

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

>> Good afternoon. [audio gap] -- these chambers, inspiring wisdom, calling for creativity and imparting just enough humor to bring joy to the work at hand. May these deliberations be marked by intelligent inquiry, respectful and kind consideration, and an abiding concern for all those whose lives are touched by the work that happens today. We are thankful for the presence of children with us this morning, those who have come with school and those represented by the foster parents on this day set aside to honor foster families. Though often silent in the political process, we pray that their voices may be heard together with the poor, the elderly, immigrants, and those beset by misfortune, people whose voices often are silenced. We ask this in the name of the one who is loving and compassionate and who calls us to live together in peace. Amen.

>> Mayor Reed: Thank you, Pastor Daniel. Next we will do the pledge of allegiance. We're joined today by Anderson elementary school third graders. They're going to help us with the pledge of allegiance. So if all of our third graders could stand up and get ready for the pledge. Everybody else, please stand. [pledge of allegiance]

>> Mayor Reed: Thank you, Anderson elementary school. Our first item of business is orders of the day. I have 3.3, rules and open government committee will be deferred one week and you probably wanted to add a ceremonial matter?

>> Yes, Mr. Mayor. I'd like to make a proclamation to the teachers, for teachers appreciation month.

>> Mayor Reed: All right. In addition, today's council meeting will be adjourned in memory of Councilmember Kathy Jessie who passed away yesterday afternoon at the age of 86 after a 10-year battle with Alzheimer's disease. She was born and raised in Salt Lake City, Utah, where she was noted as an accomplished young ballet dancer. She then came to California in 1952, where she met and married a NASA engineer and moved with him to east San José. Together they raised four children in San José. Throughout her years in San José, she showed a commitment and drive for making her community a better place, starting with giving all kids a chance to aspire to a better life. Throughout her life, she also demonstrated a belief that it was never too late to learn, pursuing an eventually earning a bachelor's degree in physical education from San José State University, and the University of Utah in her 50s. Councilmember Rose Herrera has often spoken how it was her drive and passion for working locally that inspired rose to help keep troubled kids out of gangs and how it has also been the inspiration that has led her to seek and win election to the city council this last November. Her lasting contribution to our city should continue to be remembered just as the many people she helped will miss her and it's because of this we are honoring her today and will adjourn the meeting in her name. Is there a motion on orders of the day?

>> So moved.

>> Mayor Reed: Motion is to approve orders of the day. All in favor? Opposed? None opposed. Those are approved. Our next item is the closed session report.

>> Mr. Mayor, members of the council, the council did meet in closed session pursuant to notice this morning. We were given authority to initiate litigation in one matter. The names of the action and the defendant as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is commenced. The vote was unanimous with Councilmembers Campos, Herrera and the Vice Mayor absent.

>> Mayor Reed: Thank you. We'll now take up the ceremonial items. We're getting some public works inspectors to join us this year, as we proclaim May 17TH through the 23rd as public works week. We want to recognize the dedicated professionals who safeguard our city's investment and revitalizing and renewing San José's structure. It's an integral part of our residents' everyday lives. Services such as transportation, public safety, parks, community facilities, water supply, wastewater and salt waste treatment are you a -- all dependent on services done by our public works department. We declare this week public works week in the city of San José. Katie, you're going to accept this, our public works director.

>> Thank you, mayor. [applause]

>> Just a couple of quick comments. It's really an honor to be here today and recognize our very valued public works inspectors. It was noted last week in our capital program presentations about the number of projects that we have here in San José. Over 1400 capital projects have been completed in the last eight years. In addition to this is a great number of other projects, and behind the dollars that are spent, the public dollars that get spent are the faces of the folks that are behind me. They ensure that we are fully accountable for every public dollar. They're also fully accountable for working directly day by day with all

of our contractors to ensure that when the project is done, we have a great project that's built with quality material and that the public dollars have been well spent. So it is just an honor today to say thank you and to recognize the hard work that our public works inspectors bring to our city day in and day out throughout the year. Thank you. [applause]

>> Mayor Reed: For our next item, I'd like to invite our foster care representatives to join me at the podium. Joining me will be Ellen, executive director of the resource center, and foster parents Carolyn Sydbury and Effie Jackson along with some of our city of San José employees who are foster or foster-adopt parents. During the month of May of this year, individuals, organizations and communities are asked to come forward and support a child in foster care in any way they can. National foster care month draws public attention to the year-round needs of over half a million youth who are not living at home because their own families are unable to care for them. So in Santa Clara County, we have families with over 2,400 children in foster care. We want to honor all of those foster families for opening their homes and hearts to children in need of a home. We have some people here who we want to recognize. We have a commendation to present. I don't know who's going to get this. Thank you. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Nguyen and representatives from St. Maria Goretti church life team youth group. We want to commend the youth group for the excellent work they did on the graffiti clean-up and litter pickup done in conjunction with the gang prevention task force. I was out there for that. It was a great turnout. We cleaned up a lot of graffiti and litter in one day because a lot of people got engaged, and Councilmember Nguyen will tell us a little bit more about that.

>> Councilmember Nguyen: Thank you, Mayor Reed. It's truly an honor for me to commemorate and recognize the youth group for this commendation. As the mayor has stated, this past March in partnership with my office, the prevention task force and the office -- the group put together a phenomenal graffiti and clean-up event in district 7 and brought out 150 people on a Saturday morning from all walks of life, different age groups, and nationalities to clean the churches, schools, neighborhoods of graffiti and litter. We're really proud of these young people not only for getting up early on a Saturday morning to do community service, but really for their leadership in planning and participating in events that help to create a better community for all of us. It really takes strong commitment and much sacrifice to improve the quality of life for everyone who lives in this city, and with that, I'd like to ask -- actually before I ask the mayor to present the commendation, I wanted to convey a big thank you to brother Steve Kim and CORA who really led this group and brought out many, many, many people on a Saturday morning to really help clean up district 7. So thank you very much, and with that, I'd like to ask Mayor Reed to present the commendation to the youth group. [applause] Do you want to say some words?

>> my name is Teresa Escoabar, I'm a core leader for the youth group life team. I feel honored to be accepting this award for today on behalf of the youth groups at St. Maria Goretti church. I think the graffiti and litter clean-up was a success and the youth of our parish were able to come together to make a difference for their community. I would like to thank all those who are present. Without your support, this day would not have been possible. Thank you to the mayor, supervisors, councilmembers, the mayor's gang prevention task force, parks and recreation department, the association of retired San José police officers, and firefighters, father Steven brown, Steve Kim, and especially all the youth and volunteers that participated. Thank you. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Pyle and Janice Allen to join me at the podium as we recognize May as teacher appreciation month. I always appreciated my teachers a lot in May, maybe because that was when I got out of school. They appreciated it even more than I did.

>> Thank you, mayor. Thank you for being here. I taught school for 25 years, a few more but I don't tell you exactly how many. Makes me feel like I'm younger. And I know firsthand how difficult teaching can be. But I also know how rewarding it can be, and how absolutely essential it is to our students. Confucius was very impressed with teaching, and he said, if your plan is for one year, plant rice. If your plan is for 10 years, plant trees. But if your plan is for 100 years, educate children. Teachers are vitally important to society because they bear the weight and responsibility of teaching the youngest members of the community, and apart from parents are the main source of knowledge and values for children. Teachers play a key role in every individual's development, supporting them through encouragement, creativity, sensitivity, and motivation. Teachers are role models. They pass on knowledge and values to children by not only providing an academic education, but also a good moral example for students to follow. So on this 19TH day of May, 2009, we proclaim the month of May as teacher appreciation month in the city of San José, and encourage all citizens to join in celebrating teachers for the very important work that they do. And with that, mayor, here is a commendation. [applause]

>> Thank you to Mayor Reed, city council, and the people of San José for this recognition of teachers. This has been a very difficult year, to say the least, for California public education and for teachers. More than 27,000 teachers statewide received pink slips on pink Friday in March, and depending on the outcome of today's special election, we may be facing a new phenomenon in California, summer layoffs. John Kennedy said children are our best resource and our best hope for the future. Teachers are in the classroom every day, making a difference in the lives of these children, our hope. No other profession touches as many people with such a lasting effect. The future of our state depends on the investment we make in our public schools, in our teachers, and the investment we make in our students, that hope for the future. So I would once again thank the city of San José, the teachers of San José are very honored to have this month declared teacher appreciation month. Thank you. [applause]

>> Mayor Reed: Our next item is the consent calendar. Are there items on the consent calendar councilmembers would like to pull for discussion? I have requests from the public to speak on item 2.5 regarding taxis and item 2.11. Any others? Motion is to approve the balance of the consent calendar. All in favor? Opposed? None oppose, that's approved. Item 2.5, I have some requests to speak on this matter. That's the agreement for dispatch services with taxi San José. I'm going to take the public comment at this time since you asked to speak on this item, we'll do that first. I'll call your names. Please come on down when I call your names. [names being called]

>> Mayor Reed: Please come on down. We allow two minutes for each speaker.

>> Deer respected mayor Chuck Reed and respected councilmember, I thank you for giving me the opportunity to speak on behalf of the San José taxi drivers association. On May 11TH, 2009, we have submitted our opposition in writing to the airport operation taxi management and the airport commissioners. On May 12TH, 2009, we have also emailed to the mayor's office and Councilmembers stating that not only opposing the state cost recovery fee but also opposing the 200 -- is too high. The recommendations are made by respected councilmember William forest on April 7, 2009, have not considered the downturn of the economy, the reduction in volume of the airport customers, and did not see the overall drivers' problems. For the safe cost recovery, all beneficiaries should have been taken into consideration. This is to say the taxi drivers are forced to be -- to companies and these companies are the ones who make the most benefit out of the drivers. Not only the drivers, companies also have a contract with the airport, but the proposal did not include this. Second, the shuttle companies are also the ones who have -- who share the customers with the taxi drivers. These companies remain paying what they were used to pay. Why, then, only the taxi drivers takes all the burden? All beneficiaries should be included, in sharing the cost and then drivers would have been happy with the recommendation. Respected mayor and respected councilmembers, due to the high volume of important work you have, you might have not looked to our letters. If you allow me, I am ready to go over again. Otherwise --

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

>> Otherwise, we the San José --

>> Mayor Reed: If you have anything in writing, please give it to the clerk so she will circulate to us. I'm sorry. Everybody gets two minutes. Sorry, your time is up. Shakur, you get two minutes. Come on.

>> Thank you, Mr. Mayor. I will yield my two minutes --

>> Mayor Reed: That's not the way we do it.

>> Okay. Good afternoon, Mr. Mayor and councilmembers. I'm a member of the representative of the drivers and I'm opposing this proposal for the taxi dispatching fee because of the way things are shaping up right now or the way the San José airport is losing the passengers almost 30%, it is not the time to increase any fee for the weakest part of the business of the airport. The taxi drivers are -- of the city, we tried to work as much as we can to help our community and our guests coming to the city. So as I can see, the rest of the services of the airport, especially ground transportation, there is no increase on them. Only the increase is going to the taxi drivers. So I think if we losing 30% of our passengers and everybody is helping whether it's our city or our community, it is too hard for the drivers to pay extra fee, which they postponed for the last four years to not increase it. This time, when the economy is going down, to increase fee, to me it's not the right time, so I'm requesting the mayor and the council to look at it a different way. When the economy improves, we, the drivers are ready to pay our contribution to our city, our community. But it's not the time for this time to increase the fee for the taxi drivers. Thank you.

>> Kirpaul singh FATTUWA.

>> Honorable mayor, councilmembers, staff, city staff and audience, good afternoon. Thank you very much for giving me your time. I want to add to my friends, whatever they have said is correct, we had several meetings with Mr. Dan -- chairperson of taxi San José, because of the contract was signed, it was a full -- by council in 2005, it was to go to \$272, but we had meetings and they agreed with us to reduce their staff and hours and they had given four-point proposal to the airport staff. They have not approved that, they are meeting with them and they approved only two, and they asked Mr. Dan to give two proposals and they'll approve that. According to that, it is \$253, but we have opposed the staff and city that -- it's not the time to increase, it's the time to decrease. We requested for \$200 per month instead of \$240. So I would request honorable mayor and the council to send this item back to the staff to review it again, please. Thank you very much.

>> That's the last card I have.

>> Good afternoon, honorable mayor and city councilmembers. I opposing for this proposal not by myself but on behalf of the drivers I represented. The reason is, I think and I believe at this moment, it's a very bad -- to have this increase of \$13. That \$13 makes a big difference for drivers, for poor drivers who work hard, who work long hours at the airport and the city of San José. Not only for that, but we keep negotiating for taxi San José for three months to reduce the \$240 we have today. The initiation, last time when we talked, they told us it isn't proposed -- \$13 down to \$240, but the staff of the city of San José said airport San José will still insisted to have those increases, and we don't know why they insisted because this calls dispatch -- for dispatch agency called taxi San José and opposed for \$19 for \$240, and we still have a -- why staff -- San José airport insisting to have this increase. And I will request it for mayor, honorable mayor and city council to bring back for this proposal to councilmembers and to staff to look again if it's the right time because we believe it's not the right time. Thank you.

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

>> I would like them to explain a bit, typically given the context we have with what we have in front of us, my understanding is what's recommended is reducing compensation to -- San José to account for the reduced staffing they have over there, is that right?

>> That's correct.

>> Councilmember Liccardo: Could you explain exactly how the fee decision is made and how our role is in all that?

>> Bill sherry, director of aviation, city of San José. The item before you today is actually reducing cost to implement taxi San José contract, which in turn reduces the cost to the drivers. So that's the item today. So if you were to defer that item, or send it back to staff, it actually would increase the cost to the drivers. I think what the drivers are saying is that it's not the right time to increase costs. The airport is an enterprise fund. We have cost centers, and those cost centers either operate on a profit bases or a cost recovery basis. This is entirely a cost recovery basis. So if we don't get full cost recovery, we'll hit somewhere else, in other words, more layoffs, the city employees or what have you. The allocation process in terms of who pays what was set by council in 2005, so this is just implementing the council policy that's been set in place for quite a while. Additionally, this is the first increase to the drivers since 2005.

>> Councilmember Liccardo: Okay. So council doesn't make the decision about what the number or the fee is, is that right? We just determine how it gets calculated?

>> the item before you today is not to consider the reallocation or how the costs are allocated. The item before you today is whether or not to reduce the contract to taxi San José, which in turn reduces the cost to the drivers.

>> Councilmember Liccardo: Okay. And from where we started, I understand it was \$240 a month previously. The initial recommendation was to go all the way up to \$272. It's now been pushed down as a result of weighing the CPI and also the reduction in staffing down to \$253 a month.

>> That's correct.

>> Councilmember Liccardo: I heard several of the gentlemen advocating to reduce it further. Could you explain perhaps what drives the need for the number to be up to 253?

>> I'll be happy to. In the past, the airport has subsidized the operation and in good years, when we had the dollars to do that, that's a consideration that we take seriously. In these years, particularly this economic climate, we simply don't have the funds to subsidize the operation. So we're going to a full cost recovery methodology.

>> Councilmember Liccardo: And just to be clear about what it means to subsidize, you're actually taking -- previously you were taking money from other parts of the airport to pay for the costs of administering this program.

>> That's correct.

>> Councilmember Liccardo: So if we were to force somehow in a subsequent week we were to come back and force the fee down to \$240, you'd have to cut something else, cut jobs somewhere else?

>> Yep.

>> Councilmember Liccardo: Thank you, Bill.

>> Okay.

>> Mayor Reed: Councilmember constant.

>> Councilmember Constant: Thank you, mayor. I know i've said this before, that we have to be really cautious about anything that we do that increases the costs of doing business, but I think what makes this unique is everything that Sam just pointed out. That it is a reduction from what was proposed, a \$19 reduction from what was proposed, and most importantly, it's dealing with how we're going to allocate services throughout the whole airport within the enterprise fund, and I think it's something we have to do. But I just wanted to say to the taxi drivers, I appreciate how involved you as a group have become over the last couple of years in these issues surrounding the taxis, and as we go forward today, I hope that the dialogue between the taxi groups, taxi San José and the airport can continue, because there are potentially some other options that we have to optimize things to make things better on both ends, and I think that we will be able to get there, but the unfortunate reality right now is I don't see us having any other option today, and I think what we're doing is good because we are actually decreasing costs that we thought were going to be higher. So it's not where I would like to be, I know it's certainly not where any of the drivers would like to be, but I think it's the reality of the circumstances we find ourselves in. So with that, i'll reluctantly make a motion to approve.

>> We have a motion to approve the staff recommendation. Councilmember Kalra?

>> Councilmember Kalra: Thank you. If I could ask a couple questions? Thank you. Bill, the amount of the fee had been \$240, and it still is \$240, with the recommendation back in October to raise it to \$272, but that has not been implemented, is that correct?

>> It has been implemented.

>> Councilmember Kalra: It has been implemented? So it's been implemented since October?

>> Yes.

>> Hi. It has not been implemented. At this point it's still at \$240.

>> Councilmember Kalra: So it's at \$240, the recommendation in October, the direction was for cost recovery -- to be \$272 because of the restructuring of the contract lower that recommendation to \$253. Okay. And so what -- at \$253, is that basically the number where it's essentially cost recovery?

>> Yes.

>> Councilmember Kalra: What is the number, roughly speaking the number of cabs that have to pay that fee?

>> 300.

>> Councilmember Kalra: And there was a remark made by one of the speakers that in discussions with Dan FENTON, that as far as what they said, as far as his concern, that he was okay with it remaining at \$240. Is that something that's realistic, or have you heard that at all in discussions with city of San José?

>> I have not.

>> I think the goal for everybody is to try to keep it as low as we possibly can, and the goal has always been to try to keep it that way. Some of the proposals that were originally proposed were not acceptable from taxi San José's point of view, so they did not recommend them to us.

>> Councilmember Kalra: Okay. And for the past approximately four years, the fee -- or for three to four years or so, the fee had been at \$240? Is that right?

>> That's correct.

>> Councilmember Kalra: And it hasn't changed in that time?

>> It has not changed.

>> Councilmember Kalra: But during those years, cost recovery wasn't the goal? In other words, it was -- try to get as close as you can but it wasn't necessarily hitting cost recovery?

>> It was a goal, but one that we didn't achieve, so we had to subsidize it for those years.

>> Councilmember Kalra: Okay. Basically at least a very rough napkin calculation shows that we're talking about -- if we're saying 300 cabs, \$13 extra fee essentially amounts to a little bit under \$4,000.

>> Per month.

>> Councilmember Kalra: Approximately. I don't know if it's spot-on, but approximately, that would be the difference in terms of the raising of the fee? Okay. Thank you very much.

>> Mayor Reed: We have a motion to approve the staff recommendation. Councilmember Kalra?

>> Councilmember Kalra: I wanted to very quickly say that I'm sensitive to the taxicab drivers this time, and considering the fee hasn't changed since 2005, I just don't see why now in this economy with a business that's probably been hurt just as much as any if not more than any other small business we can think of, where if they're sick, they don't get paid, at this time to raise a fee for \$3,900, I think symbolically the support of these small business owners that I can't support the motion, but I'm more than willing to, going forward, to figure out a way to make it more efficient and narrow that gap as much as possible so full cost recovery can occur and at the same time the consideration of the small business can be taken into account as well. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to take this opportunity to thank the taxi drivers for coming down for for this issue that has been discussed quite extensively,, this is really a confession from the taxi San José part, so I also like to thank Dan fenton and also Tony Alexander representing those taxi drivers. I'll be supporting the motion.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I also want to thank the drivers for taking time to come down here. I know every minute is a dollar out of your pocket, so we appreciate your advocacy. I'm sorry that we're not able to do something today to change this fee. I do want to point out, though, as bill said, if this motion is defeated, then the fee will increase, it will not go down, because what we're voting on today is to reduce the compensation and ultimately the staffing levels of taxi San José which are driving those costs, so if this motion is defeated, it will have the adverse effect on the drivers, I think, than what we'd like to see happen.

>> Mayor Reed: Okay. We have a motion on the floor. All in favor? Opposed? One opposed. Councilmember Kalra. That passes on a 7-1 vote. That concludes that item. That one is approved. We will move to item 2.11, I have requests to speak on that one from Shawn Kinney, 2.11 is the public facilities energy and green building improvement project bids. And award of contract.

>> Good afternoon, mayor, council. I only have two minutes, so the motion -- or the recommendation given gives, I think, the appearance that the recommended winner is the low bidder and they're not. We are. The city awarded us the business and then how to change a part in the face of protest from some of our competitors. We'd like to say that we do believe that we are correctly licensed and procedurally did everything correctly, including contacting the project manager and informing him that we were going to bid with an E license with a subcontractor attached. We did this and we are the low bid. We have checked with the state licensing board about what does it mean, how different is it, what do we hold the C46 of the company or list the subcontractor, they tell us there's no difference. We've asked that if we were a city that's in your situation and asked from our own point of view, so I guess I'm here to say I'd like you to reconsider this. We're substantially lower than the next lowest bidder. This is what we do for a living. We are a licensed contractor who do renewable energy projects. We do residential and commercial solar, and also do wind and solar thermal, so we tend to subcontract pretty much everything. We'd also like to point out that in our view, it was inappropriate to say that you must have a C46 license for this piece of work because in fact, you need a general contractor's license. The language in the bid is very clear that you are required to hire a roofing contractor, for example, to repair the roofs. Not only somebody with a general license like ourselves can do that. So that's the purpose of my protest today.

>> Mayor Reed: Thank you. Anybody else wish to speak on this item? That's the only card I have. Thank you, sir. Councilmember Liccardo.

>> Councilmember Liccardo: Katie, sorry to -- I was just hoping you could explain for us why the city requires specifically a C46 as opposed to why a B license would be inadequate in this particular instance.

>> Thank you, Councilmember Liccardo. Katy Allen, public works director. That's a very good question. Whenever we put out a contract, this happens to be a design-build contract, we identify what we call the bulk of the work, and the bulk of the work drives the license that we require. In this case, it's the installation of some high-tech photovoltaic cell systems. Excuse me, energy system. So we identified C46 as the desired license. That's a specialty license for installation of this type of work. The other licenses are required as well, and either the contractor -- the general contractor can have it or the subcontractors

can have it. But just for clarity on this point, we did require that the general contractor bidding the work have a C46. And one other just important comment is that the state identifies a variety of different licensing. Ultimately the city has the responsibility to make the determination of what licenses they were going to require. All of the other bidders did have a C46.

>> Councilmember Liccardo: Okay. So it's fairly common in the industry for those who will be bidding on this kind of project to have a C46, is that right?

>> That's correct.

>> Councilmember Liccardo: And that's because of the highly specific technical nature of the installation?

>> That's correct. Right. It is a design-build contract, as I mentioned, and the predominance of the work wasn't general contracting, it was the installation of the energy system.

>> Councilmember Liccardo: great. Thank you very much.

>> Mayor Reed: I have one. Was that a motion to approve? Motion to approve and a second. I have one question just looking at the range of bids here. From \$142,000 to \$1,070,000. All in the same project. That couldn't be the same project, it obviously had different perspective of what we were doing. But we're comfortable that engineer's estimate is \$250,000.

>> Mayor, that's a great question. This project installs the systems on six different facilities. And there was a pre-construction walk-through of the project, so everyone got to see what was going on. It's very apparent that the two highest bidders thought that they were installing "the system," the larger system on each of the six facilities, so that was a confusion on their part.

>> Mayor Reed: Okay. Councilmember Chu?

>> Councilmember Chu: Thank you, mayor. Katie, I just have a question on the methodology used to determine the lowest bidder. Is there a way we can base on the ratio of energy harvest versus cost, so like not just the installation but the installation and how much money that we will save in the long run. Is that a method of determining the lowest bidder?

>> No, it's not. So what happens in this situation is actually a public works low bid contract, so the contractor will design it and install it. It's a low bid, so we are required to award to the lowest responsive bidder. In this case, Fresco did is the lowest numerical bid but they didn't have the correct license. So the next lowest bidder is recommended for the award of the contract.

>> Councilmember Chu: So energy harvest in future days is not taken into consideration when we determine the lowest bid?

>> In this case, that is correct. However, I know the future projects that we have associated with the generation of power along these lines is going to factor in the amount of dollars that you actually save in the operation of a system.

>> Councilmember Chu: But this --

>> This one is not.

>> Councilmember Chu: It wasn't specified on the RFP? Is that why we are not considering it?

>> Councilmember Chu, this project specifies the amount of kilowatts that had to be generated at each of the facilities.

>> Councilmember Chu: Okay. Very good. Thank you.

>> Mayor Reed: I think that's it. We have a motion to approve. All in favor? Opposed? None opposed. That's approved. That concludes the consent calendar. Our next item is 3.1, report of the city manager.

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

>> Mayor Reed: Item 3.5 Strickland, assembly bill 1192.

>> Mr. Mayor, move to oppose.

>> Mayor Reed: I'm sorry, we have a recommendation to adopt an oppose position. It would be staff's recommendation. Is there a second to that? There is a second. Any discussion on the motion? All in favor? Opposed? None opposed. That's approved. Item 4.3 is the next one, actions related to the Belovida at Newbury park project.

>> Leslye Krutco, director of housing. I just wanted to make a couple of statements on this project and the next two that are on your agenda. These projects are in an effort to try to get shovel-ready projects moving. So far this year, we've seen just a very, very small number of projects move forward and pull building permits. In fact, in April and May, we had a total of two units pull building permits in San José, and we need to do whatever it is that we can to spur development. These three projects will create an estimated 600 construction jobs and construction-related jobs here in San José with a considerable percentage of the jobs coming from companies that are San José-based. We also expect more than \$2

million in fees to be paid to the city at the building permit stage as a result of these projects moving forward. In all three cases, the city has funded the land purchase. This is the last money that's needed to move these projects forward and thus that's why they're shovel-ready. They will all three be applying for funding from the California debt limit allocation committee for 4% credits in low income housing tax credits, and that deadline is Friday. I did want to make a couple of corrections on the Belovida project on recommendation number two, the actual number for the construction permanent funding should read \$20,491,607, not the \$23 million number that's there. Secondly, I did want to indicate because I had received a call about the loan-to-value ratio on this project. Right now that's just an estimate and it's actually, as I've gone through this, an extremely conservative estimate. We expect to have that number updated shortly. The project did receive its commitment from Bank of America yesterday, and so it has both the commitment for construction and permanent financing, so we're very excited that it's ready to move forward. That's the only comment I have on this particular item, and then I do need to make them on the two succeeding items.

>> Mayor Reed: Okay. We'll come back on the other two. We have a motion to approve this item. Have no requests from the public to speak. All in favor? I'm sorry, Councilmember Oliverio?

>> Councilmember Oliverio: I just wanted to have the city clerk record me as a no vote on all three. For the Newbury project, I was of the liking when this came to council that we could have built it taller, thus creating a larger park. On the other two items, there's just no park at all. And until that item comes back, I'll just be recording no votes. Thank you.

>> Mayor Reed: Okay. On the motion, all in favor? Opposed? One opposed. Councilmember Oliverio opposed. That is approved, 7-1 vote. Item 4.5, funding commitment -- I'm sorry, 4.4, funding commitment for the Brookwood Terrace family apartments.

>> thank you, mayor. The only comment here is that the L-T-V for this particular project should have been stated as 90% L-T-V so it's actually under the 100% L-T-V number. There's no need to adopt any kind of resolution that would require an exception.

>> Mayor Reed: Motion is to approve. Councilmember Oliverio? Same comment? Okay. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Thank you for clarifying the L-T-V issues. The questions came from our office and we wanted to make sure we understood all the implications. On the -- I understand that most of these projects are having difficulty meeting the requirements, is it solely because of the cost per unit as a result of all the economic factors out there, or is there something else about the requirements?

>> I think it's really just that we haven't adjusted to account for the increased costs, so the calculations and the percentages that we have in the NOFA over the course of, say, the last year, we've had to put that statement in our memos that they have not been meeting the 70-point threshold, so we are in the process of updating that and we'll be bringing that to council probably in August or September.

>> Councilmember Liccardo: Okay. I know John is way back there. I had one very quick question about the project. I know we've had very recent correspondence. We certainly don't want to hold up the project in any way, but with regard to the code concern, my understanding is that there was representation that that will be addressed shortly, is that right?

>> Effective this morning, there's people out there on site taking care of it.

>> Councilmember Liccardo: Wonderful. Thank you very much.

>> No problem. Thank you.

>> I have a question for Leslye on the cost of adjusting the NOFA. Shouldn't the costs be going down on these projects like every other project we're seeing bids come under engineers' estimates? Land values are going down.

>> I think it's really -- it's complicated because land values are going down but so is tax credit equity, so are some of the other funding sources that we may have relied on, so it really is a combination of the above, but even then just our overall cost of development, even though it's gone down recently, since the last time we updated the NOFA, costs have gone up. So we will explain that to you thoroughly when we come forward, but we do need to adjust to today's reality.

>> Mayor Reed: We do, but I don't want us to be the one who's propping up land values and overpaying for land when everybody else is walking away from the deals in the rest of the market. Right now we're the only funding source around, it seems. And if we're inflating property values, then that's just taking away from the number of units that you can build. We'll take that up when we do the NOFA analysis. Anything else on this item? I think I got a motion on this. Did I get a motion on this? Yes, I

did. Motion to approve? All in favor? Opposed? One, Councilmember Oliverio, passes on a 7-1 vote. 4.5 is the funding commitment for the ORVIETO terrace family apartments.

>> On this particular project, I need to make the same similar comment, the L-T-V should have been stated at 86% rather than the 129 that was in the memo. So we do not need to make the finding as well.

>> Mayor Reed: We have a motion to approve. All in favor? Opposed? One opposed, Councilmember Oliverio for reasons previously stated. That takes us to item 4.7, report on bids and award of contract for happy hollow park and zoo pedestrian bridge rebid. We have a motion to approve. All in favor? Opposed? None opposed. That's approved. 4.8, hearing on historic landmark nomination for the Tommie Smith house. Motion is to approve. I don't think I have any cards from the public to speak on this. All in favor? Opposed? None opposed. That's approved. 4.9, hearing and actions on the Stevens Creek signage area. Do you have a presentation?

>> Thank you, Mr. Mayor. I had a couple of slides I wanted to go through and walk through on the item.

>> Mayor Gonzales: Okay.

>> Joe, director of planning, building and code enforcement. This is a sign code amendment that we are creating a new category for the Stevens Creek auto row area, similar to what we've done on capitol auto row to create signage that reflects the challenges that auto dealers have had with our sign code to recognize multiple name plates do exist on sites, so we wanted to be able to recognize that, and the unique situation exists on Stevens Creek boulevard in that we share that street with the city of Santa Clara. So we did go and analyze the sign regulations in both the city of San José and city of Santa Clara, and our goal was to make sure that we aligned between the two, so that San José car dealers were not as disadvantaged of what was possible versus what was possible in the city of Santa Clara. Staff did do an analysis of signs existing today out on the street, compared it to the codes both in Santa Clara and San José. Tier 3 in San José and the area that's currently in those signs and the height, you can see the largest is 91 square feet, the smallest is 42 square feet, and only 11 feet tall. In Santa Clara, you can see a number of the existing signs, some of them are non-conforming, some are brand new such as the Lexus and Acura sign, ranging from about 70 square feet to 100 square feet, and up to 29 feet is the tallest sign that Santa Clara had approved. With the proposed changes, we are recommending creation of a new sign district that would be on Stevens Creek boulevard between basically Winchester and 280. We would triple the amount of sign area that would be allowed or that would accrue for a property based on its frontage. It would still have 120 square foot cap, but businesses could get to that number faster, that we would increase the height of the allowed signs from the current citywide 20-foot height to 30 feet, and we also would allow additional free-standing signs for businesses that have outdoor display. That's how we allow car dealers to have the extra sign as opposed to a general retailer on the street, those would each be allowed 50 square feet to allow different car lines to be sold on the same car site and meet their requirements by the manufacturers. There is -- just to remind the council, we are looking at the citywide sign issues. We've done two rounds of community focus and we'll be working on our third round of outreach this next month. And we are looking at some of the larger issues, one of which was raised in the memo from several of the councilmembers regarding L.E.D. signage. That is an issue that we are looking at. It is something that there are a lot of major legal issues around it, and it's something that we do have some concerns of exposure litigation risk that the city of Los Angeles lost a major lawsuit on in the neighborhood are really dealing with the consequences of that now because of how the city regulated these types of signs around the city and that they're now being allowed to be replaced as a result of that litigation with this type of technology. We do think it is appropriate to integrate this into our retail districts, but we're trying to figure out how to do it in a way that balances the legal test as well as making more vibrant commercial areas in the city, so we are proposing and would recommend that that issue be tabled to the larger citywide sign code update. With that, I conclude staff presentation.

>> Mayor Reed: City attorney has comment. Ed?

>> I'd like to comment on Joe's comments on the L.E.D. signs and the provision in the memo that was dated May 15TH by 4 councilmembers. The concern there is one of noticing. When we did outreach and consistent with our general outreach policy, we went and met with members that are affected in the community. There isn't an issue with respect to modifying the number of -- on the height, the size, the area or the number of signs, but with the L.E.D. signs, nothing has ever been discussed about L.E.D. signs, and adding any kind of innovative sign technology such as the L.E.D., I think is different than the process that we went out and met with -- did any outreach on, and then Joe indicated and mentioned the litigation that they had. That's a real concern. The state has a bill or there has been a bill pending where the state is looking at impacts of large L.E.D. signs on vehicular safety. L.A. has also put a moratorium on

further L.E.D. signs because of traffic concerns. I think there's always a risk of equal protection challenge, that if you allow it in one area, aside from the fact that you're going off into -- there's a problem with just doing it without looking at the comprehensive of why not capitol expressway or other areas as well. So it's not to say we can't do it, it's just not appropriate to do it today. I think it's better to have staff review it. Whether it's part of the larger sign ordinance or to come back at a future date with a recommendation. I know there's a lot of interest and it's something that I think staff can process and come back with.

>> Mayor Reed: Thank you. I want to thank the staff for all the work they've done to get this to us, and Councilmember constant for continuing to be an advocate for Stevens Creek boulevard and the signage out there. Back in January of 2008, I met with 10 of the largest car dealerships in the city. They had really two requests that were things that we could do to help them be more competitive. The first was to speed up our permitting process so that when they're expanding or something, they can do it quickly, and at less cost. The other was to improve signage. Because they have to compete for every sale and every dollar, and there are 15 of them along Stevens Creek boulevard that employ about a thousand people and generate about \$4,000 a year to the city. So I think it's really important to do this, and I certainly support staff recommendations, by Councilmembers constant, Chu, athletic and Herrera, but I think we have to postpone the L.E.D. discussion because it is quite a bit different by nature than what we've been talking about, and I know L.A. has some serious problems with having lost control of billboards and especially L.E.D. billboards. So anyway, this is a report from staff to help our businesses stay here and grow here, and our car dealers are in crisis with the industry. This is a little something we can do to help them, and every little bit helps, especially when we have such difficult economic times for them. Councilmember constant.

>> Councilmember Constant: Thank you, mayor. I'll have to tell you, I'm shocked because this is the first I've heard about the legal issues related to L.E.D.s, and I've been talking about this for quite a while. So that is a serious shortcoming. I don't understand why I didn't at least get a courtesy phone call about it to hear about it first here on the DIAS is irritating to say the least. Second, the subject of L.E.D. lights was discussed in the outreach meetings because I had staff members there at the meetings, and my residents, my district were actually supportive of it. So this is not something new that's come up that the public hasn't discussed. So suffice it to say, I'm not happy. I don't like being surprised here. But this is a very important thing for Stevens Creek boulevard. As you know, I've been talking about signs in the city of San José from the day I got here, and I think that our dealers on Stevens Creek boulevard need to have the tools to succeed. I think it's exceedingly important that they have these tools now for a number of reasons. One is the fact that there are vacancies on both sides of Stevens Creek boulevard, both in our jurisdiction and in the jurisdiction of adjoining city of Santa Clara. People who are looking to invest and start businesses are going to be comparing the two cities pretty much line by line on what can and can't be done in their business, and when those dealers are coming to talk to me and to other members of our city, I think it's important that they have every advantage in coming to our side of the street. I think it's also important that the size, both the physical size and the height allowed of the signs be equal to or greater than those in the city of Santa Clara. I think that the staff report, the staff recommendations fall short in that regard, and I think that the memo that was authored by me, Sam Liccardo -- corrects those deficiencies and brings it to a point where we were at least equal to and in some cases slightly greater than the city of Santa Clara. I know that some people are concerned about the overall height of 40 feet, but there are legal non-conforming signs that exist currently on Stevens Creek boulevard, two of which the former future a.m.A bowl which now occupies a Safeway shopping center and Santana Row both have significantly higher signs. I know my office has asked planning for the height of those. We haven't received a response yet. Joe, do you know the height of those two signs?

>> Yes, Councilmember constant, we were trying to dig back to find those, and the records are so old on it, though, measuring up to other buildings and eyeballing it, they're easily 100 feet, was the estimate.

>> Councilmember Constant: So my point there is even though some people are not pushing the envelope at 40 feet, we're not even hitting 50% of what some of the existing signs are out there. The Stevens Creek auto row is known to be an auto row, and it's a place where people clearly expect to have these kind of signs. I wanted to talk just briefly about the boundaries. You'll note in our memo, there's an attachment that shows a slight expansion of the boundaries. I think it's important that that expansion occur, because that is an area that, quite frankly, is very logical locations for car dealerships to locate, in fact, my office has received interest from car dealers that are interested in locating in those particular areas. I think it's important that we do this right the first time. Again, we're doing it at a time so that businesses can be ready to jump at the moment the economy turns around. Now, hearing about the

L.E.D. signs, as I mentioned, for the first time, I think it's something that there may be an issue with us going forward today, but I don't want this to fall off the plate and fall on to the back burner. It's really important, because when I was speaking to the dealers and I made it a point to talk to a majority of the owners of the dealerships, one of them made a comment to me that quite simply said, you know, with the proposal that's out there, I can't tell you if I'll really invest in a new sign or not. Because it's a lot of money and to get an extra 10 feet might not do as well. But if you do like other jurisdictions and allow us the use of the innovative signs like the L.E.D. signs, we'll start our planning and permitting immediately, as soon as the ordinance is effected, because this is something that really has the ability to drive sales, it allows dealers who have multi-nameplates, brands, that now with the changing environment in the auto industry, you're going to see more and more dealers, like the Dodge dealer that currently exists on Stevens Creek boulevard, it's in the only Dodge but it's Dodge, Chrysler, Jeep and three or four other brands. L.E.D. technology gives them the ability to establish and maintain branding on each of those different car brands so that they can meet franchise agreements and actually contract with the manufacturers to bring on another nameplate. So I think it's very important for us to look at that going forward. I want to also point out that this is nothing new. We allow them on city buildings. We have them on the convention center, we have it on the HP pavilion, and we have new L.E.D. signs that are on the streets that talk about our parking and our available parking. So I'd like to follow the long-winded discussion with a motion that we approve items 1, 2, 3 and 5 on the memo that I referenced that was put out by the four of us today, and that we take item 4 and we refer it to the City Attorney's office for analysis and review, and that we bring that back as soon as possible for discussion. I just don't want this to end up to where we're fighting just to get it back on the work plan to be talking about this. So that's my motion.

>> Mayor Reed: We have a motion and a second. City attorney?

>> Councilmember constant, I wanted to just comment briefly on your comments. This L.E.D. issue is something that came to my attention late last week when the memo was issued for the first time. I'm advised that your chief of staff was at least told there was an issue earlier in the week on Wednesday, so I apologize if I didn't call you after I got this memo to set forth our concerns, and the better practice would have been to do so, but it isn't something that I'd known about until late last week. We will work with planning on this and we will really make an effort to get this thing back in a very timely manner. I understand the concern. My biggest concern is opening this up so that you can't do -- so you open up the city in a way that we just cannot regulate after that, so they appear on Lincoln avenue and anywhere else, where you may not want them. And so we need to have some kind of rational plan to come back with.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I will be supporting the motion, and I'll just second the comments that Councilmember constant made except I don't know if we need all signs to be the size of the Santana Row sign, but I get the point, for the competitive advantage of other dealerships as well. I just wanted to comment, I know obviously Councilmember Herrera couldn't be here, but it would be very important to her as well. As we discussed, citywide, that's something very important to us to see how we really can help our businesses in marketing themselves, but I do appreciate the comments, Rick, that you made some of the legal issues and we certainly don't want to go down the wrong path and stumble down the unintended consequences L.A. seems to be faced with now. Unless you want a landscape like L.A. But anyway, I will be supporting the motion. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. My question is really about the L.E.D. sign is really to my surprise that there is some legal issue about it, but do we know the reason that L.A. has this legal lawsuit is because of the size? I can settle for smaller L.E.D. signs because you can change the screen and scrolling around that to get the message out with a smaller space. So my question is, is it the size or the technology that triggered the lawsuit?

>> the technology.

>> Councilmember Chu: Really?

>> Apparently what happened in L.A. is they opened it up and it got so out of hand that they imposed a moratorium, and then they were sued on the moratorium. And they're in the midst of what they can and can't regulate, so we need to -- I just want to make sure we come back with a game plan that makes sense. We understand the desire of the council.

>> We will be returning to the council in September with the citywide sign program kind of major deal points so we can start writing the ordinance. So we will have completed all of the outreach, come back

with what are the different ideas of how to implement those, so that is coming back as we come back from the break, we'll be here with council having that conversation.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Real quick example, yesterday we had an event -- they had a hybrid car, we would certainly love them to be in San José to sell their cars, and I think modernizing and catching up with other cities on the sign code makes a lot of sense, because clearly they're going to want to have a lot of presence, and I think that's important. So I appreciate the work of Councilmember constant and also city staff. So thank you.

>> Mayor Reed: If I could just comment on the L.E.D. thing. I have read of some of the troubles in Los Angeles. The first question is, could we limit it just to Stevens Creek auto row for L.E.D. signs? That's an interesting question. Second question if it applies to any sign in the city of San José, does that mean any sign? If you get into L.E.D.s, and does that include the billboards? Because in Los Angeles, what people got most upset about were billboards that used to be passive suddenly have lights. And if you see the new L.E.D. signs, they're very, very bright. If they're in the neighborhood, then people are complaining about them because they're running 24 hours a day, of course. So that's the issue, and it's a difficult one. So I'm willing to give the staff a little time to try to sort that out to make sure we know what we're doing when we do it and whether it's size or technology or location, that we have the chance to regulate our own city and not just lose control over it.

So I'm going to support the motion and look forward to getting that work back. Anything else on the motion? Councilmember constant?

>> Councilmember Constant: Just like to get a time estimate on when we could expect to hear back on the L.E.D. portion.

>> from staff's standpoint, we are bringing the whole sign piece back in -- after the break, and so September is the schedule on for that. We originally were trying to do it before the break and we just recognize that we're trying to jam too much in there, and so September, we would be able to have the full analysis with the L.E.D. as well as what we're doing everything else with signage in this city. The challenges set out separately, it just pushes everything else out because i've got to focus on writing separate reports, separate analysis on it.

>> September is reasonable. I just wanted to make sure it wasn't next may.

>> I think it makes sense to do it in front of the comprehensive sign change, sign code change. I think it may make sense to get the memo before the hiatus, just to give you an update where we are.

>> Mayor Reed: Thank you. Anything else on the motion? All in favor? Opposed? None opposed. That's approved. We hope we have some auto dealers left when the industry is done consolidating. Item 6.1, report of transportation environment committee, May 4TH, 2009, Councilmember Liccardo chairs that committee.

>> Reflected in the packet, move to approve.

>> Councilmember Oliverio, did you want to speak on this?

>> Councilmember Oliverio: Thank you. I wanted to thank the T & A committee for passing this on to the council. I also want to thank the police department and transportation department on this agenda is the ability to go forward with the pilot for red light camera running in six locations that we'll do sometime in the next year, and I think with the constraints we have fiscally, we need to use technology to augment what we can for pedestrian safety, so I want to thank everyone. Motion to approve.

>> Mayor Reed: We do have a motion to approve. Councilmember Liccardo?

>> Councilmember Liccardo: I just wanted to thank Councilmember Oliverio for his advocacy on this. We know there's still lots of issues to be worked out, but I think this could be very promising for helping us stretch our very scarce resources for safety.

>> Mayor Reed: Motion to approve the report. All in favor? Opposed? None opposed. That's approved. Item 6.3 is report on request for proposals for airport baggage handling and conveyor system services. We have a motion to approve. All in favor? Opposed? None opposed. That's approved. 6.4 is award a bid for the taxiway west extension phase 1 project. We have a motion to approve. All in favor? Opposed? None opposed? That's approved. Item 7.1 is amendment to the water conservation ordinance and an update on drought conditions and approval to establish a water budget program. John Stufflebean.

>> I have just a short presentation on this item. We're recommending four different actions. The first action is to declare a 15% water shortage, and this is in line with the state's declaration after 20% shortage in the water district -- 15% shortage. And other cities are taking similar actions. Our second

recommendation, and that would be a city-wide action, not just in the immediate water area but it would affect the entire area of San José. The second relates to the entire city of San José which is to strengthen our current ordinance. These are the provisions that are -- major ordinances currently in the ordinance, and what we're suggesting, they talk about no watering during daylight hours, no runoff from sidewalks and gutters, only using hoses to clean hard surfaces, fixing leaks within five days, and water only served upon request. We're recommending that we add two additional permanent measure, one is a 15-minute limit on landscape irrigation with some exceptions, and also a recommendation that hotels provide customers the option of declining daily linen washing. Our third major -- our third recommendation relates only to the muni water area, which is about 10% of the city, and that is that we develop a water budget for our customers and the water budget would basically tell them how much water that we suggest they use. It's based on -- last year's water use month by month, so they'll be able to get what they suggest they use this year based on back from last year's water use. We're not just recommending a penalty this year, this is basically to help them understand their water use and how to start managing it. And we're suggesting this program take place this year. If the water shortage continues and gets worse, then we would be recommending more stringent measures including potentially a surcharge on people that use a lot of water. And then our fourth recommendation also relates mostly to the muni area, which is that we do increased outreach to get the word out about the water situation, there's obviously been a lot in the media about it and we want to make sure we add on with that, that starts with our water budget letter, also includes distribution of the water -- information through our billings and so on, targeted outreach to customers who exceed their budget so if a customer does exceed their budget, then we'll contact them and let them know what their options might be to decrease their water use and also presentations to groups. That concludes my presentation. Thank you.

>> Mayor Reed: We'll have a few questions. Councilmember Pyle?

>> Councilmember Pyle: Thank you. This is such a needed program, because we have one year and then after that, we don't know what we're going to have. I mean, unless there's a spectacular rainfall next year. I wanted to ask about number -- the item that was mentioned that talked about those who overuse. This would be something that you would be monitoring now so that we would catch the overusers, and hopefully by the time we needed to cut that 15% and have a penalty to go with it, they wouldn't be coming up short.

>> They wouldn't be surprised.

>> Councilmember Pyle: I wanted to clarify that.

>> Mayor Reed: Motion to approve. Councilmember Oliverio?

>> Councilmember Oliverio: Just going through the Powerpoint, all of this is subjective versus any enforcement behind it, like if I go to slide 3.

>> What we are proposing that we do is let people know what their budget is. We're not proposing any penalties this year.

>> Right. So just for example, so if a resident of San José sees their name who leaves their sprinklers on their lawn midday on for an hour, there's no water police today.

>> the people can report that to us, and we will notify the person that they are -- we're basically sending them a warning letter. That would be as far as we would take it at this point.

>> So at this point, with the current laws we have, it would just be simply warning letters but nothing outside of that?

>> Right. The current law would let us do more, but we are not proposing that we do that this year. Until it gets more serious.

>> Councilmember Oliverio: Then let's take it further, things get more serious, water gets more scarce, what are some things you see happening outside of education and awareness?

>> We would come back to council with our proposal on that, and we would include enforcement, currently we don't budget a lot for enforcement, we would come back to council with our enforcement program and also come back with our suggested fee structure that would then charge even more for water at the higher user, so those who would use a lot of water would have to pay more for the excess water use. But we would bring that back to council.

>> Councilmember Oliverio: And areas that don't have muni water as their provider, we would still be the enforcer?

>> There would be some things we enforce as a city and some things that the water company would be involved with. We're meeting regularly with San José water company to try to get it so that we're

completely consistent with respect to our policies and their policies. In fact, we're meeting again next week to make sure we can do everything we can to make that happen.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember constant.

>> Councilmember Constant: There's no doubt that our water supply issues are serious and that we all need to do our best to conserve. I just have a question about the water budgets. How do you deal with someone who's had a significant -- one of two things, either significant change in family size, say, or someone who's been so frugal for so long, that they're already way below the median or even the lowest?

>> Right. There's two things that we would propose if it came to that point. One of them is that we would have a floor, if you're below a certain level, then you don't have to reduce. So if you're already a really low water user, we wouldn't say you have to cut back to 80% of that. So there would be a certain floor that would be the minimal that everybody is entitled to. And the second thing is that we would propose an appeal process. This is some of what was done in the past, the previous drought, which is that we would send out the budgets and if it was a penalty or some kind of a surcharge, there would be an opportunity for the homeowner to come back and appeal to say just what you're saying, there's a change in the use of the home, maybe they were on vacation the previous year and they didn't use a lot, so we would provide that opportunity.

>> Councilmember Constant: I know not everyone doubles their family size every two years like I do, but we need to be conscious that when there's a need like that, that there's an option.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Believe it or not, Councilmember constant asked the question I wanted to ask so thank you very much for the presentation and the work.

>> Councilmember Constant: You're starting to think like me. Watch out.

>> Mayor Reed: I have a question regarding memorandum suggestion 2, water prevention and water shortage measures, and the way you've got this laid out, you have -- if there's a 10% or 20% or 30% or 40% or 25% or there are different things that kick in upon the declaration of the shortage. So where are we now, if we approve this, we're declaring a water shortage of 15%. That's part of the action taken. So in section 2, this has provisions to prevent water waste as well as additional restrictions if the council declares water shortages of 10%, 20%, 30% and 40%. So this first section, does that apply now or is it going to require some additional declaration later?

>> So there's two things that we're suggesting that we change.

>> Mayor Reed: 20% and 25% and we have the 10, 20, 30, 40%.

>> Right. The current ordinance has the 10, 20, 30, 40, and we're suggesting that we go away from that and we go to the 15, 25, 40, to be consistent with what others are doing. So first we're recommending to change those levels when you hit the next level to be, again, consistent with the county-wide ordinance. And then we're also suggesting that we declare the 15% shortage so that all the 15% items kick in, which isn't really very much, and then when I was recommending that we declare the next level, which is the 25%. So we're only suggesting that we have a 15 and the 25, and we declare the 15.

>> Mayor Reed: I'm looking specifically at item 2A, where you say add the following new provisions to water waste prevention, permanent water conservation measures, and then there's two bullet points on that. Would those kick in today?

>> Yeah, those would be in effect all the time.

>> Mayor Reed: All the time?

>> All the time, right.

>> Mayor Reed: I have one question about watering no more than 15 minutes per day per station, that's a permanent change?

>> That's right. That's our recommendation. And again, there are exemptions to that, for example, low use water, but this is for like sprinkler irrigation that would then say the limit on having your sprinklers on would be 15 minutes. And that's -- we've done research on that and found that that's really the longest amount of time that you really should be doing outdoor day time sprinkler irrigation.

>> Mayor Reed: Is that better than odd/even day watering, because a lot of other cities use the odd/even day as soon as they get into difficulties.

>> Right. Our recommendation is that we go to a time limit rather than odd/even. The evidence is that places that have gone to odd/even, what happens is people overwater on their day because they know they're not going to be able to water the next day, so sometimes it's counterproductive.

>> Mayor Reed: Okay. So that's basically the best practice is this recommendation?

>> Yes, sir.

>> Mayor Reed: But those would kick in now including the requirement for hotels and motels to provide options on towels and linens, those would be permanent?

>> Yes, sir.

>> Mayor Reed: Even if we have a big rainstorm next year and lots and lots of water, we look at the long term, we need to conserve a lot?

>> Exactly.

>> Mayor Reed: And I would like to just comment about the long term while we're currently in the third year of a drought, if you look at the state water system and whether or not we're in a drought or not, we don't have enough water to go around. And whether or not there's global warming, we don't have enough water to go around. I was out in the central valley over the weekend, met with some mayors and councilmembers of some of the central valley cities. There are currently 500,000 acres of land line FALLOW [ph] because there's no water to work them, and there's 60 to 70 farm workers have lost their jobs because there's not enough water to work the land. So the state is in a water crisis. This current drought is just one of the manifestations of it, and we need the state to take some serious long term action to preserve our water supply for the future because what we're using now is built for a state half our size. This conservation is a very important element, and whether we're in a drought this year or next year, conservation is going to be part of our life as it has been since the last drought. And so we need to support these measures, and I think staff has done a good job of getting this all together and I'm sure we'll meet our 15% this year. We've got a good track record in San José of doing this in past droughts. The good thing is, once the drought is over, a lot of that conservation sticks, and so the permanent changes are what really have made it possible for us to continue to grow as a state over the last couple of decades when we didn't really increase our water supply very much. So with that, I think we will have one comment from the public on this. Ross Signorino.

>> Thank you, Mr. Mayor, members of the council. I suppose this means we have to cut back on water boarding. I couldn't help it.

>> Mayor Reed: We don't do that in San José. Not a problem for us.

>> Well, I have to -- Pete Constant, Councilmember constant said and asked the questions I was going to ask, because even though I don't live in the district where the municipal water company is involved, for the people that are conserving, really conserving, and then you get hit with a 15% reduction, of course he answered the question as best he could as to how they would adjust the 15% reductions, people have conserved tremendously, and people do well, they're in the -- during the last two droughts we had, if you recall, they went over and above what they were asked to go back to conserve on, so I think it's good that we take into consideration that people who are conserving just by nature, they just like to conserve on things, taking care of the natural resources that we have, that should be taken into consideration, and if there's some way, somehow or another this can be appealed. Thank you very much.

>> Mayor Reed: Thank you. I had one more question for staff regarding irrigation. I remember I think at the water district meeting, they were talking about getting people the water before the sun comes up. The provisions that we have here on watering, I don't think have a time of day restriction. Is that true or I just missed that?

>> There is a current restriction on day time watering. I think it's 10:00 to 6:00, depends on whether it's daylight savings time or what. We have those as well.

>> Mayor Reed: So if you water for 15 minutes at the right hours, you're probably getting more benefit than if you water in the middle of the day? When it's hot?

>> Absolutely.

>> Mayor Reed: Okay. On the motion to approve, all in favor? Opposed? None opposed. That's approved. Next thing is item 9.1, that's a joint redevelopment agency and city proceeding. That's the city agency short term loan agreement 9.1. We have a motion by Councilmember Pyle to approve. There is a second. Discussion on 9.1? None. All in favor? Opposed? None opposed. That's approved. We will convene the rest of this will be for the RDA board agenda. We'll do open forum at the end of redevelopment agency board meeting because we said not before 3:30. So we'll switch staff and take up redevelopment agency agenda items exclusively. First item on the redevelopment agency agenda is the consent calendar. We have a motion to approve the consent calendar. All in favor? Opposed? None opposed. That's approved. Item 3.1 is a presentation of the quarterly project status report, which we had

to bump off of the calendar last time due to lack of time, so we have a little more time today. We always enjoy these reports.

>> Thank you, Mr. Mayor, members of the board. It's always interesting to be able to do these reports for you and appreciate the opportunity to come back two weeks later. I'll start with some projects that have been completed over the last quarter, which you'll notice in some of the report is that we've taken some liberties because time has elapsed since we recently thought we would be here to talk about a few more things and kind of expanded our scope, but the 88 -- San Antonio block three is now complete and the walkway between second and third street is now open. A project that frankly we weren't quite sure we would ever finish, that was working on the Fallon house, we finished the phase 3 improvements here. We believe we've solved a lot of the structural and inherent problems in the building and hopefully provide another 25 years of life to this building and really help the historic society reduce their efforts in trying to maintain the facility. This is a great project in the east side that it's very difficult to see, but it's an important picture of the one on the right, if you notice in the center of the children diving into the pool in very dark clothing is George Shirakawa, Jr., we wanted to make sure we got good publicity for this event. This grand opening is a tremendously valuable project for the east side.

>> Did you get the photo after the water being out of the pool? No?

>> I'm sorry, could you repeat the question?

>> Mayor Reed: No, think we got it.

>> I apologize. I was much more focused than I thought it was.

>> Mayor Reed: He was just saying when he was Vice Mayor, he did a back flip. This time he just jumped.

>> I think he was pleased to be able to just jump this time. The project that's very close to the prior project is out at MOXA, we opened up the child care center there, about \$500,000 worth of agency investment in this project. It's great to see more projects coming online. This is a project we've been working on, this is on first street. I was talking to staff today, I have at least five staff who are claiming credit for this project. We think it's done very good so far, it looks good, it looks like something that I think we would hope the street would look like over the long term. The tree planting, we replaced a number of trees along Santa Clara street beginning at city hall and heading to the east to get -- replace the dying trees and come up with trees that would last much better in this district. On Lincoln avenue, it's the same thing, we added more street trees in -- it's difficult to see a major street tree project in photographs but it's important to try to do what we can in the neighborhoods to enhance those areas. I think an interesting project that we did was -- tremendous trouble around the tech museum, they have very large, deep holes that people would step into and cause problems working with the city and others. They came up with a solution that this is -- it looks like gravel around it but it's actually a solid surface that's still permeable, so the water soaks through to the tree roots, it's a very clever solution, I think, and it will -- one of the main focuses for the neighborhoods, snis, as you know is our traffic-calming projects that we assisted with, projects that are ongoing and hopefully rapidly with the economy closing out 360 rather than -- on south first street. The office building, the second river park tower, again, this is on about the same time frame, should finish in June of this year. Invale [ph] Community Center, last time I was here, they was a very large mud hole, much structure has gone up since then, the large retaining walls, the foundation has come up through there and we are on schedule right now for this project to be complete. Civic auditorium, we just started the first phase of projects, we bid two pieces. One is the sound system that's already underway. These are bathroom improvements and some auditorium improvements to help really set the stage. I apologize, for team San José's work with Neederlander to more actively use this facility for live music entertainment. In preparation for project that's slowly but surely beginning to build some momentum, we have a number of buildings out in the Diridon area that we're beginning to take down, we'll take down this summer. This is just some shots to show you the existing conditions. They were blighted before we bought them, and we're anxious to begin the demolition to set the stage for this project, which we've begun with the mayor and city council's actions to set the stage for negotiations and moving forward with hopefully a very exciting project in the downtown. Work is definitely underway in the 88 for Safeway. These are just some shots of buildings underfloor spaces, it's progressing rapidly and I don't have yet a date that this is supposed to be open but it is moving actually very rapidly. Under the council's actions with the budget last year was to provide some money for municipal stadium. We've worked with the San José Giants to do a number of projects. We spent roughly \$300,000 on a range of improvements mostly centered around consumers and customers coming to the facility, a key element was increasing the capacity for their large event days. We've provided some bleachers and some other

facilities for them. We're working on the next layer of projects and programs for the stadium. Projects that the neighborhoods I think were actually standing outside cheering when the bulldozers finally arrived, demolition of the former Westinghouse warehouse. There's still some rubble the last time I was by there, but it will be removed by the end of the month and we will begin process of building a permanent parking facility there in support of both the neighborhood business district and also for the arena, and really take a lot of pressure off of the surrounding neighborhood. Very exciting project with the San José Chamber of Commerce buying their own building in the downtown and we provided a facade clean-up to go with their interior remodel which made a great building on the inside. The exterior is coming along very nicely and looks great. A couple of examples of retail, the agency is very active, active even in this economy in bringing new retail into the downtown, also into the neighborhood. Some examples of where we're moving -- throughout the city. Then I think this was -- it took me a long time to start to figure out what this project really does, but Odello systems provides point of sale software. They're located in the central valley. They wanted a bay area presence, they wanted a presence in silicon valley, so they came to San José and we helped assist them in getting office space in horizon tower building so that they -- for community office tower building so they have 15 employees in the space right now. The end prize zone as you know has expanded and so the agency is active in pursuing businesses and making sure people take advantage of this great economic tool. And then a handful of the signage projects again that most of these go back and forth in support of the retail as the business come into town, you'll see a lot of overlap with the new signage. And with that, I'd be glad to answer any questions.

>> Mayor Reed: Questions or comments? Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I want to say thank you, really beautiful project out on the east side, Mayfair and -- looks fabulous, the Fallon house. I just want to make one point about Odello systems, I think their CEO was the first to buy a unit in tower 88. So to tell you something about what it means to bring companies here and what it does, the vibrancy of our city, buying condos as well.

>> Mayor Reed: Councilmember constant.

>> Councilmember Constant: I just wanted to say it's great looking at all these pictures of the great things that RDA does but it's also important to recognize the things you can't really take a picture of, and that's like the community work they've been doing out in the border of district 1, district 6, where we've been working hand in hand with the businesses in the neighborhood and the neighborhood associations to come together on the vision of what we want our little business corridor on Winchester boulevard to look like. They've been engaged in a series of community meetings and really did a great job in bridging the gap between what businesses want and what neighborhoods fear and bringing them together, and I think it's worked out very well, and I was thrilled last night to take my kids out for the brand new frozen yogurt that opened up on Winchester boulevard that's the first -- it's called green cup yogurt, the first environmentally friendly yogurt shop. Everything in that place is biodegradable, compostable, and they did everything along the green lines. As they told me last night, it's not easy being green, but they are going to reap the rewards and all the customers are thrilled. And it's because of the hard work that RDA has been doing out on Winchester, so I just wanted to say thanks.

>> Councilmember Kalra: To add on to what Councilmember Liccardo said about bringing these high quality jobs and retention in downtown, having those types of housing units that attract some of the CEOs of some of these kinds of companies, they like to live in an urban environment, so I think it really plays off each other well. Certainly with some of the improvements in the downtown, as well as other parts of the city with, the district as well as -- it's looking fantastic you can go to the community center, pleased to see how it's coming along, some of the ground -- it looks like it's going unbelievably well. I had one question, in fact, regarding the small business assistance program. Just at lunchtime, I was watching a little bit of a press conference with President Obama talking about how the Feds -- he's going to invest more from the federal program in terms of small business assistance. Do we leverage with other programs like federal programs like that when we're looking on how we can help some of the small businesses?

>> I'll let John Weis answer specifically, but my understanding would be yes.

>> Councilmember, we do that as much as possible. A lot of the programs that we run over the years have been agency-initiated such as the facade improvement program where we in fact don't, but where we can work with SBA and other lenders, we've done that quite successfully.

>> Thank you very much. Thank you for the presentation.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Ditto, Councilmember constant's comments and all the nice comments and compliments to everyone. I want to ask, though, Harry and maybe the mayor, so as

we go forward, you know, moving ahead to increase the cap, it's going to give us the ability to bond more and do other things, and a lot of things we saw here are these brick and mortar things, and many of them were conducive to economic development, both current and longer term. When do we as the board sort of prioritize the next five to 10 years of what we want to spend our money on, and ideally from this councilmember, spending it on things that bring return that will create more jobs and a tax base?

>> Councilmember, that would be our budget process which we will begin in the fall, after the recess. You'll have an opportunity to look at not only the following year but several years out as well. That's the best opportunity to do that. Also in the meantime, as you know with the surrounding neighborhoods, we've been prioritizing projects. Tonight you'll have a presentation, I believe -- or not tonight but the second of June, the Hoffman Via Monte neighborhood. So it's your major opportunity.

>> Sure. I'll look forward to that, but also I think it's going to become with the scarce amount of bonding capital that we might have to make choices, and whether it's trying to locate a new company here for jobs and tax base versus traditional SNI spending, because it might come to the point where we just don't have enough, and I think that's a discussion to have on the council, what we do with scarce resources to make more money for general fund.

>> Yes, sir. Absolutely.

>> Mayor Reed: Anything else on this? I think we just need a motion to accept the report. And we have a motion to accept the report. All in favor? Opposed? None opposed. That's approved. That takes us to item 8.2, approval of good neighbor committee's purpose, structure and membership. We got started on this back on April 2nd with my recommendations on some things to do with regard to major league baseball and the opportunities that we had to be prepared if and when they decide to have a team and stadium in San José. Since then, we've done a lot of work and talked to a lot of people and in preparation for this meeting, I talked with Lew Wolff, Michael Mulcahy, Susan Hasmer, Silicon Valley Chamber of Commerce -- Hanchett, Delmas Park, Burbank/Del Monte, Willow Glen Neighborhood Association, Greater Gardner Neighborhood Association, High-Speed Rail, Valley Transportation Authority, Caltrans, Silicon Valley Sports Entertainment, San José Downtown Association, Shea Arena Authority and lots of individual people, and I know that Councilmember Oliverio and Councilmember Liccardo have also been very active in talking to people, so what we have today is one piece of the work that we are trying to do, and that's to establish a good neighbor committee in addition to the other outreach things that we talked about at our last meeting, so on May 12TH, we approved recommendations on negotiates principles and community engagement plan, and today we have in front of us the good neighbor committee, which has proved to be quite a popular committee, as it turns out. We originally had aspirations that we would have a 15-member committee. That's proved to be a little bit small. And on May 8TH and on May 14TH, Councilmember Liccardo and Oliverio and I issued memos with recommendations on the purpose, structure and membership of the good neighbor committee. And so those two memos together with modifications are what's in front of us today, and I just would like to talk a little bit about the purpose of this committee. I had a lot of meetings with neighborhood associations and talked about what I hoped we could accomplish in this good neighbor committee. Got a lot of strong interest in the concept of a form for solving issues that arise from these potential development projects, not just baseball, but others on station area such as high-speed rail and Bart as well as potentially large office industrial -- development projects and other opportunities that are there, because what we talked about focusing on was implementation. Promises are easy to make and often difficult to keep and this good neighbor committee is a method of ensuring that the mitigations and the things that developers or others are committed to get implemented and that the neighborhood and the developers are sitting down eyeball to eyeball with the people who may be impacted by problems and people who may be creating problems to work it out at the table, so we have developed a committee that includes stakeholders in the neighborhoods, regional transportation agencies, corporations and small business representatives, so that we're going to need a larger table, but nevertheless we're going to get everybody around the table and work on problems and solutions to problems, so it's really about implementation. As I mentioned, it proved to be a popular committee, so our memo on May 14TH, we revised the list of members and I want to recommend that we add two more to the list of 30 that we had on May 14TH, and that would be a designee from the south bay labor council and a designee from the San José silicon valley Chamber of Commerce to work with that committee. I've talked to both of them, they're very interested in being engaged in this, and I think that's a good thing as well, and they're both willing to give us a designee if we're willing to put them on the committee, so I would recommend that we make that modification to the written memorandum. We also recommend that we try to get this committee started and try to do it formed up in June so that we can

begin to talk about things, whether it's baseball, high-speed rail or Bart, clearly baseball is on the top of the list just in terms of the interest and the excitement, and we can get started with work even though some of these things are years away, it's not too early to start. We have good staff from the redevelopment agency and the city ready to facilitate this, but we need the engagement of people with technical skills and answers. As I found the most useful thing to have is an answer, when you're dealing with a community member and they have a question. If you have answers, it's really good if you just give them the answer. They may not like it, but they do appreciate getting the answer. And I'd like to see the staff come back to us with an informational memo as we get into this with an update on the work plan schedule and who the people are that got designated by the various organizations, so we'll be kept informed as well. So I don't know that we talked to every person that's likely to be on the committee, but most of them. And there's a lot of interest in serving on this, so I expect we'll have a good lively discussion that will lead us to some improvements in things that are happening, and some mitigation of potential impacts that will be good for the city and good for the neighborhoods. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to thank the mayor for his leadership on this. I spoke with several neighborhood leaders who had had one on one meetings with the mayor, and in every case, it seemed as though the response was very positive from those neighborhood leaders who were understandably very concerned about this project. When I say this project, particularly the baseball stadium but also the project relating to high-speed rail and Bart and others as well. So it really pointed to me that the way in which we communicate is so critical, and this is an excellent first step. Certainly we have perhaps more members on this committee than we do have residents in the Diridon area, but it's always good to be overinclusive. I think if you're going to ERR in one way or another. So with that, I'll defer to my colleague, Mr. Oliverio, on the motion.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: That's very kind of you, Councilmember Liccardo. That's outstanding. No, I've already made comments on this topic at both last meetings, but obviously thanking the mayor, thanking the members of the committee, Councilmember Liccardo and I will be fairly busy just dealing with this topic. But you know, this is something that all the councilmembers so far have been 100% in support of and we're looking forward to making sure that we're mitigating anything we do just like we did when we built the San José arena, and obviously that has had a great success for our downtown and San José as a whole. I can't think of any sharks posters in anyone's home before the arena was built, and clearly that gives a sense of pride to people and whether it's that or seeing their favorite musician play at the arena. Motion on the table already? Great. Thanks. I'll make a motion to approve. Councilmember Liccardo will second it.

>> Mayor Reed: So the motion to approve is based on the two memos with the modification made to add two more members?

>> Councilmember Oliverio: absolutely.

>> Mayor Reed: That is the motion on the floor.

>> Councilmember Kalra: I was going to say, 30 was a good number because there are 30 major league baseball teams, so we can kind of stay in alignment. I'll make an exception for the Chamber of Commerce, I think those are two important voices to have at the table as well. I just wanted to also express my support of this critically important component of moving forward. It's the most important component of making sure that we are inclusive and that we are -- everything is open, on the table and discussed thoroughly so we have a great understanding of going forward how to proceed. I certainly appreciate Wilcox -- designees from the staff's perspective of making sure we can move forward in our outreach in an effective manner, and I think Councilmembers -- thank Councilmembers Oliverio and Liccardo in stepping forward and making sure that their community and neighborhood voices were heard as well as you, mayor, for doing the proactive outreach. I'll certainly offer any assistance I can give individually in terms of helping this outreach process move along as well. Thank you.

>> Mayor Reed: Thank you. I would just like to add that high-speed rail, valley transportation authority, Caltrans, the people that are really going to operate facilities there have been very willing to engage -- being able to get engaged early with our community while they're still in the planning process of what they're doing, I think that will be very beneficial, as do they. On the motion to approve, all in favor? Opposed? None opposed. That's approved. I'm sorry. I thought that was for open forum. Come on down. You want to speak on the good neighbor committee? Come on. I'm sorry. I got myself confused between now and open forum, which is next.

>> Thank you, Mr. Mayor, members of the council. It's always a great pleasure for me to come up here and be able to talk to you. This is kind of a surprise to me to see this on the agenda, it's the amended agenda from what I understand. When I first saw it up there on the big screen, I looked on my agenda that I got from the clerk's office last week and it wasn't on there. But I see it's on the amended agenda, so said, it doesn't say amended but it's on here anyway. But the point I'm interested here, and obviously are very conscious of this, all of you, that is to say, that you want to be good neighbors to these people out there, and Councilmember Liccardo is saying how much he's gone over and talked to the neighbors and so on in outreach, and I've talked to some of the neighbors in that area, they're very concerned about the possible noise that could be in that area because the stadium, and I told them that I had a solution for you and I gave you the solution and you keep seeing the pictures of this stadium or the proposal near the Diridon station, but you should now start showing a new design on that stadium with a dome on there. That would keep the noise down, and then truly you would be a good neighbor. That's something you should start proposing, and I think you're going to have less problems with these neighbors in every way if you just show that particular model, show them that you are concerned about their sleep at night regarding these games. With the lights on, the noise and so on. And then maybe, God forbid, I don't know if you want to say God forbid for them who want to get their sleep, should you win the world series, that may go on for some time too. So as a good neighbor, I suggest that you go ahead and think about doming the stadium. Thank you.

>> Mayor Reed: Thank you. We're looking forward to that world series game. Anybody want to reconsider the motion based on that testimony? Okay. Well, the motion will stand. That concludes item 8.2. It's approved. The last item on our agenda is open forum -- we do have a card. Ross, do you want to speak on open forum? Come on down.

>> Mr. Mayor, nice to come back up here and be able to speak with you. I notice in the newspaper, there was an article regarding -- it says "mayor explores A's ballot measure." And this was at the rotary club and so on. I took this out of the newspaper, but you can see how thin the newspapers are getting now. You can barely see it. The other day I went to buy a newspaper, I thought the other day my fingers were going numb because I couldn't feel the newspaper, that's how thin it's getting. But nonetheless, you talk about here putting it on the ballot, that it may cost a million dollars and possibly even more, and you have explored the idea that it could get some private money to do that, which is commendable, because if you did spend any taxpayer money ahead of any taxpayer approval for this project, I think that wouldn't be right, Mr. Mayor, that we should go ahead on that. You know, what is so amazing to me that you can go ahead and explore this and get some private funding for this, Mr. Mayor -- i'll be finished in just a moment, be patient, before you talk to the city attorney. If you could explore and also get some private funding because it wasn't too long ago we had the budget meeting here regarding the mounted police, the police department who may have to do away with that. It would be interesting if you can raise this kind of money for a ballot measure, which we're not certain of anything in that regard, whether we can get territorial rights, you would think now the amount of police, that would be a gate thing for private enterprise to try to get some private money for that, see if they can sponsor and keep our mounted police, because even you the other day, one police officer on a mounted horse is worth 10 in crowd control. So I think that should be a priority as well. Thank you.

>> Mayor Reed: Wilma Hushy.

>> My name is Wilma, and I'm not here to speak for myself, I'm here to speak on behalf of some students from Parkview school who are very close to the Edendale libraries. They've given me a whole stack of letters to present to you, but I thought I'd just read one of them. I was going to read a lot but i'll just read one of them that I believe was written by a fifth grader from Parkview. I am a sixth grader from Parkview elementary school with who relies on the library for school assignment. Also people in my neighborhood also rely heavily on these libraries for school assignments. Most importantly, most of us come from low income families, and we cannot afford the Internet in our homes. Therefore, we rely very heavily on the libraries for the Internet, for the books, for the videos, for the music and for magazines to become self-actualized in the community. Closing these libraries will mean the city locking down on poor students like us. I have no idea what this means. These libraries have been around for quite a while and have helped many students achieve academic and -- growth and we would like to be like them also. As a young girl who wants to grow up to be a lawyer, I'd like to add a voice to the city council to please ask the council not to take the pact just because you want to save money for the city. We all knows times are difficult today, but closing these libraries in killing the hopes and the dreams of poor students like us. We don't want to remain nothing in this city. We'd like to grow up and appreciate our city for being there for us in a

time of need. Please continue to be there for us by keeping these libraries to remain open to our communities. Thank you.

>> Mayor Reed: If you give those letters to the clerk, she'll make sure that we get them. Maria Brazelton.

>> Hello. First I would like to thank each and every member who was present here today to have this meeting. It was an opportunity for me to also participate. I am unemployed, and I am also trying to benefit the community by using this time to find out what is very important in this city of San José. And I have gone to the housing department, Housing Authority, to see all the locations of housing for people in transition, and I have found that there is a huge, huge waiting list for anyone who needs housing at the present time. So I do feel that your consideration of any transitional housing project be considered and that people who are trying to connect with everyone in the valley be given that opportunity because some of us, like I told a lot of people, don't have a face, and so we really do need help with the more important people trying to catch us and pull us up, and when that happens, you will have all the answers to make this city one of the most gorgeous and beautiful cities in the whole world, which I feel since it is designated as silicon valley, that that is what it should be, and of course a mentor to the whole United States because California is supposed to be that most innovative city also in this state, and that is my comment to you councilmembers to just consider this, and to consider a lot of people who are going into transition trying to find out what they are supposed to do especially if they don't have too many places to stay as an option. That's all I came here for.

>> Mayor Reed: Thank you. That's the end of the cards. No more cards, no more open forum. We will adjourn until 7:00 p.m. And we'll do this all over again. Different agenda.

>> Mayor Reed: Good evening. I'd like to call the San José city council meeting back into session. We've been meeting since this morning. It's nice to have a dinner break, but we have work yet to do. But we will start this evening with some ceremonial items, before we take up our business. I'd like to start by inviting Councilmember Liccardo and arts commission's Lisa Gonzales to join me at the podium. A little while ago we recognized five recipients of the City of San Jose's champion of arts education awards for this year. We had the arts commission and office of cultural affairs and a little reception. We'd like to invite these folks down. Come on down behind us. So we can give them commendations from the city for their being champions of arts education. We have Charlotte Crook, who fine arts teacher at Linbrook High School, and Fremont Union High School District, Lee Yakamichi is a fine arts teacher at Linbrook high school in Fremont Union High School District, Chris Kay is a music instructor at Union Middle School in the Union School District, Audrey Hawker is a volunteer music teacher at Matsumoto Elementary School in the Evergreen Elementary School District, and Branham High School in the Campbell Union High School District is recognized as a champion school for 2009. And we want to congratulate all the recipients and we have commendations to pass out. Why don't we do that now. [applause]

>> Mayor Reed: So great work. We had a nice reception earlier. Thanks for your dedication to the community. Let's line up here. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Constant and Phil Reynolds to join me at the podium, as we declare May as motorcycle month in the City of San José. Councilmember Constant will say more. I'm sure he'll have some helpful tips because he used to be a motorcycle officer for the City of San José. And I probably need some tips on how to ride my battery powered Moped.

>> Councilmember Constant: Thank you. Come on up guys. While they're coming up I just wanted to mention that two of those lovely arts teachers were from district 1 so I'm very proud of them. Well, thank you. Today with me, I have several members of the abate club with me. That's Phil Reynolds, Dan Scott, Homer corn, Bill Martin, Indian Bob and of course Jim Cogan from my staff. As everybody knows, riding motorcycles is a pastime that is enjoyed by a lot of people. In fact there's probably about a million people in the State of California that ride motorcycles. And I used to ride until I hurt my back, and maybe after they fix me up I'll be back on one. Everybody says, you know, you really have to be careful because it's not how well you ride your motorcycle. It's how those people in the cars and trucks around you drive. And that is -- that couldn't be any -- any more true. It's just something that you have to be completely conscious of all the time when you're riding your motorcycle. And ABATE, abate stands for American Brotherhood Aimed Towards Education. And this is the local 32 Silicon Valley group. And they are a motorcycle rights organization. Their primary mission is educating people on driving awareness, and a lot of that education is really geared towards those other people on the road, the cars and trucks. And we are asking that all auto and truck drivers be more aware of the motorcyclist and be more aware of their surroundings, bicyclists too, Mopeds too, mayor. Because the safety hazards that can be created by

drivers who are not educated to watch out for these can be deadly. And it's all too often that we see the deadly results. So we ask everyone to be aware, this is motorcycle awareness month for everybody, not just motorcycle riders. And we have a proclamation I think the mayor has which we're going to be presenting to abate, and I think Phil are you going to say a word?

>> Just a quick word.

>> Councilmember Constant: I think Phil is going to say a word or two here.

>> I'd like to thank the mayor, the city council and all the residents of the City of San José on behalf of abate local 32. Councilmember Constant pretty much covered all I was going to say, but please we would ask that you really watch out for us and we do have families and loved ones that are concerned when we do get on our motorcycles. And we ask that we all keep the roads for everybody on them. Thank you. [applause]

>> Mayor Reed: Next I'd like to invite representatives from the jade ribbon youth council to join me down at the podium, as we proclaim the week of May 17th through 23rd as hepatitis B awareness week. Hepatitis B is a very common and very serious infection. In the United States it is estimated that more than 200,000 people are newly infected with over 11,000 hospitalizations. These are hospitalizations that can be avoided, because there is a safe and reliable vaccine available. That's why it is critical that the public get informed and be aware of hepatitis B and the simple steps they can take to protect themselves. It is important to note that hepatitis B is a disease that disproportionately affects the Asian American community. The author of the very first national Hepatitis B awareness resolution is a member of our congressional delegation, Congressman Mike Honda. In light of the disease's particular prevalence in Asian American community, we are very pleased to have representatives of the jade ribbon youth council with us today. The council is an effort led by local students to raise awareness about the disease in the local Asian-American community. We do have a proclamation. [applause]

>> Well, on behalf of the Asian liver center and the rest of the jade ribbon youth council, I'd like to thank the city council for declaring this hepatitis B awareness week. Today is World Hepatitis Day, recognizing the 2 billion people in the world who have and have had hepatitis B. Our organization works with nations all over the world to promote awareness of hepatitis B. So we're pleased that the City of San José is joining us in our campaign. Thank you. [applause]

>> Mayor Reed: I'd like to invite representatives of Santa Clara Valley Association of Realtors and the winners of the American dream essay contest to join me at the podium. [applause] We had a great American dream essay contest, and Dennis Bodagliaco will make some comments about the contest and tell us what it's about on behalf of the board.

>> Mr. Mayor, members of the city council, thank you for taking time out of your busy schedules to help us honor the students who have done these wonderful essays, and the essays really are about the American dream and how they're thinking about how they can be part of the American dream. We definitely support these students in any way that we can. Behind you, you have the pride of San José.

You have the first, second and third place winners for the junior high school and the first, second and third place winners for the senior high school. Help me in congratulating these students. [applause]

>> Mayor Reed: Okay, we have six winners in middle school, first place Tiffany Ong. [applause].

>> Mayor Reed: Second place, Dana Jacobs. [applause]

>> Mayor Reed: Third place, Tiffany Han. [applause]

>> Mayor Reed: And our high school, our first place is Emily Dang. [applause]

>> Mayor Reed: Second place is Sabrina Wertz. [applause]

>> Mayor Reed: And third place is Manjot Karr. [applause]

>> Mayor Reed: Congratulations to all our winners, and thank you very much. For the association of Realtors, great concept. [applause] Okay, thank you, you can go now, you've done your job. [applause]

>> Mayor Reed: We're going to start our business item this even with item 4.6, that's the request for a moratorium on new bail bonds establishments. There will be a staff presentation, and I have some cards from the public. For people who want to speak on this item, we'll take those up in a few minutes. After we let people get out, we'll have a little quiet. Joe Horwedel is going to lead the staff presentation.

>> Joe Horwedel: Thank you, Mr. Mayor. I wanted to go through and start the conversation about bail bond issue tonight with a little bit of context to how the city regulates through the zoning regulations. How the zoning ordinance regulates bail bonds and similar uses, it's an important concept that we don't enumerate every use in our zoning ordinance just because there is no shortage of uses that exists in our city. We do group similar uses and create categories about how we describe uses in this city in our zoning ordinance. Currently bail bonds are a business that city classifies as a personal service

category. Personal services are used such as check cashing, photographic studios, hair salons, these are uses that are not general retail in nature. They do involve customers coming into a business and leaving. It is distinct from retail, where there is a tangible product that leaves or an office use. All commercial uses in the City of San José, other than office uses, do require conditional use permit to be open between the hours of midnight and 6:00 a.m., whether they are a retail use, a restaurant use, a personal service use. There is that requirement that applies citywide. Office is exempt when the rules were created, that the thought was, is that between midnight and 6:00 a.m. that there were not typically customers that are coming to office uses. You may have office workers that are operating inside the building but it's not been our experience that office use typically had traffic from customers showing up. And as a part of getting ready for this meeting that's one of the things that staff was going back and looking at were we even aware of office uses that existed in the city that were open 24 hours with customer traffic coming out. And we were not able to identify any. To put the different issues or proposals in context, we did want to go through and look at under the existing zoning regulations or existing requirements in the commercial pedestrian, commercial neighborhood and commercial general zoning districts, CP, CN and CG, these are our commercial zones in the City of San José, bail bond businesses are an allowed use in all of those districts. Operating between 6:00 a.m. and midnight. In our commercial office or CO district, that use is not allowed. Is not personal services are not allowed in that zoning district. With the conditional use permit, the use is allowed between midnight and 6:00 a.m., again, citywide. In the proposed moratorium concept, it would not allow new bail bond uses to occur in any of the zoning districts. Staff's assumption that the -- any proposal for late-night use would still be through the C.U.P. process, and we would -- that would be one of the details if a moratorium was enacted, whether late-night uses could be entertained or not. The proposal to classify bail bonds as a financial institution would allow bail bonds to occur in the, again, CP, CN and CG zoning districts, as they are today. It would also allow them in our office districts, the CO, and then it would still require with a use permit operating between midnight and 6:00 a.m. And at this point, I will end the staff presentation. We anticipate an extensive amount of testimony tonight and are available for questions to help work through the issue.

>> Mayor Reed: I've got more than a dozen people who wish to speak. I think I'd like to take that testimony first, before we get into a council discussion. Why don't we do that now. When I call your name, please come on down so you're close to the microphone when it's your turn. It will save us a little bit of time. Susan Lapsis, Eric Shanehauer, Tina Morrow. There's room down at the front. Eric found a seat in the first row. There's other seats there, as well. So come on down, you can come down and stand, if you wish.

>> Good evening. My name is Susan Lapsis. I live in the neighborhood of Hyde Park, which is the particularly encumbered area at the moment. I was not intending to come first, and I wasn't prepared to give you a full history but I think most of you are quite aware of it. And if the newspaper is to be believed, you have been -- well, shall we say heavily visited by partisans particularly those who would like some extra special treatment for bail bonds institutions. The area where Hyde Park is, is particularly hard hit by people who want to be associated by a business that can be functionally put as close as possible to the county jail. It has expanded considerably in the last few years from just a handful to what I understand to be about 20 at the moment. This seems to be a situation where the city is trying to handle a county problem. Something that's caused by a county location. And I think the issues that are most important is, first, to look at why they even physically need to be present, since it would be more reasonable to have them spread throughout the city. My understanding is that the bonding process does not require their actual presence in the jail location. And that this could be, since it's Silicon Valley, easily handled on web, and at outside other locations. There is not much business in that neighborhood, besides bail bonds, at that hour of the night. It is a neighborhood, it has always been a residential area. And it is negatively impacting the property values there, disproportionate to what we would say the current real estate economic situation is. And I'd appreciate it if you would consider those issues very carefully. Thank you. [applause]

>> Mayor Reed: Eric Shanehauer. Followed by Tina Morrow and then John Carras.

>> Good evening, Mayor Reed, members of the city council, I'm Eric Shanehauer, and I'm a resident in the Vendome neighborhood. In recent years there's been a rapid proliferation of these businesses, primarily along North First Street, so I just want to give you a very low-tech walk down the street to see what we experience in the neighborhood. If I were to walk to my house to I-hop for pancakes, the streetscape is dominated by bail bonds and bail bonds. If I decide I want a sandwich at the sour dough, and continue walking up the street, I'd see bail bond bail bond bail bond bail bond and more bail bonds. If

I was still hungry and decided I wanted to have a sandwich at Togos, I'd continue down the street, and there would be bail bonds bail bonds bail bonds bail bonds more signs for bail bonds. [applause]
>> And if I was really energetic and wanted to walk to Subway, I would get all of Bad Boy's signs to look at along the way. So I think it's very clear that the city and the neighborhood have the goal of having a pedestrian oriented neighborhood serving commercial street on first street that serves Japantown and Vendome and Hensley and Hyde park and serves the transit stops at Civic Centers and Japantown. You can't have a lively neighborhood street when it's so dominated by one type of use and especially this type of use. We'd implore you to take steps to have reasonable controls on these businesses and protect our neighborhood. Thank you. [applause]

>> Mayor Reed: Tina Morrow, John Carras and then Don Gagliardi.

>> Do I actually get two minutes? Thank you very much. My name is Tina Morrow. I'm president of the Vendome neighborhood association. I do agree that bail bonds business provide a needed community service, and I do agree that public safety is a priority. I also agree that families want to get their loved ones checked out of what I affectionately call the Hedding Street Inn as quickly as possible. I get all that. But the moratorium that is authored by Councilman Liccardo is not going to impact any of these issues. If you approve the moratorium it will allow some time to create a workable solution that's fair to everybody. The bail bonds businesses, residents and neighbors, and the city and county. We all share this land space and I believe there are opportunities to be collaborative, and also, find answers that everybody can live with. So as you can see from this slide, we all make contributions to San José. And we're all going to be affected by your decision tonight and we all deserve to be heard. I urge you to cast your vote in favor of the temporary moratorium. Please remember if we didn't care so deeply about San José, we wouldn't be here tonight. Thank you.

>> Mayor Reed: John Karras. [applause]

>> Mayor Reed: And then Don Gallliardi and John Perkier.

>> My name is John Karras. I'm currently the treasurer of the Hyde Park neighborhood association. I moved into the Hyde Park neighborhood four years ago. And over the past four years, the proliferation of new bail bonds establishments and the lack of enforcement of existing city ordinances, including hours of operation, has had a dramatic negative effect on the Hyde Park neighborhood. I'm most concerned that the continued proliferation, lack of enforcement of regulations, and lack of regulation will turn my neighborhood into a ghetto of bail bonds and similar businesses that are not family-friendly. I urge the city council to adopt Councilmember Liccardo's proposal for a temporary moratorium on new bail bonds operations in San José, so that the city council can take the time needed to examine the impact of bail bonds on residential neighborhoods and adopt reasonable regulations that properly balance the needs of residential neighborhoods with bail bonds establishments and their clients and ensure that no one neighborhood bears an undue burden from the operation of bail bonds establishments. Thank you. [applause]

>> Mayor Reed: Don Gallliardi, followed by John Perkins, and George Wallace.

>> Good evening, I'm Don galliardi, I live in the Northside neighborhood. I'm here to support Councilmember Liccardo's moratorium and more than that I'm here to offer solidarity to my neighbors in the Hyde Park, the Vendome, the Japantown and the Hensley historic district neighborhoods. I think this morning's Mercury News distilled the issue fairly well. That's an exception I guess to the usual process but this morning's Mercury News really encapsulated this issue. Bail bond alley they called it. On one side we have residents who are upset about the proliferation of these bail bond industries, some 20 of them within a mile radius, or a mile, actually, along a mile line, Eric -- Eric took the photos. And no one wants to live next to these bail bonds industries when they're open all night long, when they're unregulated by code enforcement or at least proposed to be, no resident wants that. And I'm here in solidarity with my fellow neighbors. On the other side, we have what appear to be moneyed interests who are attempting to buy influence with the city council. Now, I don't know what that is actually happening. That's what Scott Herhold is happening. Whether it's actually happening or not, it has the appearance of impropriety. And I hope this council will reject the efforts of the bail bonds indistry to buy influence on this council and support Councilmember Liccardo's moratorium proposal. Thank you. [applause]

>> Mayor Reed: John Perkins then George Wallace and Gus Kanakis.

>> Mr. Mayor and city council my name is John Perkins. I'm a lawyer in San José, and I represent Roger and Rebecca Emerick, who own the Hyde Park center at 1098, et cetera, North First Street. I'm probably the only naysayer so far down here on Councilmember Liccardo's moratorium proposal. I want to say that actually, the fact that bad boy's bail bonds has been a tenant in the center for quite a long time, actually,

it's a boon to the center. It helps to have a tenant that is there sort of watching after things for a long period of time. So we hope that the council doesn't consider sort of throwing out the baby with the bath water. And at a point in time, it may not ever come to you, if bad boy's requests a conditional use permit, et cetera, to operate 24 hours, we would heartily support it. Because it's more akin to an office business. And if you're familiar with the bail bond operation at all, it really is an office business. So we would not particularly support a moratorium, particularly if it's going to in any way affect this particular center.

>> Mayor Reed: Okay, thank you. George Wallace, Gus Kanakas and then Gustavo Vargas.

>> Good evening, honorable mayor, members of the city council my name is George Wallace and I'm general manager for bad boy's bail bonds. I'm here tonight to respectfully request that you approve the recommendations of Councilmember Constant, Kalra and Campos to suspend code enforcement against existing bail bonds establishments for operations between midnight and 6:00 a.m. and to start the process to reclassify bail bonds businesses under title 20 of the municipal code. Since 1998, our company has operated without incident at our local and current location. For over ten years we've run a good business that provides a valuable service to the community and has served as a good neighbor. I believe that much of the concern you're hearing is based on the perception of the bail industry, not the reality. We're strict regulated by the California Department of Insurance. We operate no different than a title company or insurance office. Our clients are the cosigners of the bond, not the defendants. Our office serves the place to process the paperwork. We strongly reject the notion that our offices are a place for defendants and their associates hang out, party or engage in illegal activity. It is simply not the case. Never have we been contacted by the police department regarding concerns of illegal activity happening at our business or as a result. Further, the data shows that police calls for service near the First Street corridor are significantly lower than most areas of council district 3. We provide this information earlier, I believe. Fleece do not be confused, forcing bail companies to shut their door between midnight and 6:00 a.m. will delay releases of defendants. There will be negative repercussions for people that need to be in the work the next day and will result of the layoff of some of our own employees. Regardless of the council's decision, we sincerely hope that the bail industry is invited to participate in any discussion regarding future regulations.

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

>> Thank you very much.

>> Mayor Reed: Gus Kanakas, Gustavo Vargas, Antoninia Antonne.

>> Good evening, my name is Gus Kanakas, and I live in the Hyde Park neighborhood area, and I'm here to basically stand behind Sam Liccardo's proposition to go forward with this moratorium. Because our neighborhood is impacted by these groups of people that come through on a daily basis, and it's not a good situation. These businesses carry with them an unsavory characteristic and it needs to go away. We have people selling things out of the back of their trunk, we have drug dealers, prostitution going on and things of that nature, and my daughter happens to go to school within 100 feet of a bail bonds business. I'm sure you've all campaigned on safe, strong neighborhoods. This is a beginning towards that stuff step. Let's make that start. And help keep our neighborhoods safe and strong. Thank you. [applause]

>> Mayor Reed: Gustavo Vargas, Antoninia Atonne, and Kathleen Gascuscus.

>> My name is Gustavo Vargas, I'm the president of the Northside neighborhood association, the oldest and largest neighborhood association of the City of San José. I come to support city councilman Sam Liccardo's position on continuing the moratorium. I wish councilman Nora Campos was here. I know support the opening of the moratorium and opening up the services of the bail bonds businesses say from 12 midnight to 6:00 a.m. Perhaps Mayor Campos -- councilman Campos is at a wine-and-cheese for a bail bond company that is opening up right now. But I want to state that we think that the history of the neighborhood associations in direct 3 have long held the longest and the largest burden for the sociological problems of the City of San José. When I came to San José in 1974, and I attended San Jose State, the red light district was the south first street area. Prostitution, drug dealing, adult theaters, beaucoup liquor stores, well, it's coming to the northside now, North First Street, and we have long carried this burden. We are all tired of it. We are entitled to safe neighborhoods, neighborhoods that have decent environments for the children, for the families, with an equal balance of various businesses. This area that affects the Vendome neighborhood, the Hensley neighborhood, the Japantown neighborhood, as well as the Hyde Park neighborhood, it's going to be known as bail bond district because it's all being concentrated in these neighborhoods. And the Northside neighborhood is going to be next. So once

again, I'm standing here today, on behalf of the Northside neighborhood as president, we have a large Yahoo group. We've seen the memo from Councilmember Constant, Councilmember Campos and Councilmember Kalra, and we know where they stand. We think they're inconsiderate of the burdens we've been carrying and we would like them to take on some of that you burdens in their own neighborhoods.

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

>> Mayor Reed: Followed by Kathleen Croscuscus and Petra Peno.

>> Hi, my name is Antonina Atari, and I live on north second street near Hedding and have been in the neighborhood for about 20 years, that's in the Hyde Park neighborhood. I support Sam Liccardo's proposal for the moratorium on bail bonds businesses, new bail bonds businesses. I am part of the original group of neighbors that started the movement to take back what the bail bonds businesses have disregarded. That is our family friendly and responsible community. We are no longer tolerant of the shouting of foul languages their customers display or the fighting which the police responded to nor the loitering nor illegal parking in the neighborhood streets by their clientele. A number of the residents of the surrounding communities have held meetings in our neighborhood and attended meetings here at City Hall to have our concerns heard. We want to be part of the process for change and improvements in our community. This slide shows the number of visits by lobbyists to councilmembers and others at City Hall in only a two-week period in March. It shows Councilmembers Pete Constant and Nancy Pyle the top two, with Ash Kalra following. I want to remind the city council that the deep pockets of one bail bonds business and the voice of the lobbyists should not be heard louder than the residents and citizens of San José. This should not be the day the lobbyists take control of City Hall. I request that you accept the recommendation of Councilman Sam Liccardo for a temporary moratorium and continue the process the city of San Jose has already established. Thank you. [applause]

>> Mayor Reed: Kathleen, followed by Petra Peno and William Lamson.

>> Good evening. My name is Kathleen Koscoskis and I live in the Hyde Park neighborhood. We live in an established neighborhood where the average homeowner is approximately ten years or more. We have a safe and trusting neighborhood until recently. And in the last year, the one change I've noticed is the implosion of the bail bonds. What struck me are the three councilmembers who are supporting this. What I would like to see immediately is these businesses being moved to your districts considering the fact that they support this type of business. [applause]

>> Of the business, so that's one thing. In the last three weeks my family visited from the East Coast and it was really disappointing. In one week's time they saw three drug deals go on outside my home. They saw a person hitting a woman, a man hitting a woman. On Saturday, at 2:00 p.m. in the afternoon, a woman came off the light rail, approximately 25 years of age, with a three month old baby, hysterical, and we ended up taking care of her. She had been robbed on the light rail at 2:00 p.m. in the afternoon. And she couldn't go home because her cell phone was gone and her purse was gone. And so she was afraid to go home, and we had to get -- we got in touch with her husband and her husband picked her up and they took care of it. On Friday, in my neighbor's yard we were out in our backyard, a lady walked into the backyard and proceeded to urinate in our neighbor's backyard. Of course we went over and said we were going to call the police. She said please don't. We asked her why she was here, she said she was waiting for her husband to come out of the bail bondsman. This has really impacted our neighborhood. I see this almost every day now. I really don't want to live there. I used to be able to answer my door when someone knocked. I don't answer my door anymore. We don't know who is knocking on our doors anymore. My house received a beautification award from the city --

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

>> Okay.

>> Mayor Reed: Petra Feno [applause]

>> Mayor Reed: And then William lamson and Joanne Tashiro.

>> This isn't quite as graphically interesting as what was shown earlier, but there is just a smattering of the bail bonds businesses that are in our neighborhoods. My name is Petra Peno. I'm a resident of Hyde Park. I'm here representing myself as well as my neighbors and my daughter, the little blond girl up there, and my husband as well. I'm a little bit emotional, so I'm just going to read from the letter that I e-mailed to each of you earlier today. I'm in favor of the moratorium on new bail bonds establishments being put forth by Sam Liccardo and asking for your support on this matter. I would also hope that such a moratorium could give us an opportunity to imagine how we could attract other small businesses onto north first street. When my husband and I first moved here five years ago we were excited to have both the benefits

of living in an urban environment, the culture, public transportation, diversity in a neighborhood that still had a tranquil and kind of suburban feel. We felt we were getting the best of both worlds. Since that time, bail bonds businesses have proliferated at least two or threefold. There are a number of these businesses right around the corner from residences, right within a block of Burnett Academy, adolescent children are impressionable and have to constantly witness -- are being given key chains and other tchotchkes from bail bonds businesses like Bad Boys right now. There was a letter sent that you might have received from the principal of Burnett Academy stating -- talking to Sam specifically about this. And I'm hoping that for our neighborhoods, four strong neighborhoods that you all can please support this. This is not going to impact any of the bail bonds that are already in business right now. This is just saying let's stop, let's take a deep breath and let's do some planning. That's all we're asking for right now and I would really appreciate your sport. Thank you. [applause]

>> Mayor Reed: William Lamson, Joann Tashiro and then Rebecca Sanchez.

>> Good evening, my name is William Lamson. I've been a resident of Japantown neighborhood for over 12 years. I'm currently the president of the Japantown neighborhood association. When I moved into the neighborhood 12 years ago, there was just a few bail bonds in our community. Just over the last several years that number has grown significantly, which I believe has brought-- which has brought issues to our community, which is being voiced very loudly and clearly by the residents in our community. And that is, that there has been a significant increase in the amount of loitering in our community, the amount of litter, increase in noise due to traffic and people coming through the neighborhood late at night, and just an overall now lack of sense of security because of what has been transpiring because of the businesses. I'm here tonight to ask you to support the memo from Councilmember Liccardo. In 1984, the city council approved an amendment to the zoning ordinance that required all commercial uses, uses operating between the hours of 12 midnight and 6:00 a.m. to be subject to the conditional use permit. In 1994, the policy was revised to provide conformance to the general plan and policies of Japantown -- of the downtown strategy plan. The Constant, Campos, and Kalra memo might make sense if the bail bonds industry were suffering or going out of business. But they are not suffering because they keep -- more and more keep coming in. Or if folks being arrested in are unable to get out of jail due to lack of support. The fact is, bail bonds agencies are proliferating. There are dozens near the jail. They have employees outside the jail accosting everyone. Their swag is readily available, and their ads are everywhere. The Constant-Campos-Kalra proposal released four years ago suggest revisions to title 20 of the municipal code. That alone should require conformance to the public outreach policy. Please support the Liccardo memo, the moratorium, and the public input for this important memo. Thank you. [applause]

>> Mayor Reed: Joanne Tashiro, Rebecca Sanchez, and Steven Scerasino.

>> Good evening. My name is Joanne Tashiro, a Japantown resident. And I'm here for my two children. I support the memo from Sam Liccardo regarding the moratorium. As a mom with two kids and someone deeply rooted in the Japantown community I feel that this item is of significant public interest, that should conform to the public outreach policy. Thank you. [applause]

>> Mayor Reed: Rebecca Sanchez followed by Stephen Sparacino and Mara Williams.

>> Good evening, my name is Rebecca Sanchez. I live on north second street between mission and Taylor close to Hedding Street. I've been there almost ten years now. The reason I moved to that neighborhood because it was an old neighborhood. My house was built in 1929. It's 80 years old. Many of the houses were built even earlier than that. This has always been a residential area and I'm very, very concerned about the proliferation of all of these bail bonds businesses. Just a block from where I live, which is right across from Peter Burnett middle school, the two bail bonds are within a block, right next door to each other. That, I don't understand. They must compete with each other. One's Aladdin, one is all pro. Within a block, right across from the school. I'm very concerned about this. I feel it's impacting the quality of life in the neighborhood. And I urge you to please support councilman Sam Liccardo's proposal. Thank you. [applause]

>> Mayor Reed: Stephen Sparacino and Mara Williams.

>> Thank you for your time. I wasn't interested in speaking today, but I -- I see it as a strong voice coming from the community here that seems to have a problem with what we do. But I am -- I'm a third generation bail bondsman. My grandfather started the business in 1947. We're a long time established business. And I can tell you that I'm proud of what we do. In 62 years, being open, we've never, ever had a complaint against our company of any event happening in -- on our property, no problems whatsoever. My issue with the moratorium is more the issue of shutting down between 12:00 and 6:00. We are a financial institution. There is a public safety issue. When folks are out at that night -- or at that time of night they do

need a safe and secure place to come and do business. And we offer that. I hear the complaints of the things that are going on, but I personally, I don't see it. I welcome any one of you to spend a day with me in my office, come by, a week if you like, any of you, I welcome your presence in my office. Come take a look and you can see that it's mothers and fathers and grandmothers that are coming into our office, because the unfortunate circumstance that a relative has found themselves in jail for whatever reason. But they are the financial -- financially responsible folks that we are using as cosigners for these bonds. They are not -- these are not defendants. They are the most responsible and financially secure of their family. Which means that they're residents with roots in the community and they're not causing trouble. They're cosigning for a financial transaction, and that's what we're doing. At 24 hours a day. And we've never had a problem in the past and I thank you for your time.

>> Mayor Reed: Mara Williams is our last speaker.

>> Hello, my name is Mara and I live in my house in the Hyde Park neighborhood. Thank you for letting me address you. I have come here obviously to ask you to support the memorandum. I have three main concerns. One of them is that the bail bonds are already ignoring existing laws and the enforcement of existing laws. We have some that openly acknowledge that they've been ignoring and operating for 24 hours without a permit. Their intent is to continue to do so regardless of the actions you take. I find that unacceptable as a citizen of San José. My neighborhood is a charming neighborhood and I've seen it really change over the past few years. I've seen an increase in car break-ins, public drunkenness, litter related to alcohol, and I've heard about public sex in public places. We've also been seeing loitering and vagrants in school grounds. It's attributable to the bail bonds much more easily than to the liquor store, which is long standing, and the jail is also long standing. It's also -- tends to be concentrated around the bail bonds businesses. I myself have bailed a friend out of jail and I have no issue with what they do. I believe in the constitutional rights. There are other way to get out of jails besides a bail bonds business so this is not the only way to ensure somebody their constitutional right. Further a more important point is you can't bail a person out of jail between 12 and 6:00 a.m. which is when we are asking them be closed. [applause]

>> No one would be denied access to utilizing bail bonds services through this moratorium. This is a land use issue only. It is a temporary moratorium. We're asking to allow the city adequate time to study this issue. There are multiple cities that have studied this issue. Another realize important point is one councilman raised the concern that it would not be possible to specifically define a bail bonds business. But if you can define a pawn shop, a bail bonds business is even more specific than that. The city estimates that there are already between 50 and 150 bail bonds businesses in the area, in the town, and there are 20 in our area. There are more than enough bail bonds businesses. The moratorium itself which is actually good for the bail bonds --

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

>> Thank you. [applause]

>> Mayor Reed: That concludes the public testimony. And back for some council discussion. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I wanted to thank all the folks who came out to speak. I appreciate you conveying your thoughts about this issue and taking time out of your very busy evenings and your lives. I was hoping I could ask a few questions of Mike Hannon, since I know you've been out there and folks on your team have been out there talking to the bail bonds businesses since the enforcement efforts got under way probably a few months ago. Is that fair, Mike?

>> We've received a number of complaints, seven at least since mid 2008. The majority of those complaints though have come into code enforcement probably within the last four to six months.

>> Councilmember Liccardo: Okay. And based on your experience of going out there, have you been out there late at night after midnight or have you had folks going out there?

>> Yes, we have. We have had code officers in the field in response to resident complaints between the hours of midnight and 6:00 a.m. in the morning.

>> Councilmember Liccardo: Okay. And are you seeing that prior to the time in which sort of the word got out that we were actually enforcing the ordinance, were you seeing that everybody was open after 12 midnight?

>> We only paid particular attention to it after we began receiving complaints from residents. We did observe a number of the businesses that were open between the hours of midnight and 6:00 a.m. in the morning. Most of the businesses, upon receiving an order from code enforcement to cease operating during those hours until such time as the conditional use permit was obtained have complied.

>> Councilmember Liccardo: In terms of the impacts on those businesses, did you have a chance to talk to anyone, I think when we spoke you mentioned Mr. Luna, Luna bail bonds. Could you relate what he said about the experience of being shut down between 12:00 and 6:00 a.m.?

>> I've talked to a number of the bail bond businesses over the last few months and I was specifically interested in really understanding the impact that closing during the hours of midnight and 6:00 would have on a bail bonds business. And Mr. Luna had indicated to me personally that they don't generally see a lot of activity for those hours. It was convenient for their customers, but he did indicate that they are still able to transact business, either at the client's home, at a mutual location, or oftentimes over the phone. So he didn't indicate that the closure as ordered by code enforcement between those hours would pose a significant impact on his business. Was not creating an impact on his business.

>> Councilmember Liccardo: And he also explained that bonds can't even be posted between 12:00 and 5:00 is that right?

>> That is correct. The city has determined that you can not even submit a bail bond to the jail between the hours of midnight and 5:00 a.m. in the morning.

>> Councilmember Liccardo: Okay. When -- perhaps I was hoping I could speak to the gentleman from Bad Boys bail bonds. I think he was George Wallace, he spoke earlier. Mr. Wallace, are you still here? He's gone. Okay, I guess maybe then I'll ask you, Joe. I -- we did a little research, I think you guys did some research and you found there was an application of some sort or an inquiry made at the address 1291 North First Street. Is that one of the Bad Boys locations along First Street?

>> Joe Horwedel: I actually don't know if that is the address.

>> Councilmember Liccardo: Actually this should be Mike.

>> Right, thank you, Councilmember Liccardo. We have two pending code enforcement cases against Bad Boy Bail Bonds. One with their property located at the Hyde Street market. We've issued them an order to cease operating between the hours of midnight and 6:00 a.m. And they have ignored the city's order. Secondly, we've issued an order to their business location at 1291 North First Street because they've made interior alterations to that structure without building permit. So we really have two pending code enforcement actions against Bad Boy Bail Bonds.

>> Joe Horwedel: To follow up on the question, confirming that address, that at that address, in 1999, the city did receive a request for a preliminary review, that's a process that staff will provide information to a customer. It is an application process but it is not a permit. We did receive a request about a 24-hour use for a bail bonds use at that location. In 1999. Unfortunately I don't have what the ultimate result of that conversation was. At the time we didn't keep those records. And we do now, today. But in '99 we didn't do that.

>> Councilmember Liccardo: But we can say that at least that Bad Boys address that there was an inquiry made about 24-hour use and the need to get a permit or do whatever --

>> Joe Horwedel: We would have walked through the process for late-night use at that location. And as you heard the speaker say, since 1984, for being open between midnight and 6:00 a.m. would require a conditional use permit.

>> Councilmember Liccardo: Okay, at least as to Bad Boys which is one of only two speakers I think from the bail industry, they knew about this requirement at least ten years ago, is that fair?

>> Joe Horwedel: I do not know who the applicant was, since our records don't show whether it was a property owner or broker or specific business.

>> Councilmember Liccardo: But whoever the agent was on that property, which is now Bad Boys bail bonds, there was an application?

>> Joe Horwedel: Correct.

>> Councilmember Liccardo: I think that's importantly, because these rules have existed for a long time in the city. This is nothing new, no one is pulling the rug out under anyone's feet. I read the letter that was submitted today by Bad Boys, the representative, I believe it was Mr. Wallace. I saw the clarification ever the 2001 letter, I think that's relatively irrelevant, that they knew about these requirements at least two years before that, in 1999. I saw the complaints twice, about a lack of outreach to the bail bonds industry.

Now, I can tell you I met Jim Stanley, I gave him my card, I encouraged him to call our office so we could talk about how we could find a workable solution. I never received a call from Bad Boys Bail Bonds, Mr. Stanley, or from any of his representatives or from any lobbyist working for them. I know of course they did hire a professional lobbyist. Some folks in the audience shared with me some records about the contacts and I know they have been active talking to many of my colleagues. Remarkably, not a single time did they come to speak to me or any member of my staff. I find that remarkable that someone would

complain about a lack of outreach when no one would contact the office of the councilmember who's pushing the particular policy that they're concerned about. I just don't understand the complaint about lack of outreach in that circumstance. So I know that Bad Boys explained a concern for the timely release of people in custody. I've learned in the last 24 hours quite a bit. This morning I read in the paper that, while pretrial services make it possible to allow jail -- a person in jail to do what's called an OR release, own recognizance release, in which a people in custody doesn't have to pay any bail to be released, there has been lobbying on the part of Bad Boys bail bonds to get the county to eliminate pretrial services. So there would be no OR release. So everyone in custody would have to go to a bail bonds agent in order to get out of custody. So let's be clear about this. The same people of claiming that we are infringing upon the eighth amendment rights of people in custody are lobbying the county including the representatives of the county and the county executive to eliminate the ability of inmates to be able to be released on OR, own recognizance. Obviously there's a motivation there. If they're forced to go to bail bonds agents, the bail bonds agents make money. I don't have any problem by the way with bail bonds agents. I work in the criminal justice system. They perform a very necessary service, and they should continue to do business here in San José. I respect their good work. But what I'm challenged by is, how many bail bonds businesses operate in ways that enable people to be able to be served adequately, as I've outlined in page 2 of my memo. I just took a cursory look at a bunch of Websites to see what services people are offering. I saw a bunch of advertisements, a simple ten minute phone call will he get you approved for bonds. I see several bail bonds companies offering to make free house calls at any hour if you just call their 800 number. I see sever that offer the necessary documentation online. There are a number of opportunities to serve the community without having your office open with people walking in and out of it. And let's be clear: This isn't about an issue of people somehow or another being discriminatory in motive because they don't like a certain kind of person in their neighborhood. Many of us would not want anyone driving up, slamming car doors, coming in and out of an office if it's adjacent or very close to our own residence at 3:00 in the morning. That's a reasonable concern for anyone to have. It's not about us versus them. [applause]

>> Councilmember Liccardo: And so even if you just threw out all of the specific complaints that people have made and this is certainly not the first hearing we've had in which we've heard from members of the community and in past hearings I think we've heard much more specific complaints about problems attributed to bail bonds activities. Just any noise and activity itself is of concern to people at that hour. It should be of concern to us because as I mentioned in my memo, for well more than two decades we've had policies controlling with our hour uses around residential areas. Requiring that they have specific 300 foot requirements that the -- in terms of assuring that they're not occurring adjacent to residential areas, and a certain sensitivity obviously to residential uses. Going back to this issue of whether or not they have to be open, and we don't have to resolve this, by the way. This is something that's going to require some fact gathering for the city to go through. But in terms of this issue about whether or not they have to be open at 3:00 in the morning to serve clients, I think it's important that we look at what Bad Boys is actually advertising and perhaps if that could be played at this time. This is a 30-second commercial and we're just going to go all the way through to the second 25. And I want you to listen. This is what's advertised on television by Bad Boys. When you get the second 25, you're going to hear the words "I work it all out, with a call on the phone." I'm sorry, go ahead. ¶ Trying to get some rest Next thing I knew I was in the county jail And it never fails That the Bad Boys means bail Bad Boys bail bonds is who I call Then the courtesy and services tops them all They worked it all out with a call in the phone And before I even knew it I was free to roam Bad Boys bail bonds, thank you for the loan. Sayin' this 'cause your mama wants you home ¶

>> Councilmember Liccardo: Now I love mama, don't get me wrong, I got a couple of their tee shirts and some of their do-rags. I think they're great, and the advertising is cute. But the point of this all is, is that "I worked it all out with a call on the phone" is what they're advertising. This is what they and lots of other bail bonds representatives do, because it is more convenient for people, and they make house calls and everything. So this whole issue about how it's a crushing blow to the criminal justice system, and the eighth amendment rights, because folks may be served with house calls or over the phone rather than having ongoing commercial activity at 3:00 in the morning to me is bizarre. It seems to me that it is somewhat remarkable that you don't have a whole lot of bail bonds industries representatives here. I heard from two. And by the way, Mr. Sparacino, very legitimate concerns you expressed and I honor that. But it seems to me that we can have an honest conversation about all of this and what the real impacts are, without having to get into this whole notion that somehow or another this is all about

protecting eighth amendment rights when we know there are lots of ways to ensure that people can be released from jail. It's clear that we have much still to learn about this. I learned a lot just in the last 48 hours about this whole process. That's one reason why, I'm sorry, I deluged my council colleagues with a memo this morning, four-page memo, a lot of learning happened after I received the memo Friday night. But at this time I'd like to make a motion that's reflected in that memorandum dated today that would include the first -- I believe there are two recommendations there. And I'd ask respectfully for a second.

>> Councilmember Oliverio: Second.

>> Mayor Reed: I heard a second. Second from Councilmember Oliverio. We have a motion on the floor based on Councilmember Liccardo's memo with the two recommendations. One recommendation with two sub-parts. Okay, that's the motion on the floor. Councilmember Liccardo, were you done? Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I did want to ask a couple of questions, especially in part 2, you're saying 1A and B and 2, is that correct?

>> Councilmember Liccardo: Yes.

>> Councilmember Pyle: And in part 2, the City Manager is going to be taking on more work. And because of the crunch of the season, is this something that I think would probably have to wait, would it not?

>> City Manager Figone: I think Joe could speak to the workload issues he surfaced at rules, when the staff commented on this, the moratorium. In terms of our working with the county exec and finding enforcement and efforts there, kind of appropriate for a moratorium period. I have talked to Joe about that, and he can speak more clearly about it. But he is comfortable with a softer enforcement approach which doesn't turn its back on the neighbors' concerns. And acting county exec Gary Graves and I had already started talking about options about working together. So I'm actually comfortable with item number 2, and Joe can speak to any of the workload issues.

>> Joe Horwedel: And the staff distributed to the council should have at your seat -- or -- the clerk's office is going to distribute it. I thought that had happened already. I apologize. The -- right now we have a list of 38 ordinances that we are -- have queued up, going up on the screen right here. Today we worked through number 1 on the list, the Stevens Creek sign amendment that we have some additional work coming out of that, and later on we're going to hopefully approve number 2 and 3. For this summer we have queued up six additional ordinances that we are planning on working on. So to the extent that we are going to look at the bail bond issue, that is one that, if that is a high priority for the council, we will need to move some of these downward, down the list. These are ordinances that have come from council referrals, have come from state law requirements that we need to comply with, or things that in working with our development customers that they've identified out of the community that are things that we should account for. As you can see, about half of them are listed as hold that we will not get to until 2010 at that time earliest.

>> Councilmember Pyle: Okay, I think it's important to get that information out there because I wouldn't want false expectations that it was going to be done immediately. And then, the next one would be at -- well, I guess that would be it. So I'm going to let it go at that. I do want to ask, before we proceed, do most of the occurrences that happen, happen on the weekend? In other words, when do people get bailed out the most?

>> Joe Horwedel: That is a question that is in staff's minds also and part of the conversation with the county, that assuming that there is interest in looking at the bail bond issue, as we would like to sit down with the Department of Corrections, and actually walk through with them what a daily workload, weekly workload of the number of individuals that are bailed out, what are the type of -- the number of businesses that are involved with that, who's active, most active, least active, to get a sense of how that business really is operating, how much of that is from San José bail bond businesses. There's also a large number of bail bond businesses in the surrounding communities that are also feeding into the jail system. So getting a sense of really how big of a problem is this or not, what are the peak days versus the slow days and times, because I really don't know that right now.

>> Councilmember Pyle: Okay, and then I just have a couple of others. What is a typical process like, and perhaps Joe, we need to defer, I don't know if you've --

>> Joe Horwedel: I am very fortunate to have never had to either be bailed out or bail out someone. [Laughter]

>> Councilmember Pyle: So I just have no idea what a typically process is like, how long it takes or any of that. And I suppose that can wait. But my number one overriding question is, how did approximately 20 businesses get approval within a very small radius of -- I guess it's a couple of miles? Less than a couple of miles.

>> Joe Horwedel: Councilwoman, the bail bond use is an allowed use. So as long as it operates between 6:00 a.m. and midnight, it is allowed to move in anywhere in the City of San José without a conditional use permit or use permit. They can just move into space. Like a general retail use or office use or other personal service use we do not regulate those. The only way we regulate this use is when it is in the midnight to 6:00 a.m. The only exception is as I pointed out on the chart is for areas that are in our commercial office zoning district which are typically abutting single family neighborhoods, there it is a pure office use and you can't do personal service businesses or financial service businesses. That would be -- other than that zoning district any of our commercial districts they can move into.

>> Councilmember Pyle: So we would be in violation of good business practice if we were to limit?

>> Joe Horwedel: Not necessarily. We have a number of uses in the city that we do regulate through separation requirements. Some of those -- for a variety of reasons, we -- the one that council deals with most regularly is off-sale alcohol where we do look at space in between businesses. But there are other uses that we regulate that do have spacing criteria, typically 300 foot either from other businesses, there's also looking at residential interface for some uses, adjacency to schools or parks.

>> Councilmember Pyle: So a moratorium wouldn't necessarily be against any particular business practice?

>> Joe Horwedel: A moratorium would not be against any existing businesses. It would preclude an additional bail bonds business from locating in the City of San José when the moratorium is in place.

>> Councilmember Pyle: Okay, thank you. And then lastly, we are going through our March calendar right now and I am shocked, I met with the bail bonds group once, and if there is anything else on there I will certainly make you aware of that. But it is probably never a good idea to accuse one of the members who is going to make a decision of doing something that is inappropriate. I have not taken -- excuse me --

>> Mayor Reed: No audience participation. We've got to work this out among ourselves here.

>> Councilmember Pyle: I just don't think it's an appropriate thing to do, to make a public accusation, that one is in the back pocket of lobbyists or is taking money from lobbyists. So I just caution you, in the future, that that is not a wise thing to do. Whenever you're appealing to any kind of a group. Thank you.

>> Mayor Reed: Thank you. I have a couple of questions for the staff. First, this is one of the strangest hearings I've ever sat through. As in eight years as a council and 14 years as a Planning Commissioner, because I've heard two separate -- two separate realities. First we've heard all the neighborhood complaints and then we heard about the bail bond industry and they're not talking about the same thing. And I don't know where the facts are. I don't know where the truth is. And I do think we need to have a moratorium while we figure that out. I'm not prepared to say we should amend title 20 one way or the other because I don't yet know if it's a problem that we can resolve, or if it is a problem. There's definitely some problems. I just don't know if the problems are related to the bail bond industry. That's the mystery. But whether somebody is visiting their bail bondsman, their lawyer, their doctor, their accountant, just going to 7Eleven, if they're slamming their car door and driving around in my neighborhood next to my house at 3:00 a.m., that's a problem in a residential area. And so I think that's why we regulate things that happen after midnight. So I understand the interest in making sure we deal with some of these problems. I just can't really connect them to the bail bondsman in a way that I would say cause and effect. I think we need to find out, is why I think a moratorium is appropriate. But I had a couple of questions. First, having been a lawyer, I did work after midnight from time to time. I didn't have clients visiting my office after midnight. But if a bail bondsman wants to be in his or her office after midnight, doing paperwork, do they need a permit for that, or is it just the people coming and the going after midnight, the public part of it, that would be regulated by kinds of a permit?

>> Joe Horwedel: The regulation is related to how we implement it. It's related to open for business. So I'll use the grocery store as an example. That a grocery store that's open from 6:00 a.m. to midnight doesn't require a conditional use permit. That grocery store can be stocking shelves or cleaning the floors or the space between midnight and 6:00 a.m. That does not require conditional use permit. Office building, same sort of thing, that as an attorney in an office space, if you're working late that does not require a conditional use permit. Where the use permit has -- comes into play is when you're open for business, you're delivering services to the outside world, is when the use permit is invoked. And that is so

in the grocery store, because they had crews in there open stocking shelves, they felt it was cheap to go and open the store 24 hours, the use permit kicks in. Because they are -- the front door is unlocked, and they open for business. In case of the bail bonds business, if they're in there processing paperwork, talking to people on the phone, doing electronic transactions but the door is locked, they're not open to the outside world, then that does not trigger a conditional use permit.

They can be in there 24 hours a day. If they're going to open the front door, be open for business when they can walk in off the street, transact business at 2:00 a.m., that does require a conditional use permit.

>> Mayor Reed: Thank you. Councilmember Constant.

>> Councilmember Constant: Thank you. First, I wanted to point out that almost two months ago on March 25th I urged the Rules Committee to send this to the Public Safety, Finance and Strategic Support Committee so the things that have been talked about could have been initiated. And I think it is important whenever you are making changes or proposing changes that do you that. And I wished that the Rules Committee would have went in that direction because I think we would have avoided a lot of what's happened in the last week. I want to address some of the issues. I do believe this is a significant public safety issue. And I think that when you look at the fact that the county sheriff's department, I called them yesterday, when they have over 60,000 unserved warrants on file, active warrants, and a significant majority of them are for people who failed to appear in court, that is a serious Public Safety issue. That is something that needs to be discussed in this process and I think it's a discuss that is overdue. I think that Sam's memo that was put out today is a good step in that direction. I think there are some things that I'll be asking maybe for friendly amendments here in a moment. But I think what we're looking at also is, we've heard that this is the way it's always been, we're not changing anything. Well, I dispute that a little bit, because there's an interpretation of the code. The code's not very clear. It doesn't call out bail bonds like other establishments are. Just as we heard the analogy of the personal, how it could be interpreted as a personal service business, you can make the same analogy of how it is related to an insurance business or a financial service business, because of how the business practices are. So I think it's an interpretation issue and I think we have to look, that while the proliferation may be relatively new, the fact of bail bonds being in the City of San José and how they've operated is not new. They've been here 30-plus years. And as we know, none of them have conditional use permit, and that's why we're talking about it. So you could make the argument, 30 years ago, we interpreted that they were more of a financial services or an insurance business and that's why we didn't go out and enforce it or require that they do that. And I think those are all the discussions that we need to have. I think that it's important in the meantime, that there's a couple of things we do. And one is, and Sam, this is the first part of my friendly amendment, that because I really think this is part of the Public Safety implications, that part of this needs to go through the Public Safety committee. That's what it exists for. That is definitely something within their purview and jurisdiction and I think that, as we get this going, it should return to the city council, not only through the Planning Commission, but through the Planning Commission and the Public Safety, finance and strategic support committee. So that's my first request, is that acceptable to you?

>> Councilmember Liccardo: Let me just flesh it out a little bit. We're going to engage in some conversations with the county that I think really -- I know there's been some initial conversation that really haven't fleshed out the extent this does affect Public Safety or the operations of the jail yet. I know there's been assertions like that. When I've been pushing for explanations it hasn't borne out. They may well. Can we at least decide that at the Rules Committee? Because it seems to me, this is not obviously a Public Safety issue, it may be a Community and Economic Development issue, it may be all three, in which case we should have multiple committees scrutinizing this. .

>> Councilmember Constant: I think that would be acceptable but your memo doesn't really show it coming back to the Rules Committee. It pretty much says that it's going to the Planning Commission and come right back here. If there's a stop at Rules contemplated in item B then I think that should be specified.

>> Councilmember Liccardo: Yes, because through Planning Commission and the appropriate council committees. I just don't want to prejudge this.

>> Councilmember Constant: Okay.

>> Councilmember Liccardo: Because it seems to me I've learned a lot in the last 48 hours and we may learn more. It may get to Public Safety and everybody puts up their hands and says, why is this here.

>> Councilmember Constant: So implicit in your item B is that it would go to the Rules Committee. So can we just make that explicit, that it would?

>> Councilmember Liccardo: Sure, sure.

>> Councilmember Constant: Any proposals would return to the Rules Committee.

>> Councilmember Liccardo: Yes, yes.

>> Councilmember Constant: Okay. The second is --

>> Mayor Reed: So we have a friendly amendment there.

>> Councilmember Constant: I assume the seconder is okay.

>> Mayor Reed: Okay.

>> Councilmember Constant: The second issue I have is, quite frankly, I think we should be cautious with aggressive enforcement on businesses that have been in business 20, 30 years that we've allowed to go without a C.U.P. and there needs to be a way to not just go full bore. And I know, I think that's what you're getting at in number 2?

>> Councilmember Liccardo: It is. I'm mindful of the fact that at least for many of these businesses they didn't know, or maybe some didn't know. I don't pretend to be inside their heads. But it seems to me the city manager will be talking to the county executive, Ed, through those conversations there will be a sensible application of discretion about how we enforce.

>> Councilmember Constant: And I'm comfortable with that, as long as I just wanted to make sure that was the intent behind your motion. And I see the City Manager nodding her head.

>> City Manager Figone: I discussed that with the City Attorney as well as with Joe and it is within our discretion.

>> Councilmember Constant: Because I think in summary we're all interested in the same thing. We're just looking at it from different angles. And as I mentioned, when your memo came out, it clarifies the process significantly. And I think it gets us down the road in the right direction to get to where we need to get. With that understanding on number 2 and the slight amendment to B I can be supportive of this. And I also wanted to know, I was kind of surprised by this lobbyist graph, because I checked my calendar because as you know it's online so I was able to check it up here, and my chief of staffer's, and it's nowhere near accurate. So I suggest you go check it again.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I wanted to thank all those people here tonight and also those people that spent time writing to me regarding to this important issue. To a full disclosure, I wanted to state that I think a moratorium, posing a moratorium actually help those bail bond business, those bail bond people that are currently in business. So if I voted for a moratorium, that has nothing to do with the fact that my office has in contact with Tom Sagal, bad boy bail bonds, county supervisor Ken Yeager and county supervisor Dave Cortese. What staff thinks on the moratorium issue, I feel that moratorium is a very powerful tool that the council have. And the list of the -- you know, the council, we're constantly working on new solutions to better the life of our citizens. You can see, there's a long list of the ordinance, I don't know which one trigger a moratorium. So I'm just not very convinced that we really need a moratorium at this point. I can understand that there is some -- an ordinance issued, or enforcement of the ordinance issue, that we need to address. But going to a moratorium, I think, is to a very -- to the extreme. And also, I am concerned about the fact that we allow them to operate 24 hours, as is stated in Gary Graves, acting county exec letter, that without opening 24 hours would affect the individual's ability to return to work and potentially jeopardize the individual's employment. I don't know if anybody, Sam, maybe you can help me understand, why is this so important to have a moratorium, and where we are, you know, addressing the code enforcement issues.

>> Councilmember Liccardo: Thank you, Councilmember Chu. Allow me to explain. I think we're dealing with two separate issues. The moratorium really has nothing to do with the operation hours. If we deal with them separately, the point of the moratorium is simply to freeze in place the current situation so that we don't have an influx of more bail bonds businesses in an area which I think by everyone's admission, is pretty heavily concentrated.

So the moratorium simply goes to impact new businesses, that it says you can't bring any more, and that's a temporary moratorium while we work out this question about whether or how we want to change the ordinance. That does not affect the existing current businesses in any way. Then we go to the hours and how that might impact county operations. Obviously we still have some questions to have with the county because it's not entirely apparent today what the source of the information is for a lot of this concern, where I have in my casual review of a whole lot of Websites of these businesses along first street it appears to me there is an enormous amount of service being provided late-night, after midnight without anyone having to step foot into an office. That is, it's being provided over the phone or with a house call or people are downloading forms off of Websites. There are all kinds of ways for people to be

able to get the paperwork ready, so when the jail does open at 5:00 or 6:00 or whenever it might be, the paperwork is there. It is not of grave concern to most of those businesses because the ones that have been shut down apparently are not totally engaged in this battle as well. It seems to me mostly Bad Boys fight and we have heard from Sparacino too. If Bad Boys can keep their office open 24 hours and have an onstreet presence with people there and other offices are closed then certainly they may do better compared to those other bail bonds. For those who may show up at the jail at 2:00 in the morning, and need to go somewhere that looks like it's open, all of these businesses can continue to advertise 24-hour service, they can put out 800 numbers, and they can transact exactly however they want to, but under the current ordinance they have to get a permit if they're going to allow people to walk in and out of the front door.

>> Councilmember Chu: Would you consider a friendly amendment to have the moratorium, just on the step of first street, so if anyone else wanted to open a bail bond business somewhere else he can still, you know, it's still a legitimate business to operate?

>> Mayor Reed: Let's have the City Attorney talk about that one.

>> City Attorney Doyle: Councilmember Chu, what's on the table tonight is the council -- is the council is being asked to initiate proceedings for moratorium, which would go through the Planning Commission, and any adoption of a moratorium would not take place until the first evening meeting in August. So the moratorium itself is not on the table. It's to initiate proceedings. To answer your questions about can we narrow it to a specific area, that's something I think we need to vet through the Planning Commission. I don't have an answer for you as to how we can do that. There may be some legal restrictions. But that's something that we can at least take up and work through the Planning Commission and then come back to council in August if the council adopts this motion.

>> Councilmember Chu: Thank you for the clarification.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, and thank you everyone that came out here today, as well as the e-mails. And I read all the e-mails and had the opportunity to reflect on them. And I also appreciate the memo, Councilmember Liccardo, that you put out today. I think that it gets us more to where we all want to go. I think that really became blown out of proportion into this kind of two sides, I think we're all in the middle somewhere and I just want to make this work for the neighborhood. And make sure that we go forward in a deliberate, constructive manner and really take the time to find out what all the issues are. If there are some of these things happening in that neighborhood that don't have anything to do with the bail bonds companies, that's an issue, too, and we want to make sure that that's taken just as seriously and that we make -- you know, just some of the issues that were raised seemed to be just about general loitering or crime or so on that may or may not be related to bail bonds companies. That is an issue and when you live near a jail that is sometimes going to be an issue. And work in the criminal justice system, the reality is that there is -- there can be a benefit, I know, at least more recently, at least when I was in drug court, even when -- with folks that had very specific direction given to them, when they were released on supervised release, oftentimes judges would put bail conditions, as well. Because it certainly increased the likelihood of someone returning back to court. So that there oftentimes could be a benefit of having a bail put in there. And I've, you know -- there's also a reason why there is so many bail bonds companies next to the jail, because you do need to -- the same reason why you see a lot of criminal practice there. But actually, even a more direct reason, in that you do need to get the paperwork over to the jail. I've been in a situation sometimes where I'd have to run to a bail bonds company, get the paperwork, run back to the jail. So certainly during daytime operations, that makes more sense, to be physically closer, And then obviously, once you're physically closer, you're physically closer, you know, for the 24 hours. And so it is -- I do think there are some components if they're a Public Safety issue, and I do -- you know, as far as, again I think the newspaper really brought up issues that I think are irrelevant, unless you know, to pick and choose what issues you're going to take a look at to see who got contributions or visits and all that. The reality is that, and I believe it's probably the same for everybody up here: My door is open to everybody. And I visit and I'll meet with anybody. I've met with plenty of lobbyists where I voted against what it was that they were lobbying for. And I've met with plenty of neighbors where it's -- in fact some of the folk that spoke here today, had an open door to and have met with them on other issues. So those kinds of implications I think are not constructive. The reality is that we're all here with open ears and open doors to try our best to come to a best conclusion on the issues. I'm glad we've had this -- I'm glad this issue has been fleshed out and we can now move forward in a much more constructive manner. The -- I do have a concern, and I think Councilman Liccardo

reflected well in your memo today about the county concerns. Those are legitimate concerns that the county has, and I'm very hesitant to move forward without their feedback and sitting at the table. I'm just as concerned about moving forward without the neighbors being at the table and understanding all the neighborhood issues, as well, even beyond the bail bonds issues, but also having the bail bonds there, too, because some of the -- the fact that the bail bonds companies in general aren't going to go anywhere because the jail's there. And so some of the issues that were raised that can benefit from cooperation, for example if there are bail bonds representatives giving paraphernalia to minors, that is something that can be discussed, and it can be talked about, and say, you know what? There's something that we don't like in our neighborhood. And that's something that can be done out of cooperation and the spirit of good neighbor, and being a good neighbor, some improvements can be made. I hope ultimately at the end of the day, we get a better neighborhood, a better relationship between the businesses, the bail bonds companies, and the neighbors who live around there, and if we still have an end result which allows for people to get out of jail as quickly as they possibly can. Because I know, in the thousands of people that I've represented, that sometimes all it takes is one day, and you lose your job, or you're at risk of losing housing, and there's a major consequence to people that, although I know it's easy to demonize people that are, quote, defendants or the accused or that are locked up, oftentimes there are a lot of people in that position that they do work, and they do have jobs, and the people that usually go -- that have enough money, or have family that have money to get bail bonds, even go to bail bonds, are people that are coming, picking them up, taking them as far away as possible from the jail as possible, it's the last place they want to be. There are and can -- I'm sure there are issues, more so with folks that are being released that have nowhere else to go, that aren't bailed out, but just get straight released. And they may be addicts, they may have other issues, maybe they have mental health issues, and they're just released from the jail. And those are issues that I think that again, in cooperation with the county, with the neighborhood, with our police department, hopefully those are situations that we can cut down on so that not only do we give quality services to those that may need it because of mental health, drug addiction and other issues, but we make sure they're not hanging around in the streets, in the neighborhoods where we have obviously concerned neighbors. And so I think that this issue in discussing it will hopefully lead to the discussion of other issues that are quality-of-life issues, so that we can make sure that we ultimately, from this discussion and from this debate going forward, we ultimately create a positive dialogue with the neighbors. And at the same time, allow -- just as we allow -- as Councilmember Constant was saying, we allow some of the businesses that have been operating in a certain way for so many years to also be at the table, and say, okay, these are the reasons we need to be open this time, or for the county to say this would be a problem, and as you suggest, Councilmember Liccardo, there may be options working closer with the county of finding alternate solutions to having physical 24-hour operations, or to -- if this is going to happen, to have legitimate and adequate restrictions as part of the C.U.P. or what have you. But I agree -- I agree with the tone of the memorandum and will fully support it.

>> Mayor Reed: Councilmember Nguyen. [applause]

>> Councilmember Nguyen: Thank you. First of all, I want to thank my -- all of my four colleagues for being really bold and taking the initiative head-on. Obviously, this is a very complex issue, and like the mayor has stated, it is a little mysterious because we're hearing two sets of testimony that is entirely different. And I haven't heard anything like this before. But I just wanted to say that I am going to support the council taking the initiative to have a discussion of establishing a temporary moratorium on the new bail bond businesses simply because I think there's just too many bail bond establishments in one area. And it's unfortunate that they decided to locate a business there, but we cannot understand why. At the same time, I think it's critical to take into consideration of the testimony that we've heard today from the residents. But I'm a little concerned about what's being brought forward. Obviously, this notion that we're in the pockets of lobbyists, I resent that. Because I think that all of us here, you know, whether or not somebody made a contribution, doesn't necessarily mean that we are going to agree with them. As a matter of fact, I tend to disagree with a lot of things and a lot of people that have contributed to my campaign, especially the most recent one. So I think that as we move forward and helping us to deal with some of these hard issues, I think it's more critical for you to have direct conversation with us. I know a lot of you in the audience. You called me on my cell phone many times to talk about different issues. I hope that continues rather than making implications that we're somewhere along the line, that you know, we're being bought and sold by somebody else. But enough of that. So I think that, you know, this is a very important issue and I think that as we move forward it's really important to engage the residents, especially residents who live in this particular area, and this vicinity of the bail bond establishments, and I

hope that together we can have more productive dialogue, rather than pointing fingers at each other. Because this is a really complex issue. But I hope that as we move forward, we can take this back to the rules committee and hopefully come back to the Public Safety committee, which is the committee I chair, because I think the notions of Public Safety concerns that has been brought forward by the residents, it's really important. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just wanted to say the research has been done and my chief of staff met with Jeff Stanley from Bad Boys and Dustin Derolo on March 20th. You know, I just need to say, I was a lobbyist at one time in Sacramento. I lobbied for San José Unified School District. We somehow think a lobbyist who represents someone is an evil person. I don't think that's a valid assumption. I would also like to say that one of the reasons we meet with lobbyists is because we want to know the whole story. We have heard from the neighborhoods, feel very strong about it, we need know what the other side of the story is, as well, in order to make a sound, rational, well thought out opinion. With that I thank you mayor.

>> Mayor Reed: All right, I think that concludes council comments. We do have a motion based on Councilmember Liccardo's memo with a friendly amendment proposed by Councilmember Constant. Further discussion on that? All in favor? [ayes]

>> Mayor Reed: Opposed, none opposed, that's approved. [applause]

>> Mayor Reed: Just to remind everybody, this is not approval of a moratorium. It's to start the process for a moratorium. So there's work to be done. That concludes the afternoon agenda. Now we can start on the evening agenda. We have some land use matters to take up. First we'll have a technical fix to some of the machines here for a minute. Okay, looks like we're good to go. All right, first item to consider is item 11.1, that's on the consent calendar. Bun 11.1 (a) we want to pull for discussion, that's regarding reactivation of extensive development permits. We'll take that one first. Joe Horwedel.

>> Joe Horwedel: Thank you, Mr. Mayor. This ordinance is a response to the downturn in the economy. And staff is recommending that we be allowed to extend permits longer than currently allowed under the municipal code. Staff initially proposed two years, in looking at this a two-year extension we do think is appropriate. I do want to note two pieces of work that is coming following this. The first is related to development permits in North San José. You'll note in this ordinance we excluded North San José projects. That is as a result of the north San José policy, which excluded extensions of permits. We are coming forward to the council in several weeks with the amendments to the area developments policy for North San Jose that would allow extensions of development permits and looking at some other modifications of that policy that we had talked with council previously. Secondly, staff is also coming forward with extensions of building permit plan check. Typically most cities don't deal with that issue. We are coming forward that would allow applicants who had gone through plan check process to preserve that work, and not have to redesign it under new building codes. So the council will be seeing that before your recess also and that would allow plan checks to be reactivated if they had already expired recognizing some projects had already had expired plan checks. Staff's available for questions.

>> Mayor Reed: Thank you. I had a couple of comments and I've got a memorandum in which I recommend some modifications to the staff's initial recommendations to have the two-year extensions and to modify the north San José policy and then come back in a year to the Community and Economic Development committee to evaluate this. The reason I any we need a two-year comes out of the meetings that I head, as part of the work the staff is doing on the economic strategy update. So during the course of that I've talked to all the people who sent in letters in support of a two-year permit extension, including Sobrato Development Company, Berg & Berg, Shanehauer Company, Equity Residential, Irvine Apartment Communities, I think you've got letters from all of them in support of that. But there were many others. We had two large groups of developers, first on the commercial side, and then second on the residential side, talking about what we need to do for the economic development future over the next five years, and actually for Joint Venture Silicon Valley purposes, for a longer period of time. And during that conversation with both groups, it was pretty clear that the Real Estate industry here is in severe distress. They call it a crisis. It's about survival for most of them. Almost all of them cut way, way back. They view their investments in San José, for to be extraordinarily important to keep alive. When the economy comes back and the capital markets come back, they'll have the opportunity to move forward on the projects. If the permits expire and they have to start over, they'll probably never start again, just because of the difficulty of doing it and the difficulty in how long it takes. And just getting through the permitting and entitlement process, if you wait for the market to come back, you're too late. And nobody can

afford to do it now, so they're not going to do it. So it's likely not to happen and that's why these permit extensions are really important to keep these companies engaged. In north San José alone we have roughly 8,000 houses that have been through a permitting process. It's probably \$4 billion worth of development just in there, and then another \$1 billion or so in other areas in North San José. We want to keep those companies interested in San José, engaged in San José, and if they know they can count on those permits for at least a couple more years, they're not going to give up on us. And that was really important to them. It's difficult for them to think out five years or 25 years, because they're thinking about what they're going to do to get through this cycle with their company intact. These permits are one of the things that we can do that costs us -- there's General Fund impact, it is not really a funding issue, it really is something we can do without having to worry about it to encourage economic development. So that's why I'm recommending these changes as part of the staff's recommendation. And I think that the economy will be back and these folks will be back. We want them in San José, and this is a way to keep them connected and moving ahead. Sometime, some day soon, we're going to have more development in this city, and Joe can put all these people back to work. And these permit holders are probably the people who are going to be there first putting our people back to work. So with that, I would urge my council's support of my recommendations. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Before the meeting started, I had a 90-second conversation with a registered lobbyist, Eric Shanehauer. And actually, I asked him, like, I haven't seen you lately. Where have you been? And I think we all know the answer to that. Business has been very slow. And I think that, mayor, your memo I think is appropriate. I think that the modifications you suggest are appropriate. We all know that -- I don't think we can even overstate how tough a time it is right now for the development community. And I think that allowing for this possibility, allowing for them to -- allowing for the markets to hopefully recover in the next couple of years is the right thing to do. I think it ultimately will help us as a city to be better prepared and for the developers to be better prepared in working with us and making sure that the developments and the plans that we have in North San José, as well as the rest of the city, are followed through on in a way that can truly benefit all of us and, you know, get us out of the slump we're in. So with that, Mayor, I would like to make a motion approving the staff recommendations with the modifications that you note in your memo dated May 15th.

>> Councilmember Oliverio: Second.

>> Mayor Reed: All right, we have a motion on the floor. Councilmember Oliverio gets the second, as most enthusiastic, if not the quickest. Councilmember Constant.

>> Councilmember Constant: I'll just say it's getting late. Ditto to what Ash said.

>> Mayor Reed: Wow! Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I want to thank the mayor for your leadership and also exclude this North San José so giving me an opportunity to discuss the policy and address some other critical issues that really relate to the economic vitality of North San José area. And it's in form of disclosure, I have met with most of the developers over the last two months, to hear their concerns and their time lines, and so I met almost all the developers or their lobbyists, over the last two months.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I fully support this and thank the mayor also for his leadership. I'm assuming that the date in paragraph 2 is supposed to be 2009, is that right?

>> Mayor Reed: Yes, that is, I'm sorry, that's just a typo.

>> Councilmember Liccardo: Great, and I look forward to that --

>> Mayor Reed: Staff is fast but they're not that fast.

>> Councilmember Liccardo: Otherwise I'll just say ditto.

>> Mayor Reed: Thank you. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Joe, for example in North San José let's say in 18 months from now a developer who has an entitlement who wants to come back and modify it say the markets have really picked up in an incredible way and it's economical for me to build taller and then create a larger park which has been a lot of those North San José developments, will this allow more flexibility?

>> Joe Horwedel: This would not preclude us from moving forward with a different project. What this allows them to do is preserve the project they have that we already moved through the community process and keeps it from expiring.

>> Councilmember Oliverio: Would modification be more difficult without expiration?

>> Joe Horwedel: Because they're a PD development they're always difficult. This does not make this easier or harder.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: My question was answered, and congratulations, this is a wonderful proposal.

>> Mayor Reed: Thank you. We have one card from the public, Eric Shanehauer.

>> Good evening, Mayor Reed, members of city council. Shanehauer Company represents Equity Residential and the WTI Whites Corporation. I first apologize for making the red bar in your chart go higher. But I appreciate the staff and Mayor Reed's memo and I know Councilmember Chu's comments that he's made to us, and in public, about recognizing the dire condition that we're in. Economically, and in the credit markets. I want to give you an example of one of my clients, equity residential, we have a thousand units on Vista Montana north San José. They are the largest Real Estate Reit in the world. They own 144,000 housing units in the United States. Therefore they understand the economy of the United States very well. And they don't report to me any good news. They feel very confident that the next year, we're going to see the credit markets be bludgeoned again with default in the commercial real estate sector, like we just went through on the residential side. And so that's going to bring the banks down to their knees again. And then with regard to the general economic conditions, we're going to see sustained job loss in Silicon Valley for at least the next 12 months. And so you know, a year forward, it's all bad news. And it's going to be at least a year after that before there's any light at the end of the tunnel. And so as an investor, a major investor in the city, they've invested \$70 million to purchase the land. They own the land. They've invested \$15 million to go through the entitlement process of the city to building permits. We're very close to getting -- to being able to get building permits. So they've invested \$85 million. So this question of keeping permits alive so that they can go forward with their project is huge for someone who wants to make a major investment in our city. So I hope the direction is clear, that if it is a North San José applicant who has worked diligently to become shovel ready and made a major commitment that they deserve two years moving forward before they have to pull a permit. Thank you.

>> Mayor Reed: Thank you, that completes the public testimony. We have a motion on the floor. All in favor. [ayes]

>> Mayor Reed: Opposed? None opposed, that's approved. That concludes all of item 11.1. I think there was only one. 11.2. Okay, this is something in District 8. Councilmember Herrera is not here. I do have three cards from the public who want to speak on this item. And that is 11.2, is property at the east side of South White Road. We start with the public testimony. We have the applicant, Reyad Cutwan, and two other speakers, Bonnie Mace and Bill Eishman. The applicant gets five minutes, not required to use it all, of course, and then we'll have public testimony.

>> Good evening, Mayor my name is Riad Cutwan, and I'm the applicant. I'm a San Jose resident. I'll keep my comments very brief. I just want you to know that we are in support of the Planning Commission's recommendation, with the exception of the through street. Commissioner Jensen had asked for staff to look at perhaps putting in a through-street at the end of the cul-de-sac. This is one of the things we took into consideration when we first looked at this opportunity. And we've had some neighborhood meetings. We did quite a bit of outreach. And the overall, the neighbors were not in support of this because it would require a taking. And eminent domain to do this. So I'll just keep my -- basically I'm in support of what the -- what's before you here, and then also, Councilwoman Rose Herrera's recommendation in her memo and I'm here for any questions you may have. Thank you.

>> Mayor Reed: Okay. Bonnie Mace and Bill Eishman.

>> Bonnie Mace, president of district 8 community round table. We support this project, it's a great project. We're very interested in having a fire station in that area. It's good in terms of the fact that it's in the northern area of the Evergreen east hills development policy, an area in which we don't have as many project applications for the pool allocations. This is a great area. There are five things we're looking at as we move forward and these are the things we want you to look at tonight. The first is if the fire station option is chosen, we prefer, the neighbors would prefer if the fire station living quarters are towards Cunningham Lake Court which is where the residence is, and if the hose and the fire truck is on the other side, by the golf course. This is obviously because of noise issues. The developer has promised that he will work with the community regarding noise and setback issues. The neighborhood would prefer 20 foot setback. I know we're looking at 15 to 20. We prefer a 20 foot setback. There's also a problem with some of the pipes which are not necessarily for under traffic. Since there's going to be a new public road, we want to make sure there will be no impact on those pipes from the water district, which are immediately

adjacent to the golf course. And the other thing is to make a good interface between White Road, which is very heavily traveled, and the new street. The street will come right out onto White Road, right across from the YMCA, and Lake Cunningham Park. We just want to make sure there's a good interface there. So basically -- and also, as Riad said, the neighbors do not support the cut-through. That was one of the things that was looked at by the Planning Commission, but we do not support that either, and we hope that you will not support that as well. So thank you very much, and we hope that this will go forward preferably with a fire station. Thank you very much.

>> Mayor Reed: Bill Eichman.

>> Thank you, mayor. Also want to thank you for honoring Rose Herrera's family today. I understand it was a nice ceremony. I'm here as a District 8 community round table treasurer as well as a neighbor. I live right above that property and my wife and I have been there for 25 years and we are very excited to see this property deemed proposed this way. We'd like to see the fire station move. It's about time the fire station found a better home. We hope it would be there. The only concern we do have about this property proposal is the through-street. We heard Planning Commission when they gave their proposal to look at that, say they wanted to make sure that the grid formations were kept in place. But if you look at the property, the street above it is really a loop. And there are cul-de-sacs there and then above that, is another loop with cul-de-sacs which is where I live. So really there is no grid there. So putting a through-street there doesn't make any sense. So that's the only proposal objection we do have. But otherwise we do support this proposal so please approve it. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. Does the applicant have anything to add? That concludes the public testimony then. Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I would like to bring some talking points up that Councilmember Kalra -- Councilmember Herrera has left for me. So on behalf of her, who could not be here tonight, I move approval of Councilmember Herrera's memo. We have a second.

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

>> Councilmember Pyle: And on the motion she says that during these difficult economic times it's exciting to see a quality project moving forward. This is a good project that will bring 14 to 19 homes to the area, and fire station 21 is expected to locate on this site, at the corporationer of white road and Cunningham court. On behalf of Councilmember Herrera, I'd like to recognize Hawkstone Development for their outstanding outreach during the development process and their commitment to providing quality homes. And with that call for the vote.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: I'd like to caution the Evergreen community that a new fire station will require for us \$2.3 million for us to fund it so if you could come back for a budget session that would be great.

>> Mayor Reed: However relocation would be less expensive. That is always a possibility. We have a motion. Any further comments, no. All in favor [ayes]

>> Mayor Reed: Opposed, none opposed, that's approved. Taking us to item 11.3 which is a rezoning for demolition of structures and construction of 41 single family residential units on the West side of Lincoln avenue. All right, there is a speaker card. Councilmember Oliverio, this is your district. Want to hear the speaker first?

>> Councilmember Liccardo: Sure.

>> Mayor Reed: Okay, Andrew Whiting, applicant.

>> Thank you. And good evening. My name's Andrew Whiting. I'm here from the office of Jerome King, architects from the development. Our client Jim Jean is not a professional developer so has asked us to represent him this evening. The staff report on this is fairly detailed so I'll be brief, just to say that I'm sure the councilmembers are familiar with the continuity about design standards for each and every one of the multifamily developments that we've done within San José. Not least, the last one, Gish apartments, which we were proud to be recipients of the national AIA green building award. The design standards and specifications within that project, green or sustainable items, we would be looking to bring forward to the Lincoln avenue condominiums project, as well. Not least the learning curve of the same design team within that project, as well, we would be looking to achieve the same LEED gold certification for this project. With that I'll close and be available for any questions.

>> Mayor Reed: Let's see if there are any questions. Councilmember Oliverio.

>> Councilmember Oliverio: Just make a motion to approve this rezoning of real property on Lincoln, San Carlos with one modification that the town homes that are facing Pacific Avenue, that those do their

best attempt to blend with the existing older homes there, so therefore, no stucco, and truly separated windows.

>> Mayor Reed: All right, we have a motion. Joe Horwedel had a comment, I believe.

>> Joe Horwedel: Yes, Mr. Mayor, I forgot to make a request at the beginning of this item is that staff would ask that the current proposed cap of 1500 square feet of commercial be lifted and that it just remain with a minimum of 1,000 feet of commercial and we work at the permit stage to try to work to get more commercial as much as possible with that.

>> Councilmember Oliverio: And Joe, the difference on the 500 feet?

>> Joe Horwedel: That currently, it limits it between a thousand and 1500. And in looking at the project, we would like to see if there's ability to get a little bit more frontage of the commercial along west San Carlos street. It is one of the things we talked about during the Planning Commission hearing, that at the permit stage we want to make sure that we haven't left the opportunity to put a little bit more commercial out there.

>> Councilmember Oliverio: That's fine. And then I would also encourage the applicant that if you ever do have the opportunity to buy the check-cashing property right next there, it would be a much better project because it would square it up, versus having to build around it. And so if that ever comes back I do encourage you to come back. That's it.

>> Mayor Reed: All right, I don't know who had the second on this. Councilmember Kalra. So Councilmember Oliverio's original motion is amended with the request from Joe Horwedel to add the up -- remove the up to 1500 and put a 1,000 square foot minimum on the commercial. That is the motion, as amended. Further discussion on the motion? All in favor? Opposed? None opposed, that's approved. Our last item for the evening, before open forum, is amendment to title 20 of San José municipal code to provide for appropriate location of existing card rooms. This is one of the items coming out of the settlement litigation with the card rooms. We have no cards to speak on this from the public. We have a motion to approve. I'd just like to say that I think with this action, the council approves this, the war is over. It's been going on for ten years. And we have to begin to deal with the card rooms differently. I know the honeymoon didn't last very long, we're already on litigation on other matters. But I'm hopeful that we'll be able to have a more business like relationship instead of having to be in the courthouse ever time something doesn't go quite right. But clearly the war is over and I urge my council colleagues to support this so we can move on. All in favor? [ayes]

>> Mayor Reed: Opposed? None opposed, that's approved. Last item on our agenda for the evening is the open forum. I have no cards on open forum so we are adjourned.