing contracts do expire on July 1st of 2013.

>> Councilmember Liccardo: Right.

>> John Stufflebean: So if for some reason something weren't to come together, that wouldn't give us enough time to bring a new contractor on board. We would strongly recommend a two or eight year option, in terms of Evergreen that could be triggered at any time in the future. If council wants us to look at that we certainly could do that, we think we need longer to do that, and we could come back in fall or sometime to go onth the Evergreen.

>> Councilmember Liccardo: That's helpful to know and finally in the supplemental I know it makes reference to neighborhood cleanups and reschedule the schedule for dumpsters for people to be able to utilize. I just want to encourage you to biennial or twice a year schedule for we are cutting all services and that's one thing that is so vital is blight abatement programs, in neighborhood, the I'm grateful you're considering longer proposals I really think there's an opportunity here to improve our services through these additional neighborhood cleanups so I look forward to that. I guess what I'd like to do is make the following motion then that we accept the staff recommendation to negotiate for full eight years, to come back in June with that, and to continue staff analysis of the Evergreen proposal and to bring that also back to council. Is it possible to bring that back before the end of the calendar year, or is that --

>> John Stufflebean: We would prefer a year, our preference would be a year on that.

>> Councilmember Liccardo: Okay, thank you John.

>> Second.

>> Mayor Reed: We have a motion on the floor. With that Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor. I just wanted to speak briefly to the motion and thank Councilmember Liccardo for bringing up the possibility of the Evergreen renewal. I think that the proposals that we all received from the different haulers really present a lot of benefits to the city. Looking -- given the fact that we are in a financial crisis at this point I think that a lot of these benefits will bring a lot of great potential to our city. The fact that I think we received a letter yesterday from Garden City sanitation, I think we saw alonging at the Evergreen proposal essentially we're looking at adding another \$500,000 starting in the summer if we can work that fast. Obviously we can't. But all these incentives and all these financial incentives that I think is really critical for our city and also the fact that we will continue to receive great you know proven track records from these haulers is also essential and I think that also we have great partnerships with all these companies at this point. One of the things that I have great concern about when we're looking for new bidders into our RFP process is that whether the transition is going to be smooth or not. And given the fact that we have these great partnerships with these companies I like the transition to continue going and not having to worry about whether or not it's going to be smooth. So I enthusiastically support the motion and I hope that we can continue to have great partnership with these haulers. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor I'll be supporting the motion and that one of the things at least in feedback from the community that the CED does well, offering stability as well as offering them these potentially longer term contracts so they can get financing for some of the vehicles switching out

the vehicles to more fuel efficient and environmentally friendly vehicles, they clearly will have issues in fj, you're talking about millions of dollars in purchases over a two year contract, they get that extension, will allow them to do that it's a win win for everybody to put those vehicles ton road. I agree with Councilmember Liccardo that if we can do, if we can arrange with them since one of the benefits of having increased dumpster days, that's one of the most positive feet backs I get from the community on dumpster days, if we can increase that I think that's actually a huge benefit that will be noticed by the residents.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I too support the motion. It's highs to be talking about something that relieves the parch rather than adding to it so happy to do that. I want to disclose that I complete with pretty much everyone that's been mentioned before, representatives of all the different hauling services.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: Thank you. I think this is, having to have enough brain damage in the previous trash issue, I don't need any more. But I did want to -- I know there is a 37 to \$38 million projected savings and I realize there's ten places for every dollar, but for our General Fund just to look at closely anything that be could be level to the General Fund that doesn't cross the legal boundary, I think, would always be an appropriate action. So with that I'll be supporting the motion. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Well, I'll be supporting it as well. And I would like to say that in addition to saving money, we've had a fantastic service from all of these providers. I think they deserve a lot of kudos. I don't know about my colleagues, but I receive almost no phone calls on any of this. We like that! And I would like to say, too, that my staff met with Tom Sagaw, representing Garden City transportation, and with Garth green well with greenweighs.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: My staff and I met with Green waste and I think I'm going to echo what Councilmember Pyle said, is that you have been a great provider to our constituents in the City of San José. I have not received any complaints as well. And I think that's testimony to the service and the quality of workers that you have working for you. Thank you. I will be supporting the motion.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I'll also be supporting the motion. In addition to the other great things about the possibility of doing a longer term contract, I think this also makes a switch to compressed natural gas more economical for haulers which also helps our Green Vision goals. I think it's important to look at these options to see how we can benefit from the additional cost savings and money coming in potentially in looking at the renewal of these contracts. Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: I just wanted to disclose that I met with representatives from Greenwaste recovery, guarantee city sanitation, California Waste Solutions and Dustin de Rolo who represents Garden City sanitation. Thank you.

>> Mayor Reed: At this time I'd like to take public testimony on this item. Pat Dando who I think is gone. Joel Corona, Emily Hanson Joel Weirick, Ellen Fong. Steve Jones at least is moving this way. Please come on down .

>> Thank you, council. My name is Joel Corona i'm with California Waste Solutions. We just wanted to share that we believe the City of San José has enjoyed the best garbage and recycling service that it has ever enjoyed we want to thank you for that opportunity. Also as mentioned in 2007 it also achieved the smoothest transition in probably 20 years. California Waste Solutions wants to thank you very, very much for the recommendation for the long term contract agreement. We also want to endorse the daily renewable highest quality service, the lowest cost, the best environmental fleet conditions, the best processing equipment, the best recycle and diversion of solid waste as well as stable rates. We also want to share that this model provides council and staff a full discretion, full and total discretion to either modify, cancel or amend this agreement at any time. Thank you. Any questions? Thank you.

>> Mayor Reed: Allen Fong and Steve Jones.

>> Good afternoon, Mayor Reed, honorable Mayor Reed and honorable members of the City Council. My name is Allen Fong and I'm here in support of the recommendation A to extend and recommend the current agreement for the following reasons. One is the transition as very smooth with no hiccups. As a local company which also helps our low economy, also with the stable rates that they are in to keep the

cost down for residential fees and which is less for the city expense as well. They have a proven track record and this is one of our best chances of achieving the Mayor Reed's goals of 2020 zero waste. So I wanted to thank you for your support and timing and consideration. Thank you.

>> Mayor Reed: Steve Jones, Emily Hanson, Joel Weirick.

>> Thank you, Mr. Mayor and council. I'm not stupid, I'm not going to talk to you long about this but I do want to say that I appreciate the eight year daily is still going to be part of this and it came up as part of the negotiations for the eight year is the reason I brought it up take assets and spread them over a ten year period instead of loading them up all at one time. Those are benefits to the City of San José. We thank you very much. We like doing business in the city. We really think we've kept our word and you've kept yours. The only reasons these dollars are available is we had to keep these loaded into a six year period, we have to 2013 you'll have the first refuse fleet in the City of San José that will do it and that was part of our deal we keep our word and we thank you all very much.

>> Mayor Reed: Emily Hanson.

>> Good afternoon, Mr. Mayor, members of the council my name is Emily Hanson here with Green waste recovery. I made a number of talking points but you all took them because you clearly get why not only two year extensions are good but the eight year. The one I will talk about is the Evergreen contracts. Want to assure you that this is routine in the industry, one that provides you can easily turn exercise nonperformance. It allows the haulers to phase in new innovative programs without need just amendments. Becomes part of agreement not an option the in the ooms considering that again here to support the two year extensions the eight year alternative number one and also the Evergreen contracts which is the alternative number 3. I also want to thank staff. You guys have done a great job of working with us so thank you.

>> Mayor Reed: That concludes the public testimony on this item. We have a motion on the floor made by Councilmember Liccardo for the eight year version. Councilmember Campos.

>> Councilmember Campos: So I just want clarification. This will be coming back this year in this budget is that correct?

>> John Stufflebean: Yes, we're coming back in June.

>> Councilmember Campos: Okay, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: And also just clarification, Councilmember Liccardo and also to staff to make sure that we're on the same page that in addition to the eight year, that the eight year daily proposal be analyzed and discussed with the private contractors as well?

>> John Stufflebean: Yes.

>> Councilmember Liccardo: I think the motion was that we had to get -- need a June deadline on the eight year. And the eight year daily would trail sometime thereafter.

>> Councilmember Kalra: So there will be further discussion, that's contemplated, that's all I wanted to ask.

>> Councilmember Liccardo: Yes.

>> Councilmember Kalra: Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: I just wanted to disclose that my chief of staff spoke with Dustin Derolo.

>> Mayor Reed: I think that concludes the discussion on this matter, all in favor, opposed none opposed, that's approved. Our next item is 9.1, the redevelopment agency housing set aside tax allocation bonds joint item city and redevelopment agency. I want to thank all the staff that worked on this to get it to this far. That's our City Manager, executive director, housing redevelopment it took a lot of work. I want to thank everybody for getting this together and of course we are very thankful to have Wells Fargo well to do the transaction. Allow us to make the state payment May 10th which is due, the state's taking \$62 million of our money this year. We have no choice. We'll litigate it but nevertheless we have to have the money. If we're required to, as well as the \$13 million of next year's payment that the state is extracting from us. We're not too happy about that but that's the way it works. With that there maybe some council questions on this. Although it's not exactly a new item for council discussion. So is there a motion? We have a -- do I get a second down here? We get a motion and a second. Motion by Councilmember Pyle, second by Councilmember Nguyen for issuing the bonds. We did have a hearing last week on this so today is the action to authorize the issuance of the bonds following the TEFRA hearing, the tax -- well, the TEFRA hearing. Forget what it's called. Everybody knows what TEFRA is if they're in the bond business. Further discussion on this? We have a motion? All in favor? Opposed, none opposed, so that's

approved. Our last item on the agenda is item 4.2, that's to give some direction to staff on possible municipal regulation enforcement pertaining to the medicinal use of cannabis. Before we get into that I just wanted to explain a couple of things, we are here not with the staff recommendation for action to take but with staff information. We have discussed this at the Rules and Open Government Committee and we placed this on the council agenda so the council can make a decision about what direction we go so staff can do some work and analysis and then bring back something for some council action if that's the way the council wants to do this. City Attorney did you have anything you wanted to --

>> City Attorney Doyle: Yes, I wanted to make a few comments. First, thank you mayor for background. The agenda language I think is important because this is a referral from the Rules Committee. Okay, thank you. I'll try to speak up. This is a referral from the council rules committee. Asking staff to come back with an overview of current municipal provisions and our enforcement procedures. There's a workload assessment that staff has prepared that went back to the Rules Committee and is also in your packet to talk about -- that talks about the staff time that it would take, and the staff resources that it would take to come back with any proposed ordinance. And we at staff are seeking additional direction. I want to note that we have not made any recommendations here, and I think I want to take issue with a memo issued by Councilmember Oliverio, and just suffice it to say that we're not biased here, we don't have a dog in this game. The information we provided is exactly what we were asked to provide. And it's not -- there is nothing more. What was asked of us was to come back with sufficient information, what our current laws are and what our enforcement issues are and that's what we've come back with. The information that you note, the white papers, those are provided by the mayor's office, not staff and so if you have any concern about those you should probably talk to the player about those. I do want to note some overview that we are dealing in a situation that involves both state and federal law. The attorney general of the United States has said that he is not going to enforce the provisions with respect to -- so long as people are in clear and unambiguous laws of the medical use of marijuana. That said, the Congress has not changed the law. The Supreme Court on two occasions involving the city of Oakland in one case and another Northern California case has upheld federal law and there are no exceptions to that. We can make changes to our municipal code to account like many other California cities have done if that's the council direction. And we're willing to work with our staffs, our planning staff and council to get there if that's the direction. But I want to make clear that there's a risk, anything we do, federal law is still the law of the land and we're going to have to deal with that. And if we get a new president or a new administration or a new attorney general, that's the risk that everyone's going to have to take. And we've had the Clinton administration and the bush administration that had one view of the world and we have the Obama administration that seems to have gone to a different view. And, you know, we'll see where we go from here. So there is a lot more leeway, quite honestly as to what we can do given the current state of enforcement by the federal government. The cities of Santa Cruz, Oakland, San Francisco, they all have taken steps, many other cities have imposed moratorium, many have gone forward with actual prohibitions. What the council wants to do is something that is a policy matter and we'll work with you on that. I don't know if there's anything more, I think it's probably best if we address any questions. The police department -- one thing I do want to note, though. In our memo we talk about the distinction between land use provisions and criminal enforcement. And the land use provisions are really something that initially when this first came to rules and I know Councilmember Oliverio when you first brought your memo we were really approaching it as a land use issue and in some respects it is. But there's also the criminal side of it, the police side of it and the enforcement. As we get further into this we're recognizing that we really have to deal with both sides of this and I think our memo talks about who we do currently. But we're here really to answer questions, and to take policy direction.

>> Mayor Reed: I would just like to add that the request to describe what happens if we do nothing was a specific request from the Rules and Open Government committee. It was not -- that's not a staff recommendation. It's just a staff request. I have about -- well a big stack of cards of people who want to speak. We will get to that after we have some council discussion on this matter. First, Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. To be fair did you have intentions of staff presenting or just go straight to council discussion?

>> Mayor Reed: Unless there is there is no staff to make a presentation on.

>> Councilmember Oliverio: Thank you mayor. Limited area, limited places, regulated in tax, this is going to be the theme of my conversation today i'm going entire council as policy maker we need to tackle this topic in an open forum so we need to direct staff by our policy decisions. Originally we started this

discussion in October in the rules committee and five months later here we are. First I want to be clear that today's discussion is strictly about oversight and regulation regarding legal use and cultivation of medical cannabis, not about regulation of marijuana/cannabis. Medical cannabis is about residents of San José and neighboring cities that are stricken with painful afflictions, medical scleroses, glaucoma Et cetera. be allowed to obtain cannabis from a collective operating under state law within the City of San José. The voters of California said yes to this in 1996. By passing prop 215. Residents of Santa Clara County voted in favor by over 60%. Prop 215 created the broad framework to allow the will of the voters and thus enabling those in pain to obtain medical cannabis. That was followed on to further clarify prop 215 was Senate Bill 420 put forward by our own state senator John Vasconcelos to establish more implementation of the will of the voters. I'll skip my presentation now but going to background, I feel it's imperative that we adopt an ordinance allowing the medical use of cannabis in San José from the time we started the discussion, already having maybe about five of these facilities and then the Obama administration changing their view, now we have upwards to 40 to 50. And that's in lieu of having a true ordinance that regulates. So state law allows for cities to have this enforcement, and just in our own backyard we have cities such as San Francisco and Oakland that have adopted ordinances for their local governments to control oversee oakland only has four. And not 40. Because they have an ordinance in place that has strict regulations as well as collecting permit fees and taxes. Since rules must be obeyed per Oakland's ordinance. So here Oakland has done a superb job, to raise the bar so only reputable attorney general David Ogden in my memo that our City Attorney spoke to that there is a change of policy now at the federal level. And if I can quote from that, Mr. Ogden as general matter pursuant to these priorities should not focus these states on individuals whootion actions are in clear and unambiguous medical use of marijuana. Furthermore we have had attorney general brown come down with the recommendations on implementation which I have a variety of documents surrounding me from all the different things from prop 215 to the attorney general. And then I respectfully disagree with our City Attorney. There are other opinions out there. There are other court cases that dictate cities should follow state law versus federal when it comes to these types of things. We've had into the record submitted two from two other attorneys that show a different point of view. Understanding not all attorneys agree on everything and I know it's your best intention, City Attorney Rick Doyle to protect our city, but we've also seen that other cities have been able to manage this problem and it does take the will of the council and the City Attorney. I was concerned that the information shared by staff did not include our surrounding cities that have put in place a proper ordinance. So that concerns, because in the end if we're going to make decisions we need to have all the facts put together for us. And then, on the other points of the memo that came out of the City Attorney and the police chief, that the fact that under both California uniform controls intense act and the federal controls intense act, marijuana remains a controlled substance this statement is untrue according to both documents that I referred to on one page of this memo. In fact state law allows the cultivation and distribution of medical cannabis state laws, regulations regarding their specific oversight regarding marijuana cannabis. And then just continuing on through the memo, I certainly appreciate the memo put out by Mayor Reed, Vice Mayor Chirco and councilmember Pete Constant. I think -- in fact I agree with many of the principles you have in the memorandum, principle number 1 because that's state law and that is basically incorporated in my original memo. Paragraph 2 which is the Obama administration's new stance which is again incorporated originally in my memo and item 4 which is also is with the state law. But with that said, principles only goto so far. Principles will not stop a collective from opening in an improper area that could be problematic for the city. So that's why my memo is more distinctive when it comes to land use. Because this is a land use issue. These place are physically located somewhere and I think that's important. And as we mentioned on the prior discussion, on the community center, clearly these places can bring in a fair amount of revenue for the city that are General Funded up restricted and we can go into how that works via the voters. So the summation of the memo also included the City of Oakland's cannabis ordinance. The reason that's included is it's a successful ordinance. Also it allows us to emulate, which is the original memo that I put out, to emulate ordinances in cities that already work, that have already been vetted with the public. These owners have many different levels whether it be public hearings, where they should be located, criminal background checks, et cetera. Those are important things to have. I also included the letter from Barbara Kieley that the City of San José should act in addition there was a letter from James Anthony, from the law offices phs James Anthony, also a copy of Oakland measure F, this is where these residents of Oakland by 80% voted to tax medical cannabis for their city. So the other thought is, you know, a medical doctors today prescribe pharmaceutical drugs for patients, Vicodin, Demerol, oxi Contin prop 15 was very broad, as I

mentioned Senate Bill 420 helped to clarify, attorney general brown put out his guidelines and in both cases it's provided a framework for cities. Again the Obama administration has dropped the president Bush's stance on this topic, has said listen if you live in the 14 states of this country that allows medicinal marijuana, we're not going to prosecute. We will, so the 14 states among California represents 90 million Americans and now another 14 states are considering this legislation as we speak. So San José needs to act now. So we do not make the same mistakes that Los Angeles did. In Los Angeles, the policy makers avoided the issue hoping it would go away, or it would not cause any problems. [applause]

>> Councilmember Oliverio: So in Los Angeles because it was left unchecked because there was no ordinance because there was no land use issue permits managing it they skyrocketed to a thousand cities and they opened both cities and dispensaries and we can talk about the distinction on the wording there but dispensaries are illegal. Collectives are legal. Not following state law and City of Los Angeles lost out on all revenue opportunities. Therefore I reiterate we need a solid ordinance and then although the principles again are good in theory and they recognize the need, we need to address regulation, oversight and enforcement. I strongly believe we need to direct staff today to come back with a draft ordinance review as outlined by my memo. As emulating other cities staff can save time and effort. I also included on the Oakland ordinance a mockup of just putting San José's name in. Literally you could then go out and say gee, you know what Oakland requires collectives to do litter pickup once a month. Maybe that's not necessary. And can you scratch it out if that was the case or you could add in something else like hours of operation, something like whatever that might be and that's important to have on these ordinances. So back to limited number. I believe we should have a cap on the number of collectives allowed in San José. Since I would prefer a narrow zoning of where these facilities can locate, I don't believe there's room for an unlimited number, nor would that be a good idea. A limited number is easier to regulate, and provide the collectives the ability to have high standards in their facilities, procedures, services security quality et cetera. This limited number should not be concentrated in one area but rather spread out, finally, a moratorium from this council on new collectives should be enacted until we have an ordinance in place. And I think we can do that in a quick measure. Limited places, my memo suggests that collectives, cooperatives, this way we ensure that the collectives and cooperatives are not in at least a thousand foot away from school, churches, parks, so if we adopt the thousand foot plus use industrial land then we're ensuring that these facilities are away from neighborhoods and basic resident services. They have the ability, if you locate in an industrial area, to give privacy to members of the collective that are visiting to maintain medical cannabis. These are basically stand alone buildings that enable proper security of the facility, a side benefit that the council industrial land to housing which is bad for our city's tax base therefore allowing industrial property owners to have new tenants would be good for the industrial property owners. Also my vision is for fees that cover our costs for regulation, and therefore, all the costs from the regulation is burdened on the collectives. And you know, as far as location, the council may also want to consider based on planning staff's recommendation if medical office is the appropriate regulation. Regulated. The only way to ensure that medical cannabis collectives, cooperatives follow the rules is to regulate them. And I can't say we're doing that today. So like Oakland collectives, we should have open accounting where the city can verify all transactions. The collective should have an accounting system that is easily understood like quick books from intuition. Background checks from the principals should not have past felony convictions for drug dealing. And security should be provided, hours of operation should be regulated, no onsite consumption of cannabis should be allowed on the premise or the park lot. Some will argue that on site open discuss their challenges in a group setting however I do not think San José is ready for that today. Not all people that consume cannabis do so by smoking. Many digest it as a baked good or tea. So packaging therefore for baked goods should be clearly marked as medical cannabis, should have zero similarity to consumer food. So limits should be placed also on how much cannabis can be picked up in a single visit. Doctors' credentials should be verified by the collective medical cannabis. Cannabis can only be provided by collective members that is cultivated by collective members. No in-row side cultivation of cannabis should be allowed. Part of an ordinance that already exists today, whether it be Oakland, San Francisco, et cetera. Theories prudent measures to control the regulation. On cost recovery medical cannabis facilities will pay the City of San José through taxes and permit fees. They will not cost San José money. All pay fees, these pay fees will pay for the city staff time and keep highly skilled staff employed as weigh face layoffs. Planners code enforcement building inspectors we need to be paid will need to be paid for their expertise to make sure these facilities are safe secure compliant and good neighbors. I have suggested for example that a \$10,000 permit fee. Why did I come up with that number? San Francisco charges \$8800, Oakland

charges \$30,000. In the end our staff is going to come back and tell us exactly what that number is for full cost recovery because we're not allowed to charge in excess of what it cost to do it. And as I stated in the memo attached with measure F the Oakland measure that increased the taxes on medical cannabis was passed 80% of the voters. You don't hear those numbers anywhere on 80% on a tax. That submitted during the public record to the budget where we had 939 respondents where 84% approved of taxing medical cannabis here in San José. Oakland charges a 1.1% tax, I would suggest a 3% tax indexed with inflation. He be collectives are not allowed to be for profit. As a nonprofit any extra money must be reinvested into the collective, pay collective employees higher wages provide free services like chiropractic acupuncture. Alma community center that I visited a collective in Oakland and they will send the city \$560,000 approximately this year for one facility so it's quite a bit. So I think that this council should consider allowing our San José voters in November 2010 to vote on a medical cannabis tax so we can capture city services if we wait the next election's two years out in 2012. And then when -- and I know there's been a lot of talk about this statewide measure that's coming to us in November where the residents of California will be asked to vote on whether we should have a legalization of recreational use of marijuana. Well, when the scroarts passed prop 215 in 1996 basically allowed the cities to issue permits and there was eight years between 96 and 04 that there was a total gray area that there were no permits issued. And this is what led up to the problem of Los Angeles these places popping up because there weren't the regulations in place. And if you regulate the number and location therefore it can be more manageable. So I don't think we should wait until the outcome of an election. It is completely unpredictable what will happen. It will probably get stuck in the court system. So in the end if we regulate now, we're in the court system, should that come to pass we already have a regulatory system in place should that pass and not have court challenges. Then I wanted to mention on this idea that we should you know it would be okay for you to form, you know, to grow marijuana in your backyard, the problem I see here is then people will form collectives in residential areas. So whether it be Almaden, Berryessa, Cambrian, downtown Evergreen, wherever. And what's going to happen now is you're going to have typical residential street in any of those neighborhoods in our city where suddenly a lot of cars are going to be coming to visit a specific house and they're going to be driving at a certain whatever, maybe speeding maybe not but they're going to be parking all over the place and they're going to be coming maybe at late night hours which may be disturbing to our residents. Finally not finally but when someone knows gee I think there's something going on there, I think that's a collective, you know what I'm a gang sister, I'm going to rob that house. Now what will happen is we're going to have an opportunity for burglary but you know what, that person might be there so then you get into an assault situation. Furthermore, with people being kind of forced or given the -- being pushed to grow it at home you're going to have people that are inexperienced in doing this so hey you know I'm going to go given it a shot. I don't want to grow it in the bedroom or the kitchen. Let me try the attic. I'm going to jury-rig something in the attic. I don't know anything about fire safety. Next thing, I could burn down my house or maybe my neighbor's house. That way we could provide fire safety for the community. So I just want to reiterate -- [applause] so I just want to reiterate, San José has the opportunity to create its own ordinance to ensure that we regulate and gain revenue from the collective cooperatives. So back to making a motion. My recommendation which takes in everything from prop 215 to attorney general Brown's comments to the attorney general Ogden from Obama's administration to Senate Bill 420 providing all the background. And I am providing a recommendation but I realize that our professional planning staff will come back with some tweaks, some alternatives and that's okay, we're just here to provide recommendation. I would like to move my memo but also capturing the principles in the mayor's memo. I would like to capture principle number 1, principle number 2 and principle number 4 because those are state law and federal guidance from the federal attorney general. However the number 6 waiting for the election in November 2010 I see as problematic because it makes us not do anything and we're going to have further problems between now and then. Principles 3 and 4 it comes down to the land use permits. And it's not going to be enough to prevent a collective from locating in a residential neighborhood and creating not good situations for the current residents. And so as much as I appreciate the principle, it doesn't concretely protect the neighbors, the residents from collectives being in specific areas. So those are the only two of the three that I could not put on my memo. But with that said I also wanted to make one caveat that again industrial zoning could be something that is preferred, but if planning staff thinks that it could be in other areas then that should be a council discussion, when you bring it back. The number item 1B where I use the word dispensary should actually be collective, not the word dispensary, collective, cooperative, ran as a nonprofit. [applause]

>> Councilmember Oliverio: On the minimum permitted application fee you've heard me say today it's a guide. Again, the professional staff will come out with what is the correct amount it should be. But that was again just to offer guidance. The council can decide at a future date as late as August to whether or not the residents of San José should be allowed to tax medical cannabis, to pay for services. I originally put police and streets. But if this council feels that community centers is more important for that money, or libraries is more important, then the council can make that decision. [cheering and applause]

>> Councilmember Oliverio: So that's essentially it. Moving my memo with the amended word of collective instead of dispensary and bringing three of the principles over from the other memo out. And I would look for a second.

>> Mayor Reed: We have a second from Councilmember Liccardo, I believe, on that so we have a motion on the floor. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Thank you, Councilmember Oliverio for bringing this issue forward. Obviously it's very important and it has definitely generated a lot of publicity in the last several months or so. I just have a couple of questions. My understanding is individuals who want to form a collective they need to file with the state first. Now, do they need to get a business permit with the City of San José and if so, what do they write on their application when they obtain a business permit? Because obviously we don't have an ordinance as relates to medical cannabis collectives or dispensaries in the city. So I'm just curious as to what do they write on the dotted line when we ask them what is the purpose of your business.

>> Joe Horwedel: I have seen a couple of the business license descriptions. I don't think any of them have put marijuana sales or cannabis sales. I think dispensary has shown up on one or two, and it has been modifier general office, general retail type descriptions. So I was looking to see if -- where Mike was, that had our list of the properties we've been enforcing on. Because I think about half them didn't even have business license.

>> Councilmember Nguyen: Okay so then that transition erred I guess my second question, since we don't currently have an ordinance and when staff looks at these applications we would see either dispensaries or whatever we put on there and we don't have an ordinance how would we react to that and why would we grant the business permit?

>> There is a provision in the municipal code that simply because you're operating as a business in the City of San José and you pay your business tax that doesn't mean you you're legal, it simply means you've paid your tax.

>> Councilmember Nguyen: Interesting, okay. [applause]

>> City Attorney Doyle: Councilmember, the business tax, it's just a revenue measure, it's not a license to do business in San José. It's called a license, but it's really just a text tax.

>> Councilmember Nguyen: Okay, I don't know where there issue is going to go because obviously we haven't taken a vote on it. But either way whether we're support offing Councilmember Oliverio's motion today or we're choosing another option, given the proliferation of collectives we've seen in the last few months I think it's north of 50 now, how are we expected to manage the surge in collectives when potentially from now until November we can see it goes up into the hundreds or thousands as we have seen in Los Angeles area?

>> City Attorney Doyle: Councilmember, I'll take the first stab at that and then code enforcement can take it. It is an issue and the resources and demands on Mike and his stove are tremendous. In many ways it's cat and mouse. If we go out and close one down they open up in another location. So it is a problem. It's enforcement issue.

>> Thank you, Councilmember Oliverio, Mike Hannon code enforcement official for the City of San José. We are a complaint based organization so code enforcement we receive complaints that dispensaries are opening up in our city we will investigate and respond accordingly.

>> Councilmember Nguyen: Okay, and just final questions, I'm not sure if staff can answer this or not, but it's clear that there are reports of fictitious medical cannabis need, with doctors issuing cannabis prescriptions, I'm not sure it's within our authority to regulate that, but if this issue moves forward do we have as a municipality the authority to sort of curtail or prevent doctors from issuing these prescriptions that are not legitimate?

>> I did have an opportunity to have a conversation with my counterpart in the City of Santa Cruz which also has a limit of two and I was advised that they do have a doctor on staff who does go out and double check if the person who holds the card is either a primary caregiver or is seriously ill. And so they have a doctor who double checks that.

>> Councilmember Nguyen: The city has a doctor that actually check that?
>> That's what I was told.
>> City Attorney Doyle: I don't know that they -- it's not a second opinion. They don't second guess a doctor but they make sure that what the doctor's done is the doctor is the primary caregiver and has issued the prescription.
>> And that there's a seriously ill patient.
>> Councilmember Nguyen: Right, I guess the follow-up question, sorry, if we were to move this issue forward is that something we need to do, is hire a doctor to go out there and seeking the liepses are legitimate?
>> That is something the staff would want to evaluate because I know the police have raised concerns that some of the persons who they have identified in the field who have cards at first blush do not appear seriously ill.
>> Councilmember Nguyen: Thank you very much. [Booing.]
>> Mayor Reed: Audience participation is knot appreciated at this point. You'll have a chance to speak. Staff has a chance to speak. We'll ask you to be quiet while we're talking. Is that all your questions?
>> Councilmember Nguyen: That's all I had, thank you.
>> Mayor Reed: I had a couple of questions about the motion. There are some elements about this motion that I can't support and wouldn't support. Let me just outline what they are. I don't think the industrial zoning should be the primary area. I don't think -- [applause]
>> Mayor Reed: I don't think I want the staff coming back by April 27th with a draft ordinance. It means the memo would have to be out next week, I believe. And I have a question about the workload assessment that the staff prepared when we dealt with this Rules and Open Government committee. There are 27 items on the staff's ordinance and policies workload list. If this motion is passed I want to know what happens to the sign code major update, the downtown entertainment owners, tree removal ordinance and which are the top five on that list and the vacant neglected structures, landscape protection ordinance and others on there. The two items that are -- would be most affected by the schedule suggested is the sign code update and then the ballpark EIR. The EIR just closed its comment period last night? And so the City Attorney is in the room with my staff on basically a full time basis going through those comments so we can keep the schedule for the ballpark. As that's finished up we are continuing to work on the sign code update. Some of the other ordinances in there would slide back a bit but the ones that have the most impact right now in order to meet the April date that was suggested would be the sign code and the ballpark EIR schedules.
>> Mayor Reed: And what about the suggestion or the recommendation here, item number 3 that you're back doing outreach in the neighborhoods and back to the council in June? I assume this would be within the outreach policy, major policy, outreach program?
>> Joe Horwedel: Correct. And that staff, when we did go to the Rules Committee, we did put together our assessments of the amount of time for doing the community outreach. The actual meetings themselves are anywhere to the ten, 12-hour hit on staff to do that. It's more of the preparation of the content that goes into that. And we did recognize that a lot of that's going to be coming from the city attorney's office. So you know, it's going back to the scarce resource right now, that that's what's going to drive my ability to be out in the neighborhood in June, is being able to get enough of the content which we were estimating at about two weeks' worth of staff hours to accomplish that, so really in the next month I would be hitting ballpark EIR sign code update and trying to do the research so I could be out in the neighborhood in June.
>> Mayor Reed: City Attorney did you have more on the workload?
>> City Attorney Doyle: It's a question of where you want this to fall in the list. Certain things are going to get bumped and it's a question of your priorities to instructing us if it did sort of pass what you wanted us to come back with first.
>> Mayor Reed: Well if you put it on the list it goes to number 28, we have things that are important -- at least all of them are important to somebody. But I'm mainly interested in not upsetting the items that are underway such as the ballpark EIR. Councilmember Kalra.
>> Councilmember Kalra: Thank you, mayor. And I do appreciate this issue coming forward because I think we definitely have seen the impacts of the -- of these facilities opening up around our city. I know it's putting a burden on our staff and our code enforcement. The two goals, and at this point I have several detailed questions and concerns. The two goals going forward, if we were to direct staff to come back

with a draft ordinance would be for me to make sure that there's safe access to medical marijuana, that -- and that we have some regulation of it so that it doesn't have the negative impacts on the neighborhoods, and other parts of the city. L.A. is a joke I've been there, and -- that was not the intent of the voters in 1996, I think what you see happening in L.A. And I think that we certainly should -- I think by doing nothing, I don't know if we're helping. And so I have some questions. One is about, first of all, the ability in terms of narrowing the zoning. The mayor indicated he doesn't necessarily like the idea of having industrial zone. But I guess in terms of what my interest would be and analysis would be and focus would be, that we have very narrow zoning and are able to legally cap the number as Councilmember Oliverio said and he indicated that was an interest of his as well. That would be a huge interest of mine is to make sure that we do have the ability to do that legally. In terms of a moratorium, what would we do with the current operators if we continue doing our enforcement on current operators, if the moratorium was placed on new collectives? I guess I'll ask staff if that would be continued.

>> Joe Horwedel: If a business is legal during a moratorium it would continue to be allowed. I think the real issue in this case is that the businesses that are operating in San José, it's our opinion that they are not legal businesses and have no standing. So a moratorium would preclude them from trying to legalize, which today would be to get a conditional use permit in the heavy industrial zone.

>> Councilmember Kalra: Okay, I think that's Councilmember Oliverio's objective is until we get something more structured in place before we go down the path of formalizing in terms of a business relationship any of the collectives. In terms of -- there are a couple of issues raised that I think are very legitimate issues in that oftentimes you might have a collective that operates, you know it's spotless and they are very strict and they have good security and they make sure they do everything they can to verify that they're providing medicine to those who need it, but it's the before and the after that we don't have control over at all times. It was referred to briefly by Councilmember Nguyen in terms of verifying that those that have the cards actually do have a medical condition. I believe the law is very broad in that it doesn't even require a prescription but rather a doctor's recommendation that marijuana may be of assistance to any number of ailments. But that being said it still requires that endorsement. And so in spending over a decade in the criminal justice system, those are the two areas that were most troubling were the front end of getting the card, and the back end where you have people selling getting the collectives. So I think if there was a way, that might be part of the analysis is what are -- what is the best practices. René, you did refer to Santa Cruz, you referred to one, what are the best practices in terms of verification and in terms of those that violate the trust of the collective so to speak and do you sell or distribute in a way that's not appropriate, how that can be handled. How is that handled by other jurisdictions such that we can get the information to the collective and say hey, you know what there's this person they got in trouble for selling and so on so they can kind of black list them, and saying that's someone that's not operating by our rules. It is easy to put in regulations, it's not easy but there's a system set up or can be set up on how a business operates but it's not so simple on the before and the after. So iebd interested in seeing what other jurisdictions have done to better regulate the before and the after. In terms of cost recovery, Councilmember Oliverio referred to making sure facilities are safe and compliant to code, like we do, and so much make sure we have cost recovery. Can the cost recovery also go to enforcement for legal operators, given the fact that there is a value if someone's paying the money and becoming a reel operator, that ensuring there aren't legal operators also -- would that be something legitimately considered as part of cost recovery?

>> City Attorney Doyle: I don't think so. I think the -- the program pays for itself for regulating the legitimate operators. And so what it takes for planning staff, police, whatever kind of regulatory process going after legal folks, I think that's an independent action and would have to be contemplated in the original workload assessment that planning put together and would be part of anything we'd have to come back with.

>> Councilmember Kalra: And that's what I really like in answer to that because right now code enforcement and our staff is being -- is using resources and we're not getting anything for it. That if we do have a more regulated system and the cost recovery there, at the very least, to check the operators and you know, do a stop-by visit to make sure they're operating properly and to make sure they're to code, there's no doubt that there's going to be a need for code enforcement to go after those operating illegally. Where do we get funds to do that? I think with the tax it can offset some of that because I don't see the taxation of medical marijuana in the same light as tobacco or gambling and so on, I don't see the syntax because it's medical marijuana. It's medicine. However if there's an ability to use taxation to offset

the initial costs that we can assume are going to come forward that is something that I would be more interested in hearing about what our latitude is in that regard.

>> City Attorney Doyle: I can give you options, taxes you clearly could use, taxes are not problem, it's the fees. The analogy is the card rooms. Whereas you have two card rooms, they pay for regulation of those two card rooms. To the extent that police are going after illegal card giving or game kissing, it is not the again we can come back with your options on taxes and fees and what can pay for what.

>> Councilmember Kalra: I think to what extent possible cost recovery can include some general enforcement I think that would be good because then it can -- then it can make sure that we're paying for some of the costs in our Planning Department. Additionally, in terms of some of the language that's in here there are some penalties and this is again -- I know this is just some -- Councilmember Oliverio, I know you're just putting it out there to start discussion but there is reference to penalties for operators that don't operate within the rules that are set forth. And I would again like to see the history of violating, whatever owners is put forward. So I want to make sure that we have as much latitude as possible to be able to shut down bad operators so 92 the good operators, you know they continue operating but I don't want to be in a situation where we're stuck and it takes us a year or two to close down a bad operator. So again I think best practices in that regard would be something I'd be very interested in learning more about is the ability to revoke a permit once it's being put, once we've given a permit. And the last area, Councilmember Oliverio referred to it already, having the money go for police department and street maintenance, that could be a further discussion in terms of what the council feels is most appropriate but I imagine that some going to policing may be appropriate. If we include under the guise of policing the code enforcement policing as well because it sounds like there's going to be a need for code enforcement to continue to make sure that illegal operators aren't operating. So I'll support the motion because I think the discussion is worth having. I don't think that right now the problem as it exists done seem like it's going to go away just by us waiting. And if in November, if in November there is a proposition passed that legalizing recreational use, if we don't have some kind of system set up that we can then look at and say okay well now recreational use has been passed, we're just starting from scratch there I think we're really doing a disservice. I think we can take a big step forward by at least having an analysis done. By the end of the day, you know what, maybe you don't want it done today but at least having that work done and having that analysis done if the vote passes in November it will give us a huge leg up over other jurisdictions that have no policy or have no analysis at all. Thank you. [applause]

>> Mayor Reed: I have a couple of questions and couple of recommendations first with the aware this the structured Councilmember Oliverio is asking you to put the zoning on the ballot which is nothing that we have to do, and I don't think that would be necessary. But it's also structured in a way that we would be -- it would be a special tax which would require a two-thirds approval which I think would be a mistake to have it structured that way, because I don't care how popular something is, two-thirds is always a tough thing to do especially for a tax of any kind even taxes on other people are tough at two-thirds. So I think the way this is structured is not good. So City Attorney, am I correct in my assumptions if we earmark there is a special tax?

>> City Attorney Doyle: Yes.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I want to commend Councilmember Oliverio for bringing this issue to the forefront. We've been having these challenges in our own neighborhoods in downtown, particularly with one operator on neighbors there and it's clear that we need a proactive stance in terms of both zoning and enforcement. At the same time, we respect the intent of the state law permitting medicinal use. That being said, I actually agree with all the concerns that the mayor expressed and I want to make sure we clarify the intent of the motion as I understood it when I seconded it which is all the items which are identified under paragraph 1 really are suggestions, they are not in fact policy directions at this point is that fair to assume?

>> Councilmember Oliverio: Exactly. You know they are suggestions emulating what's worked well in other cities and to the mayor's comments and to yours Councilmember Liccardo, I would certainly like to garner the support of Mayor Reed today and I certainly am amiable to -- that industrial zoning does not have to be the primary, again deferring to the planning staff and where that might be appropriate that a special tax not designating the money for a specific thing therefore dropping the two-thirds requirement to 50% even though these things have been passing in the 80 area, would be fine. On the date coming back to council, you know if we want to push it out a few more weeks we do have the time line on August 3rd, of having to decide whether or not we place something on the ballot. And when you look to the workload,

you have to ask, sometimes things come up that we just can't handle as a city that are dealt with state law and so sometimes we have a pressing need and also you also have a time where something could bring you revenue.

So I think on the balance of the workload I'm very sensitive there, but we also have to kind of understand what's there. I'm willing to make those if those are okay to the seconder.

>> Councilmember Liccardo: No absolutely that is the intent as which I understood the motion. We certainly quibbled over the details and I think there's an awful lot that needs to be discussed need to be fleshed out by staff before we start settling out on numbers. The reason why I seconded it of course is because I want to move forward with an effort to create a mechanism for clarity, for lack of a better word, through this haze, pardon the pun. I mean, I've got -- sorry. [Laughter]

>> Councilmember Liccardo: I mean I've got people in my district who are adamant about the fact they need this to deal with their glaucoma, to deal with the after effects of their cancer treatments and I also have neighbors who are reasonably complaining about car loads of kids who are pulling up next to the purple elephant, kids are pulling out young adults and none of those kids suffer from glaucoma since they are out there raising a ruckus. And when we try to reach out to the purple elephant just to give an example, we say hey look, why don't you reach out to the neighborhood, good neighbor agreement, their response essentially was, go talk to our lawyers and that's not very neighborly and compels me to believe what we really need is a more aggressive stance about where we want collectives to operate. Plod.

>> Councilmember Liccardo: And clearly we don't want them in our neighborhoods. Actually I agree with everything Rick Doyle says in his legal analysis. I agree there is clear prohibition in federal law, state law is a little murkier. The problem is rules are murky for San José police officers who are going out there because I'm getting response from neighbors who are saying we're calling the police and the police are saying well talk to your council office. So obviously, we need clear rules, so police know what they can enforce and what they can't. And I want the police involved because frankly, we're going to be involved in I think a legal battle no matter what we do and I'd much rather have officers involved there who are trained in collecting evidence and interviewing witnesses and so forth than just be relying on hearsay statements, we've got to be very clear about what we want to allow and what we don't. I think ultimately where we end up on zoning is probably not going to be schuivel sensitive neighborhoods, to all neighborhoods rather to scoolt schools and so forth. Where I have one concern though which is about moratorium. Base know in Renéé Gurza's memo, Renéé you mentioned we don't really need a moratorium, we've already got essentially a prohibition in place. And I'm wondering if to save us all the enormous trouble, I know how much trouble it is to go through the moratorium process, that was no fun last time, do we get the same effect by simply continuing to enforce as we have, with the expectation that I think for the seven cannabis clubs in which we have issued notices that we expect you to shut down, we're going to continue to enforce those and hopefully by April or May those in fact are going to be realized an simply go forward without the moratorium, and until we get an ordinance in place which leelzs oochtion regulation but in the mean time we had several many secondary units that were illegal and the council asked the City Manager to -- if there was enforcement on going to make it pending or to delay the enforcement or just hold it for the period of time that the council is looking at the issue. So for -- in other context we have done that route rather than actually adopting a moratorium.

>> Mayor Reed: Okay, so Renéé is it fair to say if we do not adopt a moratorium it will still be the case that any new collectives or dispensaries however you categorize them would be illegal here?

>> Under the way our municipal code is structured, that would be the case, the City Attorney's perspective.

>> Councilmember Liccardo: Whether or not we have a moratorium in effect, would that affect our ability to enforce those establishments that we know have based on our oasks that we're work through on sites where we've been out we've looked at it and we think they are voilgt the state law prohibition on retail sales, they're not operating as a collective or that they actually have cannabis on site so we have been pursuing those. We have got a total of 23 that we are aware of and so we've kind of working down through that list Santo to see if there are more compliance orders that netted to be issued. We have several in the process of going to the compliance hearing board. I think the one important message out of this is, kind of the do-nothing, quote, scenario kind of that we're under right now, it does consume staff time, it's not Renéé's the toarnts time working on it, it is staff rather than planners, and police department significant resources. Whichever direction we go we're spending staff time on it.

>> Councilmember Liccardo: Okay. Recognizing we're trying to I think get to the same goal, and conserve resources, and given extraordinary consumption of resources we know that this is going to

entail, I'd like to ask the America of the motion would you consider going forward without the moratorium, given the impact on the clubs the impact would be exactly the same?

>> Councilmember Oliverio: My preference is we make some symbolic to the public to let them know we don't really want any additional ones today until we have an ordinance in place. So for example if we're going to come through with this ordinance and someone opens in this interim period that it should be one of the scores you know that's negative on them actually becoming one of the legal compliant collectives in the City of San José. So what I'm saying is if you are open today it doesn't guarantee you're open today because you would need to fall in line with the regulation of a good ordinance. With that said if you are not a collective today it doesn't mean you might not be able to open in the future but you just need to do it the legal way of regulation through the city. So as long as staff is -- if we're able to in this evaluation team keep track of any of those that open up between today and when we finally adopt an ordinance, at least that would allow me some benefit to say, you know, you shouldn't be opening up. We have, you know, a fair amount today.

>> Councilmember Liccardo: In the interest then of conserving the time of coming back, I think it would require three times in front of council to get a moratorium in place. Could I suggest, instead, we simply adopt some sense of council that any new establishments are prohibited, any -- since they're already prohibited.

>> City Attorney Doyle: You're reaffirming existing law.

>> Councilmember Liccardo: Allowing this word moratorium to evaporate, allowing how we could best let this --

>> Councilmember Oliverio: That would be fine.

>> Mayor Reed: Since you were the seconder, that's acceptable tot seconder.

>> Councilmember Liccardo: That would be fine, thank you.

>> Mayor Reed: So the motion is modified in that fashion. Councilmember Pyle.

>> Councilmember Pyle: Mayor i'm not sure if I should wait until after the public has a chance to speak.

>> Mayor Reed: I've got a lot of public to speak, so you're going to have to wait over an hour. It's up to you.

>> Councilmember Pyle: I'll speak now. Does the state of California allow tax on prescription drugs?

>> City Attorney Doyle: This is not prescription drugs.

>> Councilmember Pyle: Even though it's meant for medical purposes?

>> City Attorney Doyle: Right. This would be imposed as a business tax. It's not on the cannabis. It's based on gross receipts of the business. It would be what the business tax that these type of cooperatives would have to pay. It's subject to voter approval which in November.

>> Councilmember Pyle: Okay, I'll save the rest until later.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. I guess I'm asking this of Joe, I think. Do you think that having these proposed new regulations, I'm asking Joe Horwedel, these new proposed regulations would result in less of the businesses that are violating state law right now that are here, do we see this as a way that that would decrease if we had these regulations in place? You said we have 23 that we're going after right now that we think are violating state law.

>> Joe Horwedel: Well, I don't think it would change how the how they fit within state law. The state law is very clear that dispensaries are not allowed, they essentially cannot run a CVS type business with cannabis. It's basically how cannabis fits within a collective definition to see members are buying or swapping for cannabis. I think what the regulations would deal with are, in just looking with the 23 businesses, only two of them are in a CG zoning district which is equivalent to valley fair, Oakridge, large retail, and I think this would be an appropriate district for these types of uses. Two are in residential zones, clearly inappropriate. A majority of them are in office zones, you won't meet the thousand foot separation. So I think the rules that are being talked about here if they were in place would dramatically move where these businesses are operating so that the challenges that Councilmember Liccardo was talking about of how they relate to the neighborhood would change. I don't know how it would change the actual operations themselves which would be more of a concern to the police department of how that complies with the state and federal laws on the substance. But from a land use standpoint I think the rules would solve a lot of the challenges of interface.

>> Councilmember Herrera: Thank you. So I think that there's a lot -- we've got a lot of good information here both from the mayor's memo clarifying some of the legal issues and the memo from Councilmember

Oliverio and I thank you Councilmember Oliverio for bringing this forth because I think it -- we do need a discussion regarding this. [applause]

>> Councilmember Herrera: And I do think we need the discussion sooner rather than later, because we have collectives now operating, how many now are there operating did I hear?

>> Joe Horwedel: 23 we hear, probably double that, we're not tracking.

>> Councilmember Herrera: Just in terms of my own personal feelings I have a number of friends one of whom I'm thinking of in particular who has cancer and who has rheumatoid arthritis. And who in fact was told by her doctor, a Kaiser doctor, advised her to seek marijuana for the -- [cheering and applause]

>> Councilmember Herrera: To seek marijuana for the nausea caused by her treatment. But he apologized because he said he didn't really have a way of getting it and he suggested she go and ask her kids. That's not a good -- that's not a good system. So I think -- I think it's something, it's tough for a lot of people in the community to tackle the idea of this. It's been almost a taboo subject. But it's something we need to talk about openly and I'm interested as I'm hearing the discussion, this memo is getting -- the ideas are getting improved here to where something that hopefully by the time we're through with this I'll be able to support the motion. I'm very concerned about zoning and I think we need to let planning staff handle that as has already been said and I want to make sure that we're not in conflict with federal or state law. Notwithstanding what's going to happen with whatever the state does I think you know I'm interested in only this being looked at from the very restrictive focus of medical use. And so the idea of restricting the number of cleives is very important where they're located is very important and in make sure that we do all this in a very thoughtful manner and getting feedback obviously from our community but I think this is the start of the discussion and I look forward to moving this forward. [applause]

>> Mayor Reed: I'm 92nd completely sure where Councilmember Oliverio is in terms of the motion but as far as the work you're doing the ballpark EIR, the sign code update that we've invested a lot of time and effort in I'm not going to support side tracking those in order to do this. And it seems to me that in order to get something on the ballot for November we know we have to make a decision, the first meeting in August. And we need to make the decision to have you prepare the papers in June. The fishes meeting in June. Do we need to have an ordinance in hand before we make that decision or is that something that can trail in some way? Because I think we -- in terms of the timing we've got to focus on the tax measure that needs to be approved by the voters, that's the most time sensitive and can we approve that by not having the zoning ordinance approved?

>> City Attorney Doyle: There are two perhaps three types of ordinances that we would envision. One, the zoning ordinance? Two, a tax ordinance which would amend the business tax and then to the extent you're looking at how you regulate the operation of these facilities and maybe something you would need to look under a permitting scheme that's similar to how we regulate massage parlors and card rooms and things of that sort then those would give you the day-to-day operation, separate from zoning, so that could be a possible third ordinance. Those are the types of things we could look at, come back with those regulations. From a timing standpoint, the zoning we would have to work with planning staff and again, these conflicts are something that you are just going to have to tell us, you know, do you want to get it by a certain date end of June?

>> You know I'll be honest. The land use piece of it is not as complicated as the police piece of it. I think the mayst it is there. The complications are there, the true issues are there. So I'm going to have to defer to the police, from the person who's working on the ballpark EIR and the sign code, I don't think this is going to be a very large effort in a land use perspective. So I really think that the complicated issues that the council is going to want to hear about are from the police.

>> City Attorney Doyle: And the tax measures, the blood ballot measure itself is just language. But police regulatory scheme is really going to be the key.

>> Mayor Reed: The police regulatory scheme, would we have to have that in detail, know what it is by first week in August or do we have to have that on November 11th, if it were -- if the tax were approved by the voters?

>> Okay, I'm told historically, last time we did that as an adjunct to the ordinance, I'm glad the issue came up because it's not just a land use issue, there's law enforcement issues here, in fact of to look at we will have dwindling law enforcement issues. Land use is one part of it. The other part is does it comport with state law, state law is pretty clear. So I can envision the officers having to know what is the source of the marijuana, is it being provided by the members of the collective, or outside illegal sores that the other collectives in the city draw from right now. The issue of recommendations from a physician came up. Those are law enforcement issues, when we come across cases where it looks like a

recommendation was given unlawfully, we need to investigate or work that with the state. And there's going to be quite a bit of regulation from the police department standpoint on this to make sure these places comport with state law.

>> Mayor Reed: Do we have to have all that done by the first week in August before --

>> No, I think that could be done as an adjunct to an ordinance that's done.

>> Mayor Reed: As long as we had it in place by the time we needed to have it implemented, we wouldn't be without regulation?

>> Correct, and we also have state law.

>> Mayor Reed: All right. Councilmember Oliverio.

>> Councilmember Oliverio: Yes, mayor you asked the questions on the timing so based on that then we could have this instead of the April 27th date, come back with that in mind, as far as the last council meeting in June because we'd have to decide by August 3rd so maybe this could come back the third week of May or something in that regard. So that's where -- I'm amiable to those dates. And I just want to make quick comments to Councilmember Nguyen. Only through regulation can we actually get to the point where we have a valid doctor's check, that could be one of the regulations. Councilmember Pyle they do pay sales tax and quite a bit of it so it is a taxable item. Oh and finally on outreach to make it easy, I mean staff could go to the neighborhoods with hey, here's the Oakland ordinance. This is our discussion point. What do you like about it? What do you not like about it? Does it fall short somewhere or is it too stringent, whatever it might be but I think that gives you the automatic conversation starter for the outreach meeting.

>> Mayor Reed: The outreach tends to expand and I think that's something staff should make a specific recommendation on, are we going to do the full blown outreach like we did for inclusionary housing which took three years or something like that of outreach or some modified version of some level? I mean that's part of the workload assessment that needs to be done.

>> City Attorney Doyle: If I can suggest, I think Councilmember Oliverio alluded to the end of June that's our last date. We need to have two readings by the end of June so I think if we could commit that we would plan this so no later than the last council meeting of June you would have that last reading, that would give us until the middle of June to get that to you.

>> Councilmember Oliverio: For buffering, I would say the beginning of June. So we are not missing that mark. Counsel, this garden grove case, are you familiar with that?

>> City Attorney Doyle: René and Carl are my two experts on this.

>> Councilmember Oliverio: Does that have too much of a story on this?

>> In a while we can stay a look at it again. The case have been fairly consistent. Coming out of appellate court and from the Supreme Court.

>> Councilmember Oliverio: Okay.

>> I do have one point to raise. There's a real concern about how much we can look into people's medical records with respect to the state -- [applause]

>> And federal confidentiality laws. Looking over the doctor's shoulders. It's not going to be as simple as getting a doctor on contract to then see if these doctors who are providing the recommendations are willing to let us look at their records. I don't think it's going to be that simple.

>> Mayor Reed: Okay, it's time to take some public testimony I think unless councilmembers have anything, other questions before then. I have a lot of people want to speak. Nearly everybody in the audience wants to speak so you can calculate we're going to be here a while. I'll call a few names at a time. Please come on down. So you're close to the microphone when I call your name. And I want to caution everybody, to be quiet, let people speak. Everybody's been waiting a long time speak and they want to have their turn. So no name-calling, no hooting, hollering, just be respectful, that's what we demand. K, initial K whoever that is, John Kowalshik, Jonathan Jonathan applies come down. Again we're one minute is the time for the testimony and it goes really quickly.

>> Good afternoon, I'm here to speak to you about medical cannabis this afternoon. Our call from our last meeting in January that several urgent issues demanded your attention namely pothole repair and street means, I home a few minutes to consider an issue of at least equal importance. San José is in the heart of Silicon Valley the tech center of the world thus we are home to the most brilliant minds in the world. Dwropg new more effective medicines for the people of California. Most effective ways to develop more no clear plant guidelines in San José it is legally unfeasible to grow an appropriate test crop for research purposes. I urge you to pass a cannabis restriction and orale medical cannabis restrictions in San José. Thank you.

>> Mayor Reed: John Kowalchik, Jonathan Stigman, Jonathan Lustig.

>> Hi I'm Jonathan Steigman, I'm ciebtd of sad you delayed these so long, there were a number of patients who couldn't sit that long wanted to leave, I disturbed by some of the like the \$10,000 application fee, I don't know that we have application fees on pharmacies but seems to me that we are looking at medicine that there are a lot of people who use these medicine both people who are extremely sick with cancer AIDS Parkinsons, all disorders from which there are very toxic pharmaceuticals available but people choose to use this non toxic substance instead, really should be made available to everybody. Also the tax I'm a little bit unsure on the tax because it seems to me botanical herbs should not be taxed, medicine for anybody. So I don't think taxing is an profit, I don't think taxing is an appropriate way to raise money.

>> Mayor Reed: Sorry your time is up. Please folks don't applaud in the middle of the speaker it's only one minute and you're interrupting their time. John Kowalchib.

>> My name is Jonathan lustig. I'm going to get precise.

>> Mayor Reed: One minute.

>> Absolutely sir. I'd like to discuss usage in the state of California it is actually substantially declined, youth usage has dramatically declined that's the California attorney general survey. The second issue that I'd like to discuss is, the excuse me, the amount of dispensaries that should be located in San José particularly. Santa Clara County has 1.9 million people we're actually larger than 12 states, the 12 small states combined. Our population base here the patient base is enormous. As far as taxation is concerned I can't get over that again prescription drugs knot taxed, botanical herbs or teas are not taxed, in addition to that I can't get over sticking it to the sick and suffering individuals until the sick and suffering individuals get better or the sick and suffering individuals die. Don't tax them --

>> Mayor Reed: Your time is up. Susan LAN dry, Nathan Coleman, if I call your name please come down here. Steve de Angelo Chris colter.

>> Council thank you for your time. I'm Edward Jonathan and I just want to cite three points as you consider banning and restricting all use of marijuana in the City of San José. There's 22 members of my family that have been negatively impacted by marijuana use. When I was 13 I took my first hit by 17 I had a D.U.I. When I got sober for a little while between 21 to 35 I actually ended up going to Amsterdam, smoked in a coffee shop in Amsterdam caused a relapse that lasted six years I lost my career and I just want to site the research study that's available.

>> Mayor Reed: No audience participation please sir.

>> The research that's available from the center of medicinal cannabis research, contains research that should be available for the panel. Lastly my cousin is a detective in Amsterdam in the vice quad division and I asked him did legalization of marijuana increase gang activity he said yes not directly due to marijuana competing for marijuana sales they wanted to upsell these new users to stronger drugs.

>> Mayor Reed: Your time is up. Give that to the clerk if you want to circulate it to us. Nathan Coleman Steve de Angelo Chris colter.

>> Good afternoon. My name is Steve de Angelo and I'm here representing both harbor side health center and FMC tricked code of conduct and are here to offer a hand of cooperation to the city. Our desire is to be good citizens, is to pay our taxes and to play by the rules. We thank the council very much for considering moving towards regulation and we hope to work with the council to develop the most effective regulations for both the city and the patients thank you very much.

>> Mayor Reed: Chris colter, Scott Gates, Frederick Reimer.

>> My name is Chris colter and I'm ceding my time to Warren Vasquez.

>> Mayor Reed: That's not the way we do it. You've got your minute he's got his minute.

>> I'm representing purple elephant cooperative. We've never been contacted by any city official to go ahead and discuss any complaints. The stem of our complaints are from a lady named Mrs. Englebreit. She stated to us that she would literally say anything that needed to be said to get us out of here. We have that on tape and would be will to go ahead and turn that over to anybody who would like to hear it. Thank you.

>> Mayor Reed: Frederick Reimer, Eric Engstrom.

>> Good afternoon, y'all. I'm a lawyer, specializing in defending marijuana defendants over these last 35 years. I'm also representing at this point in time new age healing, collective. I'd like to indicate to you all and thank Mr. Oliverio for his presentation, I'd like the indicate that the feeling that I have from the attorneys just from the city attorney's office is that your position is that this is illegal under California law. Which is absolutely not the case. To proposition 215 is an exception to California law, there isn't

anything clear about California law, anymore, especially since people versus Kelly, which is decided January 21st, of this year. I'm telling you that there isn't anything in the California District Attorney's, attorney general's opinion that indicates that it's clear that it's illegal under California law. Nothing can be further from the truth and I challenge you to prove it. Thank you so much. [applause]

>> Good afternoon. I'm Eric Engstrom. I'm with the union local 14, it's a not for profit organization, we're a cooperative standing for right of collectives and patients. Union local 13 has retained attorney Eric Walesh, Walesh law group to protect the constitutional rights of all medical cannabis users and collectives within the City of San José. Our attorney's has drafted a cease and did he cyst letter, sent it to the City of San José and distributed to councilmembers. It's important for you to review the attorney's points. Medical cannabis should be able to operate in the city to provide safe access to patients for their medicinal needs. State recognized constitutional business is legal. The city should lift all bans on protected use of medical cannabis, distribution of cannabis until they enacts proper and legal regulations. Thank you.

>> Mayor Reed: Your time is up. Gregory Bach, Nicole Bach, Susan Thorak.

>> Good afternoon, mayor and council, thank you for.

>> Her doctor suggested that alternative medicine and cannabis, and she went to me and said, can you find me some of the stuff and again I had the same problem. The doctor couldn't help her she couldn't find safe and affordable access we here creact created a needs for pes at this point in time council, there isn't, there is a solution, I think the city is very close. We want to be taxed, we want to be regulated. We have a chance to have control here within this organization, this great city. I'm a resident to this great city and I think we're very close to doing something here I look forward to a positive vote, thank you.

>> Mayor Reed: Nicole Bach, Susan Thorak.

>> Good evening. I do not want to see these in neighborhoods and around schools. but this is a patient and a physician's choice. Before me that's my grandmother, that's sick. And she is on countless pills. There are people out there who do not want to be on countless pims and we are willing to work with the city, we're we are willing to work with cities, that's the important thing. We should help find a way to work together. Thank you.

>> Mayor Reed: Susan Thorak followed by Dave Spenceter, Kathleen Cohen.

>> Gafn, I'm Sunnyvale Dorak. What I see is absolutely a win win opportunity. We have legitimate organizations giving safe access to patients of an all natural remedy and the city gets revenue? Win win. It's too good to be true. And you know what? It is. It's too good to be true. It is an absolute myth that a city will benefit from sales tax or any other revenue from these clubs, because the expenses are exponentially offset by police and other services. Every other city in the state that have allowed these clubs as they are currently unregulated has seen an exponential increase. It's not about compassion. You can hear from tens of thousands of patients if not about them, I believe in giving them safe access, absolutely. It's about the dealers, the gangs and others and the people out there gaining this system.

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

>> Dave Fenster (saying names).

>> I'm Kathleen Cohen, my husband and I live on 14th street, even though very close to Santa Clara it's a residential street. A high volume parking lot is not appropriate for 14th street nor is a high volume business such as the purple elephant cannabis club. The parking lot is very close to the corner of 14th and Santa Clara, there's only one driveway for entrance and exit. It's not safe for our residential street. The uniform guards at this parking lot entrance are not helpful. They do not encourage our sense of safety nor our sense of neighborly rches. If the nature of the business requires security guards 12 hours a day, then the business is not acceptable for residential block with three existing board and care houses for the mentally fragile and ten children. Thank you.

>> Mayor Reed: Leslie Gray, Les Levitt, Richard smoker.

>> Thank you councilmembers, my name is Leslie Gray and I live on south 14th street. My door is about half a a block from the purple el vanity collective. I support medical marijuana but I'm opposed to a medical cannabis club in a residential area. Purple elephant is a very bad neighbor. This group drug deals happen in front of our houses. Driving has become reckless. Guards in paramilitary uniforms intimidate parents and children on the block. Do nothing to prevent drug dealing problems. I agree with Councilmember Oliverio that this issue needs to be regulated taxed and kept out of residential neighborhoods. I now feel it is unsafe for me to let my children play in my front yard. This endangers the fiber of my neighborhood. A neighborhood that is not safe for children is really not a neighborhood at all.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Les Levitt, Richard smoker, followed by Julie Everett.

>> The city may or may not act but one issue that must be addressed immediately is marijuana adjacent to a residential neighborhood or school. My neighbors and I sent you photos of our situation. We're imploring you to protect us. The business opened without benefit of planning or permitting process or without any public input. They're running full page ads in the metro. Elements of criminal activity and intimidation. To give you some indication of the environment, my teenage son and a couple of his friends were in front of my house and the assumption was they were there to buy marijuana. The guard came over and directed them where to go and where they should park. There are five families with a total of ten children's, within a couple hundred feet of this business. Three weeks ago there were 13 marijuana related adds in the metro.

>> Mayor Reed: Sorry your time is up.

>> There are 20 today.

>> Mayor Reed: (saying names) Dave Hodges.

>> Hole, my name is Richard smoker and I live at 33 south 14th street directly next door to the purple elephant at this point, I urge you to look at all the cannabis clubs that have located near areas where children cog gre gate. We need to take action to close these clubs or immediately relocate them. They have no business operating in a residential area. I have a six-year-old daughter who is afraid to get out of the car and come to the house. Her friends come and won't get out of the house and play in their backyard because the purple elephant has two yurm security guards dressed in full black urms dressed like swat officers that stare if a second story ramp into my backyard, seven days a week ten hours a day. This is inappropriate. If the clubs want to be good citizens they need to act like good citizens. Acting like good citizens is not moving into a neighborhood where you dispense a questionable substance I'm urging the council to close them now.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Julie Engle Brecht, Dave Hodges, Teresa Tillory.

>> Good evening, my name is Julie Englebrecht. Zero feet from our home the city needs to act today to protect children and families by shutting down tonight any cannabis clubs near homes, schools, parks and daycares. It's going to take a long time to sort out the issue of medical marijuana versus clubs treeleg. But it does not take more than a moment to see what has happened on our one residential block. Intimidation fear criminal activity on the form of drug reselling in our streets and in our cars has taken up residence in front of our children. This is about appropriate locations for this use. This is my six-year-old daughter. And there are many other families here from Naglee park. Please stain with your children. She is afraid to play in her own yard. Her friends are afraid to play in their yard. We have been threatened and we have been harassed by people. It does not belong in residential neighborhoods and the criminal and dangerous issue that is now in our neighborhoods cannot not be mitigated. Thank you.

>> Mayor Reed: Sorry your time is up. Dave Hodges. Teresa tillory. No audience participation. I'm going to ask you to leave if you are going to boo. None allowed.

>> My name is Dave Hodges, I'm a native of Santa Clara County. I've lived and work in San José for over ten years. I'm retail medical cannabis collective in San José. I opened eight months ago sorry in order to bring safe access of this important medication to the severe medical needs of patients in San José. My collective is independent, follows very strict rules in order to protect my members and my neighborhood. I'm here today to ask the typically to help San José join the cities who have regulated medical cannabis, cities like San Francisco Berkeley and Oakland. I urge the council to immediately declare a moratorium in order to give staff the time to develop the needed ordinances to ensure community friendly operation like mine. I support the idea of San José creating regulations for medical cannabis but I do not support the full legalization of medical cannabis or of cannabis, sorry. We're not quite ready for that. We need to make safe and convenient access for patients --

>> Mayor Reed: Sorry your time is up. (saying names) Germain King .

>> My name is Teresa tillory, my husband has meneure's disease so he gets really sick and he has vertigo and I do not want to drive all the way to Oakland with my four-year-old just to get him medication. So I urge you to support councilman Oliverio and his memo. Thank you.

>> Mayor Reed: Orlando Coleman.

>> Hello I'm here as a representative of the purple elephant cooperative. Chemotherapy was the inspiration for this cooperative. Now I'd like to address Councilmember Liccardo because I personally went to a neighbor's off of East Santa Clara County Santa Clara street. I spoke to Mrs. Englebreit I've

been in her home in her kitchen and I met her daughter. I gave her my e-mail address, the telephone number of the collective, the telephone numbers of anybody she wants to contact, to say we did not reach out to the neighborhood is absolutely incorrect. I went to everybody in that building and I gave everybody an envelope with our names addresses and any way to contact us in any way and offered to accommodate them in any way. I offered to accommodate Mrs. Englebreit in any way and she told me there was absolutely nothing to accommodate her but leave.

>> Mayor Reed: Sorry your time is up. Germain King, James Silva, Darlene Welsh. Your time is up. Germain King James Silva and Welch. I think we can lower that podium a little bit .

>> I want to thank everyone for their time. Mayor Reed, San José councilmembers and staff thank you for bringing this to everyone's attention. Considering the change the codes of the municipal code in San José, I hope that the city not only takes into account patients rights surrounding prop 215 and SB 420, but for me as a California resident to have safe access to medical cannabis. Just in the same way as the City of San José regulates cigarettes liquor and tobacco, so the same for medical cannabis. That's all I have to say.

>> Mayor Reed: And Ross Signorino .

>> Good afternoon, Mr. Mayor, my name is James Silva and I'm a defense attorney from Oakland, California. I would like to applaud Councilmember Oliverio and the rest of the council for considering this issue. I really think that as a defense attorney I see a lot of lives get ruined in municipalities where enforcement is the method of implementing a medical cannabis policy as opposed to the creation of responsible regulation and ordinance. Enforcement can be very Draconian, very intrusive into an individual's life. The state law does provide a certain degree of medical cannabis use. And that can sometimes mirror what is illicit use, so I would implore you to work with a community that has come to you asking to be worked with. And invite them into the discussion and to create a very positive --

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Darlene Welch, Ross Signorino John Shen.

>> First of all I'd like to say I'm sorry. I'm sorry for being sick and I'm sorry for needing medical marijuana. But the reality is this already happens in many communities having gang members and stuff because it is part of my reality, part of my community. I had to live with that 24-7. I'm a product of King, I had to grow up dodging bullets and I understand why people come up here and they say they don't want their family to do it. But that's why we have to work together so we can protect our communities. But I'm sorry that I have to use this. I'm sorry that maybe right now the world isn't ready for us. But you know what? I'm sick. I'm sorry I have ovarian cancer. I'm sorry I don't look the type. I'm sorry that I can't wear a billboard that says I have ovarian cancer stage 3 I'm only 21 and I have to go through this. I'm sorry that not everybody has the chance to do this. I'm sorry that you know we --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Ross Signorino, John Shannon. [applause]

>> Hi, I'm Darlene Welch and I'm 50 years old. I've had MS for over half my life, 26 years. About 20 years ago my doctors at Kaiser recommended that I use cannabis to help me with blindness and other problems I've had including paralysis. I could suffer from irreversible problems if I didn't follow that doctor's advice and get it illegally. I like that I'm able to go someplace and secure it because I need it. And I'm sorry for these people who live next door to the dispensary. I don't think that anybody should have to live next door to that kind of activity. There's a good place for these dispensaries, and I wouldn't want one next door to my ten-year-old and 16-year-old child. I hope that this is the beginning of a change here in California that we can set an example --

>> Mayor Reed: Your time is up.

>> Thank you.

>> Mayor Reed: Ross Signorino, John Shannon, Robert Jackowitz.

>> Ross Signorino: Good evening, Mayor Reed and members of council. I would like to thank Councilmember Oliverio for how articulate he is in presenting this, a lot of areas were covered in it and at the same time, the question that the city council and the mayor asked about it, too, I think you're trying to be very careful about this. I think you're trying to do it the right way. I am for medical marijuana. I'm talking about medical marijuana right now. That is important. Then you have to give these people who came here to protect their children who came here to protect their neighborhoods, because that's an evil that even an insomnia that you would allow to happen just going anyplace. It must be controlled, it must be in such an

area where you don't jeopardize schools or anything of that nature. People have the right to their neighborhood. They have a right to see that their children are not in any way intimidated by all these different people that come into their neighborhood. Thank you.

>> Mayor Reed: Sorry your time is up. John Shannon. Roth Jackowitz, Tim Escoll.

>> I came here today to reinforce the decision you made to run for office. At some point in time, each of you decided that you had the qualities needed to represent your fellow citizens. Most of you campaigned long vigorously and at some expense to point out to us all the reasons that you were superior to your opponents that your vision was clear and more far reaching that you were pragmatic and had problem solving abilities and that you would act lawfully in the interest of your constituents. Now is an opportunity for you to stand up and display these qualities you claim to possess. The people voted to legalize the medicinal use of cannabis for those medically qualified. The state attorney general's office has issued guidelines. The city of Oakland among others have worked out a framework for the establishment of cannabis dispensaries. You are not breaking new ground, not pushing the in which. You are facilitating the will of the people. Instead of allowing some unaccountability permit official --

>> Mayor Reed: Sorry your time is up.

>> To practice medicine without a license.

>> Mayor Reed: Robert Jackowitz, Tim Escoll.

>> Good afternoon, council, mayor, and my representative Mr. Kalra. My name is Roger Jackowitz I represent doctors cooperative. I'm here to ask you to operate properly, I was evicted in my San José location on the first day I was scheduled to operate, saying she could be liable onto a \$2500 per day penalty she just kicked me out. I've been in limbo and my collective's been in limbo waiting to open another collective until I get the proper guidelines and zoning from the City of San José. We are all here seeking legitimate rules to go by the city. We're already going by the state rules most of us and we would like to continue the process of being legitimate business people in your San José collective owners. We've taken a huge financial hit while waiting for action and rulings from this council. Please come to a logical fair rules.

>> Mayor Reed: Time is up. Tim Escoll, Ron, Sergio Avila.

>> Thank you mayor and city council. Federal law is still the law of the land. Marijuana is still an illegal drug. Don't give your stamp of legitimacy, which will only decrease the quality of life, that we enjoy here. Let's continue to maintain San José's reputation as one of America's largest and safest cities. Marijuana is still a gateway drug despite what it's proponents might claim. Don't fall for the deception and enticement of taxing this undesirable and ill legitimate drug culture attempts to paint its business as a wholesome activity. With that line of reasoning, why not tax prostitution or any youth and the young people of our city and will ensnare and entrap them in its darkness and finally most important it will not promote God's blessings upon San José.

>> Mayor Reed: Sorry your time is up. Ron Kirk-ish Sergio Avila, I'm sorry sir, listen I'm going to ask you, no audience participation. If you can't keep your mouth shut while over people are speaking you're going to have to leave. Please go ahead sir sorry to interrupt.

>> My name is Ron Kirkish, I've sent you all quite a bit of data regarding this business. I'm coming forward today to ask you to ban marijuana dispensaries outright just like Morgan Hill Los Gatos, Gilroy my home, San Jose, Monterey, Pacific Grove and many other cities in our local area. John Patrick Bidell of Hollister is one of the many casualties of this debate. We all know what happened to Mr. Bidell. We also saw recently in the news, what happened on an airplane trip when a person overdosed, I guess he overdosed on marijuana brownies and the plane had to be diverted and the man was put to prison. Or taken into justice. We saw a kid in -- a four month old baby in Colorado getting axed to death by a medieval --

>> Mayor Reed: Sorry your time is up. Sergio Avila, Carlo Estrada.

>> Ladies and gentlemen of the council Mr. Mayor, my name is Sergio Avila. I'm asking that the city live up to its name of being the largest safest city in America by lowering the taxes on the citizens in the South Bay to, grew up in this valley when there was fruit on the trees when the big buildings were filled with people. I'm surprised to see that we are turning away legitimate businesses that are providing us a service to our town. What I'd like to ask is for the city not unreasonably tax or levy these dispensaries, but in turn, take these revenues that are raised from these dispensaries and co-ops and have them applied directly to the health and social issues that are lackingly being underfunded today. I'm also here to be the voice for people who are either not here or not able to be here.

>> Mayor Reed: Juan Chavez, Carla Estrada, Daniel Hoveland. John Stewart.

>> Thank you Carla for being brave and courageous for stepping up. But more important gentlemen of the council the issue here is to find a solution. If we don't educate the youth about the proper information and facts of marijuana that's out there, with all this research that has been conducted, we are just going to ruin this great future economy that's on the rise. And it's been 70 years of propaganda on this specific medical application that has been hidden from society. So I think it's only fair that we give it a 100% investigation so that our youth is not corrupted as some individuals feel might. Thank you.

>> Mayor Reed: Juan Chavez, Carla Estrada, Daniel Hoveland, Paul Stewart.

>> Good afternoon, mayor council, my name is Daniel Hoveland. I'm a resident in district 7, I'm also the president of medex deliveries and also the communications chair for the Silicon Valley Americans for safe access chapter. One thing to mention also is that I'm a patient. When you look at me you see a strapping young man, definitely regular, if you were to assume something about me. But I, too, have a severe illness of nausea that I deal with every single day. And it's to the point where I can barely eat. And so this is the only medicine that actually provides me with relief. And so I support this issue. I'm very happy that Pierluigi Oliverio put this forward. Thank you.

>> Mayor Reed: John Stewart John Vasquez.

>> Mr. Mayor, members of the council, my name is Paul Stewart, I'm medicinal cannabis coalition. Number one, I've known some of you only hundred pounds less than some of you knew me originally. That's why I'm an advocate and a patient. Item 2, on behalf of MC 3 we thank the mayor and council for considering this important issue. We urge you to support the return to council April 27th, 2010, with the draft ordinance. Possibly a follow-up ordinance in June for adoption. I am also available as a resource should the council decide to pool and ad hoc committee to help review that ordinance. Item 2, we nuisances in fact, blight, in substantive code violations, those involving complaints actual building electrical fire code violation not merely technical zoning code invitations alleging use permits et cetera. Why you need to act now, why? One:

>> Mayor Reed: Time is up. (saying names).

>> I was going to say good afternoon but I suppose it's good evening. I'm a former land use zoning prosecutor for the City of Oakland, I'm a policy speaker on medical cannabis issues. I'm also speaking for the medicinal cannabis collectives coalition. It seems to me that the council gets it and that you're headed in the right direction in supporting this motion and moving towards regulation. The oppose the regulation is moving towards chaos, there is no moving back in time to where there were no dispensaries here. Let me comment, it does take one meeting to pass a ooms four fifths vote I think you can pull that off. I handed you a draft resolution when there was five, now there's 55. You might want to reconsider the moratorium issue otherwise, the sooner you get some regulations you can enforce the better off you will all be in terms of regulating controlling providing access. That's the Sacramento model heading towards San Francisco and Oakland.

>> Mayor Reed: Thank you your time is up.

>> Sacramento is where you are now a year ago.

>> Mayor Reed: Time is up. Lauren Vasquez, Andy.

>> My name is Lauren Vasquez, I'm a resident of Ash Kalra's district. I'm a medical cannabis patient, I thank all of you for taking the time to seriously consider this issue. Patients right now are frankly tired of being ignored. We're stired of being laughed at and we're tired of waiting for safe access to our medicine. What we would also like is to as stake noarldz this process to be involved in the drafting of this ordinance because there are issues that we have with your proposal the mayor and the City Attorney and we don't want to spend a year going back and forth on this. So if you get involved we want to get it back and fast, thank you.

>> Mayor Reed: Andy Sh snawms Naples.

>> Mayor and council appreciate your time. I'm Andy Swadere nonprofit cooperative in San José. It doesn't make a lot of sense to a lot of us here why the council is stalling the regulation and wanting to burn enforcement targeting illegal patient associations. ultimately lets the direct resolve of these types of actions. 60% of the he locally polled, what are we telling our current and next generation of voters? Where is the integrity that we can pass to them so please give it to you for my kids and everybody, do the right thing for patients and patient rights. Thank you .

>> Mayor Reed: Snit snit.

>> Good evening my name is Maria Medova, I'm a single mother. I believe in medical cannabis, I've been a care gefer for several people. It is a need, bottom line it will bring revenues. I use public libraries. I go to parks. These are things that mothers need to support their kids and to be more well rounded. Bottom line

is that they just need regulations not anyone should be able to open this and just help people. Thank you.

>> Mayor Reed: Russ Jones, pat coop and russ Jones.

>> My name is russ Jones. DEA task force officers. Currently I'm LEAP. Law norms against prohibition. Come to recognize that drug prohibition is a failed policy. now we're all aware that communities moral and ideologic ideas in their cannabis. As DEA's administrative law judge Grant young ruled cannabis is one of the safest therapeutic substances known to man. Prohibition does not work. Regulation does work. So I urge the City of San José to look at the successful regulations of over 20 California jurisdictions, move quickly in favor of regulation of safe medical cannabis, delay is only going to bring uncertainty and chaos.

>> Mayor Reed: Your time is up. Pat Knoop, followed by Kimberly cue and Simon sideler.

>> Good evening, pat Knoop. Thank you very much for considering this important issue. We urge you to draft an ordinance regulating medical cannabis use, already legal under state law including collectives per Councilmember Oliverio's memorandum. Responsible collectives such as those in the MC 3 group already have strict policies and procedures in place that address just the issues that have been brought up to prevent all the problems that you've expressed, excuse me, little nervous, kind of an intimidating place. Again, thank you and please, draft an ordinance.

>> Mayor Reed: Kimberly cue, Simon Sidler, Craig lipman.

>> Hole and my name is Kim cue. I'm a chemical engineer. I'm a mother of two. i'm a medical cannabis patient. I have two herniated disks in my back. I too may not look sick but I deal with a lot of pain every day. I've been a medical cannabis patient for two years. I'm an ASA member and the operator of the 408 cooperative there does need to be structure for the collectives here in San José. And doing nothing has ramifications. There needs to be actions as all of you have realized. And I just wanted to bring a point that having a moratorium allows the council to plan and take action. And so I --

>> Mayor Reed: Sorry your time is up. Simon Seidler Craig lipman.

>> Craig lipman, the next one in line. I was the successful co-author of our medical marijuana dispensary ordinance. We implemented a great ordinance. We have had no problems with our dispensaries, we've actually achieved significant tax revenue, roughly 1% of the sales go to a city, in any business or nonprofit that sells stuff. So you can calculate that as far as your projected revenues for your city. Regulation is definitely the way go. You can force people to go to the fourth floor of the apartment complex. They will, to get their medicine. I think it's a far better alternative to regulate and have oversight and I'm very impressed with the discourse today about how much you're thinking about this today. I really appreciate your taking your time. Again thank you for all your efforts.

>> Mayor Reed: Robert Jake on, Van Hovey, James sunner.

>> Mr. Mayor and council my name is Robert Jacob. I'm the executive director of peace sebastopol, California where Craig lipman actually wrote our medical cannabis law. We have implemented there in a positive way, bringing significant amounts of tax revenue to our city and to our local community and have a great relationship with law enforcement and compliance. I'm really interested in regulation and maintaining positive medical cannabis impacts on communities. We've seen Los Angeles where that hasn't happened and the proliferation has ended in chaos and negativity. Like 55 today in April or may he may have 155 and how we deal with that. Thank you.

>> Mayor Reed: Van Hovey, James sooner, mi shem Hovey.

>> Good afternoon, mayor and council, my name is jaimsd sooner, I'm rks reputation as very forward thinking and well planned city. You're specific plans and your master plans are well regarded. I think that you've done an excellent job of embracing new design principles such as high density housing, transit oriented design, and neighborhood commercial districts that service your customers within bicycle and pedestrian distance. I think on the zoning issue, it's very important that we not isolate these uses into industrial areas. There is no transit in those areas, there's no like uses, there's no synergy between the dispensaries or excuse me the collectives and other uses. The same people that frequent a collective also buy sandwiches and other susan Hammer's administration years ago. Notifies the neighbors --

>> Mayor Reed: Sorry your time is up. Michelle Ho slrvetioney, Brian David john cryingrain.

>> My name is John cryingrain, I'm an organic farmer who specializes in growing medical cannabis. Very hard on your lungs. Mr. Mayor and council, it's imperative that you in your deliberations manned all smokeable cannabis products be 100% organic. This helps ensure quality and reduction of some of the harmful side effects of smoking. Secondly, this is what is called green -- clean green. It implements Hepa filtration, hems suppress pests and ensures exclusion of contaminants. And Mr. Mayor, if you could find

me a liquor store in this town that provides acupuncture chiropractic, massage therapy, meditation, et cetera, et cetera --

>> Mayor Reed: Your time is up. Brian David, Douglas Scanlon.

>> Good evening, city council. Mayor. My name is Brian David. I'm a Mountain View resident. I'm a fifth generation California resident. I remit Americans for safe access, as a member here in Silicon Valley. I'm also the executive director of the shoreline wellness collective. This is a marijuana cannabis dispensing collective that I hope to open in the city of Mountain View. Problem is, I have been blocked by temporary moratorium. I'm just here to encourage your city to move ahead with this. I think it's a great memo that Oliverio has put out, and I think you should follow his direction on this for patients and safe access for medical cannabis. Thank you.

>> Mayor Reed: Douglas Scanlon, Art Sanchez, Jay Swartz.

>> Thank you. Councilmembers, my name is Douglas Scanlon. I'm pretty involved with the advocacy of medical marijuana for some time. I've been a law enforcement officers deputy coroner for Los Angeles, Orange County, I've smoked marijuana for over 40 years. I was diagnosed with AIDS in 1992. In 1980, most of my -- between 1980 and 1988, and '92 most of my friends died. I think I'm still here living a productive employed life, all this time, because of marijuana. Cannabis now. I urge you, because I have some red flags, I would like to have more input for county and taxation. The need for physicians and patients input into these rules, thank you.

>> Mayor Reed: Art Sanchez, Jay Swartz. Sherry Taylor, Robility Horix.

>> Thank you for giving me the opportunity to speak today. I live in the south university neighborhood. Your actions in the next weeks and months will of course stand in history. San José can step into the national spotlight and provide a model for the whole nation. Industrial hemp will save the nation if we let it. I think \$10,000 is a very small number plant limitations have been rule unconstitutional and limiting the number of collectives might possibly be as well. Pushing cannabis users to industrial zones is evidence of continuous prejudice, people debilitated by MS warehouse district to get the only thing that relieves their pain. I think it's kind of sad that some people are still scared of a flower. I want it in my neighborhood. I want to remind the parents in our area today cx my pharmacy didn't intend --

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Sherry Taylor, Robert Horax, Roberto Rod reems, Tillie Ayala.

>> My name is Roth Horax, I'm Cupertino resident who has lived in Cupertino and San José all of my adult life as well as my childhood. I've seen what things like legitimate and medical cannabis coives can do and I've seen the damage that without them can't do. As well as myself being seriously ill, I don't look like it and a lot of people as well don't look like it but they are dying, thank you.

>> Mayor Reed: Roberto Rod reels and Tiele Ayala, if I called your name and you didn't come down, come on down now. Come on, just give me your name when you come up here so we know who you are.

>> Thank you, Mayor Reed. My name is Kathleen Bernard. I'm noel not sure if you called my name. My family goes back over 100 years in the State of California. I urge you to take a leadership role of compassion empathy and sympathy to the patients as you adopt regulations towards medical cannabis. No taxes, please. These patients are indigent. They can hardly afford groceries, often they make a choice to purchase medicine, have oget assistance from food banks. Regulate the clubs, don't overregulate the patients. Do criminal background checks on owners. Make sure they're not for profit, or nonprofit. Require the clubs to provide patient services and to abide by a patient bill of rights which is the type of thing that every clinic has. And if it is taxed that that go towards community resources for these patients.

>> Mayor Reed: Sorry your dime is up.

>> These patients need a center.

>> Mayor Reed: Tiele Ayala is our last speaker.

>> Thank you Your Honor for giving me the opportunity to speak again. I am a Philadelphia guardian angel just moved here to San José. I am happy to be here but I'm very sat that cannabis to me is another word for drugs. And I wish that you, in power, will take notice, that there is a difference, there is drugs, and there is medicine. Why can't doctors, why can't these sick people go to doctors and then have doctors distribute if they do need these medical drugs and thank you for your time. And I will stand to my vow as a guardian angel, I will report any illegal drug activity. My sister -- sorry to say this, I will not step a

foot into my sister's house because she misuses the cannabis card. Yes, she sells it. And it's a shame that I am a guardian angel and she is misusing this cannabis thing that you call medicine. Thank you.

>> Mayor Reed: One more speaker. Go ahead sir.

>> Good evening, councilmen. My name is Albert Katre, I'm a representative of the San José sanctuary. I urge you to, all the millions of dollars that have been put behind the study of cannabis to show the positive things that it can do for people and the things that it can alleviate, that you guys take that into consideration when you making your vote tonight, thank you.

>> Mayor Reed: That concludes the public comment on this item. We have some additional council discussion before we take action. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. For those remaining residents who might be here from south 14th street I just wanted to inquire, Mike Hannon or Joe, for those who would like to see the legal process wind down here on the purple elephant what is the soonest that the community can reasonably expect action to be taken for eviction?

>> Thank you, Councilmember Liccardo. Yes, code enforcement did issue a compliance order to the purple elephant. The order required them to assess operate a December pensary. they have not complied to code enforcement's order. We are seeking to bring that before the code enforcement hearing board. We anticipate that coming before the appeals board late April, early May.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: I point out I am going to support the motion after Councilmember Oliverio modified it substantially one of these principles he has for profit, are operating illegal under state law or illegal under San José municipal code. so even though we're moving ahead with an ordinance it doesn't mean that anybody can do whatever they want do wherever they want to oit. We are not saying that and we still need to enforce state law. And I don't care if it's a hospital operating next door to somebody if they're being a bad neighbor, you know they may be a nuisance, they may be violating the law and we can take enforcement action, it doesn't matter whether they have a right to be there or not. Everybody has to operate within the rules. And you know, it's a job of code enforcement to sort that out. So if it's a collective or a cooperative or a hospital if they're a bad neighbor they're a bad neighbor. We don't allow that in the city, doesn't matter what they're selling, or what they're doing. I want to encourage staff this is not opening the door, we're trying to implement state law and that's really what we're trying to do here. In a way that makes it possible for us to control what happens in our city. René.

>> Well to note the challenge I think it's in the public record that you know the collectives or the cooperatives. They are bringing in I think the councilmember noted \$550,000 in sales tax in one. So it will be interesting to shy we connect the dots. It is interesting that they bring in a massive amount of sales tax revenue and yet they remain nonprofit. I don't know how we're going to be able to identify what's-I mean even the Oakland ordinance I was reading it again during the public testimony. You know it's a staggering amount of profit and yet it's nonprofit so --

>> Mayor Reed: That's not the distinction drawn by the attorney general or the covert appeals.

>> Right, right.

>> Mayor Reed: You can be a nonprofit entity charging a profit on the marijuana which is taking money from sick people. But you're not entitled to take from the sick people. We'll figure out how to sort that out.

>> I'm just noting it is going to be a challenge to sort that out.

>> Mayor Reed: You can be a nonprofit and still pay sales tax. According to the attorney general and the Court of Appeals. Puring with regard to language as well. councilmember Chu.

>> Councilmember Chu: Thank you mayor. I just Dan sitting there very quietly, I just want to hear from the PD's perspective on this issue.

>> I'm sorry, want to hear our perspective?

>> Councilmember Chu: Right.

>> Like I said earlier, this isn't a land use issue, it's very complicated and there's obviously a distinction between a dispensary and a collective, and a true collective is one in which the patients and caregivers, it's a closed circle and they're participating in the growing and the cultivation of the marijuana and it stays within that collective. The issue you have is, you have, you know, it's difficult for a store front collective to operate as a true collective. The courts have fairly constantly held that it's difficult for a store front collective to be a primary caregiver under the law. And you have issues of where's the source of the marijuana? Is it truly coming from the collective? I would argue that in many of these cities it's not. You have issues that involve criminal investigations and cost recovery is not going to cover that because that goes towards regulation and we have dwindling dollars going towards police resources and resources all

across the city. So it is of great concern. The issue of recommendations from doctors coming up, and I'll just tell you straight out some of them are dubious? Not all. Most of any are very valid recommendations but to read those out, that takes resources, resources from the state. As Carl Mitchell said earlier, if the state was going to regulate and run afoul of patient confidentiality laws as well it's not clear cut as it seems and there is big money involved in this.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Again, my support of this motion is really to achieve the goal to allow for safe and legal access to medical cannabis. And so I'm also interested in some of the points raised as to the profit, nobody profit, if they're truly a nonprofit, what is allowable in terms of the revenue generation, my primary goal here is not to raise tax revenue for the City of San José. It's to provide that access in a safe manner. At the end of the day if we get tax revenue that's great as long as it still complies with state law and they're operating, the collectives are operating to truly provide safe access. This is certainly as the mayor said thought an opportunity to open the door for anyone that wants to come in and open collectives but rather to close the doors to those that already have are thinking of coming into San José and to make sure the door remains close to those who are not willing to follow the regulations, and make sure the regulations are abided by those in an appropriate environment. And the last thing is that I think the comments both from those from the collectives and those that are patients also the neighbors is that these clearly shouldn't be anywhere near neighborhoods and we already heard the issues that arise from that. It's clearly the direction that everyone in the council at one point or another mentioned, and to make sure that there's been discussion not having in industrial zoning to make it very clear, a very clear cut rule to prevent these collectives being anywhere from neighborhoods broad discretion as possible to the city council not only in revoking permits but to denying permits outright so that if we people there are operators that are not operating legitimately or that have shown a pattern of not abiding by our city rules and regulations, we can take that into account when it comes time to actually approving permits for those that are willing to operate under the rules and guidelines we set forth.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I would like to thank all of you, both of you for your recommendations outlined in your memos. There's some good information in both. I do feel a tremendous amount of compassion for seriously ill medical cannabis users, I do support their need for using the medication as well as the support of voters who showed support for medical use of cannabis, by allowing patients and caregivers to grow their own cannabis as described by many doctors state law also permits the establishment of cannabis collectives. However, is the city the appropriate level of government to regulate cannabis collectives, the city is not in the position to ensure the safety of health and federal drug food and drug administration and/or the county health department. We need to have some conversation with the county. Because there will be some involvement there. And then, also, if the city is going to find a way to regulate the cannabis, it needs to have a way of ensuring two things. One, that the cannabis sold is safe and free from contaminants. Because there's a lot that isn't. And that the city can make sure the cannabis sold at the collectives is not coming from illegal sources. We also need to think in terms of the unintended consequences. We look at this and think, wow, money coming in, it will help the city. It could very well be that we will wind up spending more money in trying to find regulation and enforcement of what needs to be enforced than what we will ever see in the way of profit. These are all things that need to be taken into consideration. And then finally, there has to be, and maybe it's my -- the fact that I'm a data junkie but there needs to be some data, as sketchy as it might be right now, that indicates there are X number of doctors and X number of hospitals that are prescribing this.

Because I cannot believe that everybody in this city has a problem with medical problems that's smoking pot. So there has to be a way, I think it's the only conscionable thing for us to do in order for us to ensure that we're doing the right thing. We obviously want to help people that are suffering. We want to show some compassion, provide that help. But we don't want to create a can of worms that will lead us down a path that we never wanted to go down. Thank you. [applause]

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Just for clarification, so the current motion on the floor, should this pass, is, we're not enacting a moratorium at this time, correct?

>> Councilmember Oliverio: That is correct.

>> Councilmember Nguyen: Okay. So I have similar views as Councilmember Pyle. And given the fact that we have so many various issues that have arisen just from this conversation today alone, the fact that, you know, a place, a collective like harborside actually accumulates north of \$20 million a year and

to classify that as a nonprofit, it just doesn't make any sense. And so if we're going through this whether or not we're going to come up with an ordinance or not I would like to see a moratorium placed or enacted as we sort of sort these different issues in the next couple months. You know, some of the issues that really concern me have been brought up by the assistant chief, you know, I also understand that a lot of transactions that actually takes place at these dispensaries or collectives, are actually cash, we don't know exactly how much they make. To clarify how much the city can actually generate from the tax revenue is almost impossible. There's a lot of issues. I'm glad we're talking about this but at this time I just can't support it.

>> Mayor Reed: I had one bit of information that I collected today, to respond to Councilmember Pyle's question about the numbers. The state of California publishes a card data, in the state of California, 37,236 card holders, meaning per thousand we would have one card holder in the City of San José. A lot of people, one per thousand. I had another request. Councilmember Oliverio. .

>> Councilmember Oliverio: Thank you, Mayor Reed. I just wanted to make for Councilmember Pyle, currently today, because cannabis isn't a pharmaceutical, the FDA doesn't regulate it. In our lifetime I imagine it will but today it doesn't so that's kind of where we're at and where we are on the law. On the safety and quality I think that's something that certainly would happen through regulation but doing nothing if we're not doing anything towards providing any standards of safety and quality, and Councilmember Nguyen, my preference is a moratorium as you heard me state but we found through make this work for everyone that that was not the case but we are reaffirming that you should not open and therefore as close as we can get to a moratorium until we can get this ordinance back and that anyone that opposite in this time would be looked not well upon final approval for a legal collective within the City of San José. As the modes for cash, you know, it's really difficult in society to trade anything without currency. You cannot just walk up with here's my television and a laptop or whatever and I'd like to trade you for the medical cannabis. In reality some of these collective members don't have families so the caregiver becomes a collective wand that said that's the only thing they can trade. That's why Oakland has 100% open books. All the transactions have to be done. And if I could maybe call Steve de Angelo to ask him one question down at the dais with regulation you're going to get that ability because they in the City of Oakland have to produce an annual audit and thus the letter we got from the former administrator of that. So what I'd like to do is ask I know you don't like anyone rambling drs.

>> Mayor Reed: Especially at 6::50 at night after five hours of hearing.

>> Councilmember Oliverio: Exactly. I would like to ask one question and be as succinct as you can. How do you go about ensuring quality frects?

>> Harborside became the first dispensary in the state of California to send all of our medicine to a third party analytical library, for potency quantification so people know hoich of the active ingredient is present in any particular strain that they purchase. So all of our medicine goes through a sophisticated scientific analysis, gas spectrometry, gas crsktshro plrvetionatrod testing service for example costs about \$35,000 a month. We provide a holistic care clinic that provides absolutely dpree chiropractic, acupuncture and about eight different services we have a substance use and misuse clinic which is also funded out of our nonprofit mandate. We also make substantial charitable contributions.

>> Councilmember Oliverio: One final question thank you mayor what is it you pay in federal state and city taxes?

>> We expect it to be about a million dollars more than that.

>> Councilmember Oliverio: Final final how many people do you bloi open the average hourly rate?

>> 80 employees our average hourly rate including salaried employees, \$43. All of our staff gets departing they all get health insurance they all get access to our free services.

>> Councilmember Oliverio: Thank you.

>> You're welcome thank you very much. [applause]

>> Mayor Reed: City Manager's going to get the last word.

>> City Manager Figone: Thank you mayor. Listening to the testimony and I know what we'll have to sort through as a staff, even though some of this work will trail your decision to put this on the ballot, I do think even after the assistant chief's comments, we'll have to do some analysis, so you'll have a real understanding of what we might gain financially from the City of San José, and I want to ensure that the cost recovery expectations are there.

>> Mayor Reed: All right, we have a motion on the floor made by Councilmember Oliverio. Quite some time ago now it seems. And plofd a few times and I'm not going to try repeat it but we certainly have had a chance to discuss it and debate it unless there's any other council discussion it's time for the vote. On

the motion all in favor? Opposed? One opposed, Nguyen, Pyle, Campos and Chu is opposed, 6-four is the vote, that's approved on a 6-4 vote. [applause] We have no speakers under open forum. We are adjourned.