

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.

Americans in need, and his belief that politics, not always a savory calling, can make a real difference. His mantra, forged in tragedy and expressed most eloquently to the Democratic national convention when he abandoned his presidential quest in 1980 was simple and ennobling. The work goes on. The cause endures. The hope still lives. And the dream shall never die. In his final speeches he explicitly handed on this mantra to President Obama. So here in San José let us honor and remember the man who so valiantly and respectfully fought for the needs of the voiceless and often neglected in our society, the poor and working class amongst us who, whether they knew it or not, had a line in their corner fighting for them. And to all of us in public service who owe an enormous debt to Senator Kennedy, a great American who would not allow the discourse of our policies drown out the core of our humanity and compassion.

>> Mayor Reed: Thank you, Councilmember Kalra. Our next item is the closed session report. City Attorney.

>> City Attorney Doyle: Mr. Mayor, members of the council, the council did meet in closed session this morning. There is no report.

>> Mayor Reed: We'll take item 3.4 first. The airport commercial paper program, tax exempt private activity non-AMT notes. We'll do the consent calendar after we get this one out of the way. I'm not sure why we're doing it so early but I'm sure there's a good reason for it.

>> City Manager Figone: There is no staff report, mayor. We're here to answer any questions.

>> Mayor Reed: Okay, are there any questions on this matter? We just need to do it out of the way so we can do some refinancing at the airport. Motion is to approve the staff recommendation. All in favor? Opposed? None opposed, that's approved. Now we'll take up the consent calendar. Are there items the council would like to pull for discussion? 2.5 regarding our banking relationships. We have a motion to approve the balance of the consent calendar. All in favor? Opposed? None opposed, that's approved. Item 2.5 has to do with our banking relationships and I had a question whether or not these two lenders are returning our phone calls on foreclosure matters. Because we'd had some problems at our one-stop center, banks just won't respond. And if we're going to be doing business with banks we'd like to at least have them return our phone calls. We did ask counsel a while back to look at adding another element in where we place our money to include cooperate with foreclosure programs. And since this is in front of us I'd like to know how well these two banks are at returning your phone calls.

>> Leslye Krutko: Mayor, Leslye Krutko, director of housing. I can't speak to Union Bank, that's something I'll have to get back to you on. Union Bank has not been one of the major lenders with a lot of the foreclosure product that we're aware of however, Wells Fargo is one of the major lenders. We have met recently with Wells Fargo on our relationship and are going to continue that. But right now, all of the banks are overwhelmed with all of these requests. So that's something we need to keep working with them on, an understanding that the situation is difficult, just because of the volume.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I appreciate you raising this issue. We have made some efforts in our office as well to reach out to individual banks. I know Wells Fargo is one of the banks here. It has been somewhat of a frustrating experience just trying to get their attention to this issue. And I'm certainly interested in working with Leslye, and tall good folks at finance to figure out if there's a way that we can at least get people into a room to move this conversation forward.

>> That's fine, and we have been working with Wells Fargo on some other issues associated with our affordable housing program, as well.

>> Councilmember Liccardo: Thanks Julia.

>> Mayor Reed: And the City Manager has a comment.

>> City Manager Figone: And I do believe we have a referral on this issue, or related to it. Maybe Julia can just comment on that.

>> Yes, and we do have an outstanding referral from June in terms of looking at our investment policy in terms of looking at ways to provide some incentives to help banks in terms of their working positively in the community. We're working closely with the housing department and hope to have something back by the end of the year to the Public Safety, Finance and Strategic Support Committee.

>> Mayor Reed: Anything else on this? We have a motion to approve. All in favor, opposed, none opposed, that's approved. That concludes the consent calendar. Next item is 3.1, report of the City Manager.

>> City Manager Figone: Mr. Mayor. I have no report for today.

>> Mayor Reed: Item number 3.2 is report of Rules and Open Government Committee for August 12th. Motion is to approve. I have one request to speak on this item, Kathy Brandhorst.

>> Yes, my name is Kathy Brandhorst, Lisa Maria Presley, Jonbenet Ramsey, John Steele, and I'm also the United States president. I have a concern with the government, and I am part of the government. And I have been sliced open, for my organs, my skin, and also, I just wanted to let you know, I know why you're all here, from Mexico.

>> Mayor Reed: Ms. Brandhorst. You're going to have to speak to the item on the agenda in front of us or I'm going to have to ask you to wait to the open forum.

>> Okay. You call it neighborhood services. Well, I was living in a motel for at least nine days, I guess it is. And I was feeling comfortable, but there has been so many things going on at the motel. We're not safe, no matter where we go, because we are U.S. born. And I don't care if I'm asleep, you are already invading my home.

>> Mayor Reed: Ms. Brandhorst, we're talking about the Rules Committee report. I'll have to ask you to wait until the open forum if you want to speak on other issues.

>> Okay.

>> Mayor Reed: You'll have to take a seat. We'll get to the open forum later in the agenda.

>> Okay, thank you.

>> Mayor Reed: On item 3.3, we have a motion to approve, all in favor, opposed, none opposed, that's approved. 3.3, report of Public Safety, Finance, and Strategic Support Committee for August 20th. Councilmember Nguyen, you're the chair.

>> Councilmember Nguyen: Yes, the minutes have been circulated. If there are no questions, I move for approval.

>> Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed. Those are approved. 3.5 is report of Rules and Open Government Committee for August 5th, 2009. Motion is to approve. All in favor? Opposed? None opposed, those are approved. Item 4.3 is request for temporary right of entry for the Ryland Mews homeowners association. We have a motion to approve. Any discussion on that? I think we have at least a card or two to speak. The additional staff report on that before we take up the public testimony.

>> City Attorney Doyle: Mr. Mayor, I just note that there is a memo in your packet. And it is sort of a unique provision under the California Civil Code that authorizes this use of eminent domain. I want to focus on the fact, though, that if the council were to allow this homeowners association to use the power, it would have to pay fair market value for the right of entry. It's subject to the court determining what that will be. So it's not as if we just automatically say you get to use property and go do it. It still has to go through -- this authorizes the homeowners association to go forward in court and prove its case and if necessary, prove the value. I also want to disclose, though, that it's come to our attention that we are actually a property owner in the Ryland Mews building. We acquired the former police auditor's condominium unit, and that is in the -- that is in the about building. So I think that's an important disclosure.

>> Mayor Reed: City Attorney, I have a question regarding some assertions that we have to do certain things before we can vest the eight -- homeowners group with any kind of authority. Are all those subject to being litigated out in an eminent domain action, or do we have to litigate before we litigate?

>> City Attorney Doyle: I'm going to ask Tom Murta to answer.

>> Is your question, will the findings that you're making be relitigated?

>> Mayor Reed: Right.

>> I don't know the answer to that.

>> Mayor Reed: Presumably they could be in an eminent domain action.

>> Right. It appears that the findings have been made there's nothing in the statute that references whether the in order to allow them to use eminent domain.

>> Mayor Reed: All right. Councilmember Chirco.

>> Councilmember Chirco: I have just a couple of questions. We have asked a lot of questions of the attorney's office. But when they talked about 22 of the 29 I believe parking spaces being taken for this project, that's a pretty significant taking. And I'd like at eminent domain as a very serious action. What are -- and then I read about parking being a very significant challenge in this area. And I didn't see anything that indicated other -- other than to take the 22 spaces and put the sealant on. What other strategies had been looked at? What were other possibilities? And why this one was selected? I mean, and also, why

was the building -- of course, this is just a rhetorical question, 12 inches from the property line? And how are we going to prevent that in the future?

>> City Attorney Doyle: The last question I can't answer and that's probably something more for planning staff. But the first issue is, we did -- staff did go out and review whether or not this was necessary. If the council were to do this one of the findings the council has to make is, and I'm looking at the memo, is that the right to enter upon the property will be exercised in a manner that provides least damage to the property or least inconvenience. In looking at this and in balance -- you need to essentially balance the rights and interest and inconvenience, relative to inconvenience to both properties. And with staff going out to determine that really the only way to do the waterproofing work was by this right of entry which does result in an inconvenience, I think in the end, that will have to be paid for. There is a value to that. The value of your lost parking spaces for the period of time that it's going to be used, and that in essence is going to have to be determined by if court. Because the parties can't agree on a price.

>> Councilmember Chirco: Well there was a letter from the attorney that arrived this morning or at least I saw it this morning that talked about the tenants that are currently in the building. And the litigation that opposite the owner to when the tenants are denied the use of the property that they have entered into a rental agreement with, is this true? And does it put the property owners at risk of litigation?

>> City Attorney Doyle: Again, I think this is something that should be covered in the form of, you know, whatever compensation would be necessary to cover any and all potential -- what's the value of the loss of parking for a period of time? I think we do know that the -- I believe it's \$1,000 a day has been requested of the Ryland Mews homeowners group. That is obviously a dollar amount they can't agree to. So whatever that dollar amount is, it would cover the loss of parking, at least through the court process. I mean, that's the whole purpose of this, is that there's a process to resolve this, at least in the form of monetary compensation. But you know, it is -- there is inconvenience nonetheless and it's not something that we've ever done before.

>> Councilmember Chirco: I also understand the Ryland homeowners association offered \$88 a day. Which is probably as ludicrous as \$1,000.

>> City Attorney Doyle: Somewhere in between there is probably the number. We normally don't get into private contract disputes. In this case, because there is a Civil Code provision that allows, when work has to get done that will protect property, in this case it's waterproofing, there is this mechanism that allows a party to go in and use eminent domain for the period of time subject to the work, subject to pain for the use of that disclosure.

>> Councilmember Chirco: Full disclosure, I'm a property owner and if this happened to me I would be a little irate, to be denied reasonable access to the property for the convenience of somebody else, probably when I have not heard any other alternative and if there are alternatives and if there are, why do these not work. And I take very seriously the city's eminent domain power, and to use it for private property ownership, when I don't know that other means have not been exhausted. And maybe I could look to Sam. Because I mean, this came to us when we were briefing on the agenda. I'm going, what is this, I haven't layered anything about it, apparently this has been around for quite a long time and I have very serious concerns about it. Four years, Nancy?

>> Mayor Reed: Councilmember Liccardo, did you have any --

>> Councilmember Liccardo: Thank you, Mayor, this has been ongoing dispute litigation involving the developer, this matter certainly predated my term here on coin. Legality me clarify. The \$88 is actually a per-day cost. Here's how they arrived at that. The homeowners association calculated \$120 per month as a space, you downtown, 2600 per month for 22 spaces. So \$88 was per day.

>> Councilmember Chirco: I got that.

>> Councilmember Liccardo: That may help.

>> Councilmember Chirco: No.

>> Councilmember Liccardo: That's quite a bit different than \$1,000 per space. It's fair to say there maybe a number in the middle. That's not our job to negotiate, that's to the privately parties. The court will look at the matter and decide what's a going rate in this area. The reason why this is necessary is you've got a question that may be potentially very sever. You've got leaks in a wall build of cinder block i've heard estimates of up to 20 years, well, this development is approaching that age. There was concern because the wall was not filled with cement properly about what this would happen if that wall collapses. There's work that needs to be done, although the developer obtained landscape easements, not maintenance easements. This had been worked out in the past but it wasn't. You have two parties, HOA and adjoining property owner. And this is an issue whether one believes they've got all the cards

because they can simply say no until a number comes high enough or another is trying to do whatever they can to try to prevent this wall from collapsing.

>> Councilmember Chirco: It gist seemed that the immediate inconvenience was all on the adjacent to property other than. And I know that this is not for us to make a ruling on. But I would be much more comforted that the Ryland Mews used 22 of their spaces so it doesn't inconvenience the businesses there. I know about businesses and their customers' businesses. I have a question for Joe, you knew this was coming.

>> Mayor Reed: Joe Horwedel, planning director.

>> Councilmember Chirco: You know in the general plan, along with Sam and Pierluigi, we are looking at densification that kind of defines what has happened up to this date. How are we going to prevent this kind of thing in the future?

>> Joe Horwedel: It is an operative question. As Councilmember Liccardo has said, as the city has built these types of buildings over the years, we've learned things along the way. Some of them, such as not using cinder block and had some real challenges. But whatever building material we build, this is something that we already deal with today. It happens around the city, we haven't got be to the state where the two parties kind of can't reach an agreement between themselves but we deal with it downtown on a regular basis where somebody needs to bring in new electrical service, their building is built on property lines. We want the buildings built on property lines because to leave five or ten feet between buildings leaves a lot of land unused to avoid this kind of problem. So it's something we've worked through. In this case, we found out about it I think it was probably six months or nine months ago, our staff was trying find some ways around it. But each party feels they have control. So that's why we're kind of thrown in the middle. But the answer back is, we try to deal with it the best we can and we try to make sure there's easements put in for long term maintenance access, we try to make sure from a construction standpoint these things are thought about. This is part of being an urban city, we're going face it.

>> Councilmember Chirco: I'd like us to find some answers sooner rather than later. And frankly from the correspondences that was attached it sounded like a case of bad neighbors, starting with Ryland Mews and now they're reaping the consequences of their bad neighbor. Good fences make for bad neighbors .

>> Joe Horwedel: Right.

>> Councilmember Chirco: I'm not totally against this. But I felt excited to talk about this, I'm concerned that we be respectful of property rights and frankly, other people's feelings. Because their feelings are the same as ours. So I will be supporting the motion. But it will not be with a great deal of comfort. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: If it could also just add, this was one of the first multifamily housing developments in the downtown. Clearly, lessons have been learned. And this is the product of, I think, clearly mistakes that have been made in the development and so forth that we would never want to repeat. I think what's important about this action is that we're not trying to set a price of what it's worth to any property owner the market and the court will sort that out. We are simply saying we need the repair of this wall to go forward because the consequences are far more severe if we do nothing.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'm going to have to use Joe Horwedel's -- once again, if you don't mind. I wanted to talk about lowest bidder, lowest most responsive. Would more scrutiny at the time that the bidder came forth have made a difference?

>> Joe Horwedel: I really can't answer that because this is a private project. So the city would not have been involved in the bidding process in putting together the specifications.

>> Councilmember Pyle: Okay? I missed that one.

>> Joe Horwedel: If it had been a public project, it would have been our specs to build to. For us to make sure of when we're thinking about development conditions we think about something like waterproofing which is not in our regulatory structure right now but it is something we should think about.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: I'm sorry, but to Sam Liccardo. I know we can't put conditions on this, it will go to a court. But what would make me feel more comfortable is if you could strongly encourage Ryland Mews to meet their neighbors half-way by allowing them to park, even to delegating -- this is an office building, it is not there nights and weekends, to strongly encourage them to give them 22 spaces as part of the compensation for using their spaces. I realize we can't make that a condition but we can certainly strongly encourage them. That would increase my comfort.

>> Councilmember Liccardo: Your point's well taken, Vice Mayor. As you say, I can't make any explicit conditions in this motion. But I'm happy to offer our office as a resource for both parties to find some additional parking resources as well. There are other developments nearby. I'm certain that not all of them are maxed out, so we can certainly help.

>> Mayor Reed: I have some requests from the public to speak on this item. We'll take that now. Please come on down towards the front so you're close to the microphone. Emily Gatfield, Michael Tarezzi and then Michael Churt.

>> Thank you, council. I'm Michael tarezzi, counsel to the due process rights with regard to all issues that are raised. But as to those issues that are raised I would like to make a couple of references. In attachment A you have my office's letter to Mr. Mertha where we lay out the grounds of the necessity. It's because of the zero lot line adjustment whereby the homeowners association in discharge of its fiduciary duties, to protect the common area, vis-a-vis waterproofing the exterior wall, has no access. That was something that was foisted upon the homeowners association whoops a log, I had the onsite manager log the parking lot he next door and you'll see the average occupancy of that parking lot is 29 spaces, barely a quarter full. In other words that parking lot historically has used approximately 26% of the available spaces. As far as meeting the homeowner halfway he isn't a charity. It is law offices on his premises. There is a history between the parties and quite frankly the association feels that it's being held hostage. It made an offer based on prime downtown parking space fair market value in a little under \$2600 a month for the 22 spaces at \$160 a month. They countered with 16,000 a month for the spaces that are 25% in use. If you could leave those spaces and leave them vacant, on average have no impairment or disruption of their park. When they rejected that number and gave us a \$60,000 take it or leave it number we proposed binding neutral evaluation. There wasn't a question that our business is going to be impaired from the owner. It was just a question of how much we were to be paid.

>> Mayor Reed: Your time is up.

>> Thank you. The bottom line is we made an offer of binding --

>> Mayor Reed: Your time is up. Emily Gatfield.

>> My name is Emily Gatfield. I'm the president of the Ryland Mews homeowners association. I would thank the council very much for taking the time to consider this matter. We as a board have a fiduciary duty to our association. Both to maintain our property, and to be good shepherds of the association's funds. We cannot accept an offer for \$60,000 per month. And we need to maintain that wall. We regret the fact that it has come to the point we need to come to you. We have tried to negotiate with our neighbor. Sorry, Ms. Chirco, I understand your points We have tried very hard to negotiate with our neighbor in a civil matter, to find some common ground. We have tried other options. And there's not much left. In terms of additional parking, Ryland Mews only has 13 visitors' spaces, including handicapped spaces. Everything else some the space belong to the individual homeowners. Additionally, we have locked gates, we're a secure community. So that would give, giving them access to those park spaces would also give them access to all of the buildings, all of everything except individual units. We really can't do that. We would love to be able to. We would love to be able to work with them and find alternate parking arrangements. And it simply is not possible. We have also looked at alternate options in terms of doing this work. We've looked at having a cherry picker or hanging platforms. Either of those would run the risk of overspray, and dropped tools and so forth, additional damage to the neighbor's property. Which --

>> Mayor Reed: I'm sorry, your time is up. I have one more speaker, Gregory charts or Charles, I can'ten tell from the handwriting.

>> Good afternoon, mayor. It's Gregory Charles, I apologize for my handwriting. I represent Greg and Cindy the property owners. Parking is a problem on first street. It's a major problem. It's such a major problem, every day, we're asking residents from Ryland Mews, to please not use our parking lot. We had to put up a fence . One of my concerns, this is what the mayor initially touched on, California section 2000, there are no case interpreting it and I'm concerned if the council makes a finding of fact today that we're going to be later bound by that finding of fact in court and if there's this greatly necessity the council needs to use before it to make that determination. You have a 2001 report. If they waited eight years to address there issue there is no great necessity to do this work. If it was a great necessity it would have been done in 2001. If you look at the letter from the person who actually went out and looked at the property, he looked at the South wall of the property. He didn't inspect the north wall of the property and the north wall of the property is the one that's adjacent to my client's property. There is no evidence before this council to make the determination of fact that it must make. Because there are no case

interpreting this matter, we may be bound I know full well that any extent lawyer on the other side would try to argue that the council made those findings of fact and we are precluded in later relitigating that issue. The resolution should be denied based on the fact that the homeowners association did not carry its burden of proof before the council today. If they want to come back and try to do it again, that's fine. But as you sit here today you have my clients who own the property, my law firm is a tenant in that property. There is another law federal that is a tenant in that property and we're going to be majorly inconvenienced, it's not about parking. It's about our clients will show up --

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

>> It may not be full today but it will be full tomorrow.

>> Mayor Reed: We did of course get letters, more than one, I think, from everybody on this which are part of our record. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just had one question for the counsel for Mr. and Mrs. Goodsell. If you could come forward, thank you. Hoping to find out on what basis the market data or otherwise do you believe that a thousand dollars per space per month is justifiable in negotiations?

>> I'll be glad to address that point. And it was something I was hitting on in my previous comment. The \$1,000 a day was a beginning of the negotiation. I think the vice mayor said, well, that number's almost as out of line as the number put forward by the homeowners association. Our concern is that they have been such a bad tenant, and they've abused my client's property rights with respect to continuously parking. They park, all the people doing work on the property work on our premises and we have to work them out.

>> Mayor Reed: Wait a minute, I think you answered your question. We don't need new testimony, have you got your question answered Councilmember Liccardo?

>> Councilmember Liccardo: I think so thank you.

>> It was an incentive to have them off the property as soon as possible.

>> Mayor Reed: That's enough. Any other questions from council, comments? city Attorney.

>> City Attorney Doyle: Mr. Mayor, I just wanted to respond briefly to one of the points raised by the neighbor's attorney. And in his letter he point out, as pointed out in our memo, the three conditions that must be present before council can pass this resolution and those are set forth in page 2 of the staff memo, one, there is a necessity to do the repair and there's great necessity to enter upon the adjacent and nearby property to do the repair and because it can't be done safely without the entry or the cost of performing it without the entry is substantially higher, the right to enter then number 2, the right to enter upon the property will be provided in the manner which annoyance to the occupants, clearly outweighs any hardship to the owner or occupant of the adjacent property. Those are the conditions you need to find. There's nothing that says that exigent circumstances nor imminent harm must be present. And then that is far beyond what the Civil Code section reads. So I just want to sort of set forth that in my opinion, the circumstances exist or the facts exist before you that allow the council to make that finding. Ultimately you have to make that decision yourself.

>> Mayor Reed: All right, we have a motion on the floor by Councilmember Liccardo. I assume the motion plates making tall findings necessary to make that motion , is that correct?

>> Councilmember Liccardo: It does contemplate all the necessary findings.

>> Mayor Reed: I have no one further to speak on the motion. All in favor, opposed, we have none opposed so that is approved with a 10-0 vote, with Councilmember Constant absent for medical reasons. That concludes that item but I guess as always the lawyers are going to get the last word and some judge will make a decision . Seems to be the way it works. All right, we will move to item 4.5, that is a rezoning of property at the west side of San Felipe road. I want to disclose that prior to this meeting my staff did talk to the applicant. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I'd like to make a motion on this item. However, I would first have some questions for staff and some comments. I'd like to thank all parties who put in time and resources into this proposed project. Especially our staff, the district 8 round table, specifically Bonnie Mace and Jim Zito, to ensure that Evergreen continues to be a beautiful place too live and work again staff is working with the community and the applicant to make sure all the community's goals are met and I want to thank the applicant who is investing significant time and money in our community and city. I also want to disclose that I have met with the complicate and with the District 8 round table in reviewing this. I had a couple of questions for Joe. Joe, can you please speaks to the past efforts and process on the riparian policy, and how it was applied to this project?

>> Joe Horwedel: Thank you, councilmember. The staff did look at the riparian corridor policy, how it applied to this property, and as you'll notice in the site plan or the aerial photo, the site has a tremendous amount of creek frontage that the property itself, the majority of it is in the creek. So the staff looked at where the riparian boundary was, how the topography sloped down to the creek. The development area on the site. And biologic report from the applicant's consultant that provided an assessment of the biologic health of the corridor and some recommendations of setback and determined that a 75-foot setback was the general number that we should work with. That at the general plan stage, we had looked actually at a smaller number and that was approved with the general plan, we said at the zoning stage we'd come back and try to make a bigger setback work. But we did that balancing test per the policy, which recognizes that there are properties like this that are very unique, have a large proportion of their side that would be devoted to the riparian corridor and that in some cases 100 foot setback would be excessive.

>> Councilmember Herrera: So you actually took it from a larger setback and were able to repair ?

>> Joe Horwedel: There are a couple of things we will look like as the applicant's final drawings come together for the building permit drawings we might be able to improve that a little bit more.

>> Councilmember Herrera: I was impressed, there would be improvements in the riparian corridor along Thompson creek. How can the city ensure that these improvements will get done? They're concerned that it's all well and good to have it in a plan but maybe along the way for whatever reason it doesn't get done. How can we assure it's going to get done?

>> Joe Horwedel: There are two things that kind of cause the improvement to happen. One thing is among the development process all the work we go through in creating those plans and working with the development and their consultant with it, I would say the development community 90, 95% of the time takes care of it without having to raise an issue that it happens. We do have a program that we have been ramping up over the last about two years related to environmental mitigation, focused on biologic mitigation, and it's something we've been working with the Audubon society and their past president on called the mitigation program. We are tracking after all projects that have biologic mitigation, we are following through the phase to make sure the potato construction monitoring phase come back through the city, our goal is to come to a council committee and report on a semi annual basis the progress of our projects. We are doing it at a staff level but we really want to go through and put sunshine on how we're doing so the community can see what's going on. And for whatever reason if a project has not fulfilled their obligations, we're proceeding through code enforcement, and through the planning enforcement process. Those projects get their improvements put in. We're working on a project right now in the Evergreen Village Center where some of the improvements didn't go in the way that they were originally approved. So we're actually working with assessment district to get those improvements done. In another case in south San José we are looking at potential licks for that applicant for getting the improvements installed that were committed to with the permits.

>> Councilmember Herrera: And I'd like you to speak to your professional opinion on the merits of this project, not just the riparian policy but what merits do you see?

>> Well, when the general plan came in staff was very exited in a good way that we had office uses coming into Evergreen that for so long we've only seen residential proposed in Evergreen. So the office wholeheartedly supported the change in zoning we think finding more opportunities for jobs in Evergreen is really critical for really the success of the community as being a complete community.

>> Councilmember Herrera: And my final question, at the PD permit substantial, what specific kinds of things can we do to take a look at -- to make sure we're as sensitive to the riparian corridor as possible?

>> Joe Horwedel: As can you see, the applicant has some office building and parking spaces near the riparian corridor. We have worked hard to get it out of the riparian corridor. There is a little corner of it that's still within that 75 foot setback. We're going to look at this piece of the site at the permit stage. As part of the parking lot we can look at the traditional pavement, instead of asphalt, whether porous payment is better habitat standpoint of keeping oils moving into the creek. We can also look at the lighting for the parking lots some that light fixtures are further away from the creek as well as right neck the street. As for the residential how staff looks at that is really thinking about the fence line that you know, we need to work from how the grades and fencing goes in those backyards. But being realistic, backyards along creeks are something that's hard to enforce, so it is something we don't look at habitat value occurring in that backyard. Homeowners are going to do, landscaping wise, what they're going to do. We try to be realistic and hence our goals will be focusing on the commercial part of this site and making sure the yards are not excessively large yards and keeping them outside the corridor as much as possible.

>> Councilmember Herrera: Thank you, Joe. Comments from city staff, community and my office and I appreciate this I think the applicants should be commended for making this investment in the community during these difficult times. The creation and expansion of jobs and businesses is not something we take lightly and as a part of that the creation of homes for our residents is also just as important requirements as requested by staff but has also gone beyond that in terms of the restoration efforts and requested setbacks. I am committed though to ensure that the riparian corridor is not only protected but also enhanced as much as possible. Which is why the direction to the staff I would like to make a motion for approval of item 4.5, an ordinance rezoning the property on the west side of San Felipe road, approximately 600 feet South of Delta road, on a 2.9 acre gross site.

>> Second.

>> Mayor Reed: We have a motion to approve. Outlined by Councilmember Herrera. Do we have some requests from the public to speak on this matter? Vice Mayor Chirco.

>> Councilmember Chirco: Yes, I want to thank Councilmember Herrera for her thoughtful memo, which was addressed a number of things. But what I would like to ask the counsel and Joe, our riparian corridor needs to be looked at. My first term on the council there was a huge pressure by the Water District that they wanted to take over land authority along our creeks and streams, up to 100 feet from bank. And one of the proposals we made the Water District to prevent that was that we would be respectful of our creeks and streams. And I can't say that we have honored that promise in the following years. Now, this does adhere to our policies and Rose has been absolutely right on and I appreciate her statement that she supports our riparian policy and wants to see improvements on it. But again, going back to the general plan work we're doing and the intensification that we're facing in the not too distant future, I find it abysmal that we continue to build so close to our riparian corridors. I will be supporting this motion. I'm not totally, but it does observe our policy. I would like those, those who are not on the council when this was a threat to our land use policy, just for the newer council to be aware, this is a very real concern. Building in the flood plane and flood insurance, that adds additional risk and cost to our community which is a very real concern to the people that buy in these areas. So just for us to be aware of it and as we look at our general plan to strengthen the minimum. Otherwise we're going to be back with the Water District and in our collaborative approach I think we've been much more effective and really had some good solution. So let's continue in this direction. I will be supporting this but if these continue to be coming forward I will seriously be thinking about not. These are the heart and lungs of our community. Thank you.

>> Mayor Reed: Take some public testimony at this time. Please come down so you're close to the microphone. Rayad cutland (saying names) .

>> Good afternoon, members of council, my name is Rayad Katwan, I'm the applicant. I'd like to start out by thanking a few members of the staff that have done an outstanding job on this, Joe. I just want you to know, Leslie Xavier, Laurel Boyd and Laurel Prevetti. I'd also like to acknowledge the leadership that Councilmember Herrera has displayed from helping us strike a balance that this project will promote . Since our last approval we have worked closely and cooperatively with the city staff and organizations to further approve our projects. We've also satisfied the needs of our immediate neighbors which was fairly important. And the that share a common property line with us. As noted by the staff report, our project complies with the City's development starts and is consistent with the riparian policy. We've taken what I would call holistic approach to the riparian corridor, as it -- as advocated by the policy, by replanting native trees, shrubs, and I assure you, I give you my personal guarantee, this is a build to suit project, I will be with my physician partners, assure that it is maintained for a period of time to ensure liveabilities on these plants. I've assured we would do this for the first five years. I have with plea Dr. Rick Hawkins. A conservation biologist who is well respected by the local state and federal agencies and do I want to help answer one of the questions. We are not in a flood plane. The engineering department and Santa Clara valley Water District have determined we are not in a flood plane. I would like to close by stating that we have a very great mixed use project with a build to suit medical office building. Medical professionals that reside in San José and have made a commitment to invest in our community. And we've also satisfied our immediate neighbors. I thank you for allowing me to speak. I very much appreciate your support and look forward to having a successful completion of this project. My physicians want to move in as soon as possible. And I'm available for any questions you may have. Thank you.

>> Mayor Reed: Thank you. I don't think we have any questions at this point. We'll take the rest of the public testimony, after having heard from the applicant, we'll now hear from others who have not had a chance to speak. Bonnie Mace (saying names).

>> Good afternoon, my name's Carla Evans, hi Rose, you're doing a great job in District 8 by the way. It's nice to see all of you. I'm Carla Evans, president of the Evergreen business and professional association. I've been in this position a couple of years and been on the board two years, and was a member long years ago. I am speaking in strong favor of this project believe the Evergreen Community needs more professionals providing services to its many residents. This project is clean, it's quiet and I believe it's well designed for the location, frankly. The developers would help the riparian land and be certainly it would be an improvement for the overgrown situation there now which is not great. Accessible to residents rather than utilizes the more trafficked area, to get places. I've lived in Evergreen 18 years now I think and I'm constantly talking to neighbors who have to leave the area to do shopping, doctors and dentists and we really, truly need better government. I would like to see us embrace clean for this community thank you.

>> Mayor Reed: Bonnie Mace, and Alf Sanford.

>> I'm Bonnie Mace. This is a crucial thing that we are interested in and this project exemplifies the project. To Joe, thank you for the answer. I'm glad you were, pervious pavers, lighting, corners of the office buildings and all the other things that could help maximum made the district 8 community round table supports this project. It's a good project in terms of the economic benefits as Carla has said. But you must remember this is a compromise project. This is a compromise in a project, between residential, commercial and riparian. It's not an ideal project. It's a 50 foot setback more or less. It's not ideal. It could be better. So at the district 8 community round tabling would like to do is recommend a staff to make it better. So do as much as you can? Understanding it's always a compromise. We also want you to renew your commitment to Thompson creek and the riparian policy and the guidelines they represent so in all these senses we thank you for listening and for hearing the community and we hope as this moves forward this will be the best possible project for all of us including the staple holders. Thank you are thank you very much.

>> Mayor Reed: Olf sandberg.

>> Reply name is Olf sandberg, I'm a resident for 25 years, pretty much of it in Evergreen. I'm a retired executive in the high tech business and today I advise cpsz barely completed the budget and went through a lot of pain. I personally know how hard it is to get any kind of project rolling with venture capital, seed money, very tight today so when we meet, entrepreneurs are willing to step up take the personal risk to create economic growth new jobs and new to the community that I live in it is our responsibility to act with urgency and passion, to help them, to insist them to review the project to give their feedback to move the project forward. I have reviewed the plans that they put forward and it's clear to me I assume from listening to you that they have gone above and beyond the requirements for the said backs working with neighborhoods and so forth. So at this pine of point after all the hard work that's gone through starting in 2007 it's clear to me that we need to move forward, seize this opportunity and create growth and job opportunities around our neighborhoods. So I there are fully support the development of this project and let this start moving forward now. Thank you.

>> Mayor Reed: That concludes the testimony on this matter. We do have a motion on the floor, from Councilmember Herrera. Any other discussion on the floor? Councilmember Kalra?

>> Councilmember Kalra: Thank you, staff. I want to thank the staff and however I just wanted to show support from some of the comments that Vice Mayor Chirco made as well as some comments from banes imre west in which vie paren corridor. So I do think that we certainly need to continue to emphasize the importance at least from a policy perspective, riparian policy to the bare minimum but try to maximize the quality of life along our creeks and waterways. and so I just wanted to show support for Vice Mayor Chirco and her sentiment while at the same time showing support for the project and along the lines of what Bonnie had indicated, if Councilmember Herrera would agree to at least to add onto the motion that statement that staff will do everything they can. And I think it's already incorporated at least within your memo. But just, if it could be reiterated, the importance of trying our best to maximize whatever opportunities we have and whatever creativity the staff and developer can use in respecting the riparian corridor.

>> Mayor Reed: Any other comments? I think not. Councilmember Herrera, did --

>> Councilmember Herrera: No, I appreciate the comments by Vice Mayor Chirco and Councilmember Kalra and that's why I have included that in the memo. But I think it is important, and I do support that. I think that -- I think this is a good project. I'm unwilling to say this is a mediocre project. I think it's a really good project. But I think that Bonnie put it very well. We have -- we had to look at the riparian policy, we're looking at economic development. We're looking at balancing things and I think we often do that in

decisions that we make up here. This in no way means that I won't be looking at trying to achieve 100% on the riparian policy and I will. I think there's just a lot of factors in this project that makes this a very good project. And I do have, in the memo here, the kind of work we'll be doing going forward in the PD zoning process. So everything is being heard and will be worked with with my office and staff. Thank you.

>> Mayor Reed: Motion on the floor is to approved. All in favor? Opposed? None opposed, that's approved. That concludes that item. Move to item 5.2. It's a proposed response to the Los Lagos golf course grand jury report.

>> Albert Balagso: Good morning, Mayor Reed, members of the council. We're here -- I'm here to provide a brief presentation on the administration's response to the grand jury report dated June 10th, 2009. The subject of the grand jury investigation is into the financing, construction and operation of the Los Lagos golf course. I'd like to summarize our concerns in this update and articulate the next steps that we would be proceeding with in the golf program. I'd like to go and do a little bit of background as to why we advanced the golf program and golf in San José in general. Particularly with Los Lagos. In the early 1990s the nation was undergoing the tiger woods effect and during that time, rounds by 2000 had increased from 11 million rounds nationally to over 14 million. And that fever had pretty much got caught up in San José. It was difficult to find a time on a golf course and residents wanted a new golf course and consequently, council supported the advancement of a new golf course in San José. With that, they formed a golf facilities task force and appointed three councilmembers to that task force. Leading towards the development of the golf course there were three feasibility studies that were conducted by the national golf foundation in 1988, 89 and reviewed by the city council and the task force, on numerous occasions. In the mid 2000s we recognized that the golf course market had -- or the golf market had changed significantly and studies were completed in 2006 by the courseco the operator of the Los Lagos to look at the financial operations and in 2000 and PRNS also conducted a operational review of the total golf course program, in 2008, and that was conducted by economic research associates. Ultimately, in 2009 it culminated with this grand jury report coming forward. I'd like to kind of give you just a highlight of the report submitted on 2010. They did submit six findings and six recommendations. And to summarize those things they infer insufficient analysis by staff as the project advanced. That the cost to deliver the project exceeded the original scope, and the decision was made by the city council to proceed, despite the construction of other golf courses that would be entering the market at the same time. Other key issues that were financial findings, similar finding of City Auditor and E ramplet in 2007, 2008 respectively and they basically called out that the revenues would not achieve full cost recovery in the near future. The -- if I can expound on those three areas. Regarding the decision making information which they, in their words, they said was inaccurate and old. The information was updated multiple times for each phase of the project, and is well documented. Throughout the development and approval process, decision information was continuously updated as recently as one month before the final council approval. With respect to the financial sustainability expel the grand jury was inaccurate in stating a policy that all financial projects will be financially sustainable. Parks, community centers, Sr. centers, we don't require those to be completely self sustaining. However, the pro formas would indeed offset all operating expenses and debt service obligation and that did not come to fruition so they're correct in that respect. The actual costs were estimated as higher, as stated by the grand jury investigation. And that is essentially true, to some extent. Particularly the original estimate for labor costs were underestimated by 33,000 hours. And they were based on industry standards, versus the actuals that were based on the fully constructed facility. And for the operator to operate it at the standards that the city required. Also, prevailing wage was not estimated correctly into the original pro forma as well. With respect to the construction cost at 31% increase over the original estimate, that is incorrect, in that the original engineer's estimate was correct. However, the 31% increase reflects the construction bidding climate at the time. So the bids came in higher. The scope was, indeed, the same. Now, in moving forward council has provided direction in the upcoming budget for golf courses to provide for themselves. A couple of ways we're looking at this is to utilize the asset strategy to review potentially opportunities with the Real Estate or the assets that we have as far as the golf coerce are, and that's the entire golf program. Also to develop a program for self-sustainability. And what we're looking at is, are there ways to reduce expenses and increase revenues. Some of the things in the item number 2 there of removing nonessential turf and reduction maintenance liabilities and try to be more cost effective, the courseco is also instituting furloughs for employees to try to cut costs as well and creating new events such as night golf. This is a glow in the dark ball that flies in the area. So if you see that in the neighborhood, it is golf, it is not a

UFO. The rancho Del pueblo agreement is also another one we're looking at. It is by council direction on a month-by-month. And we're looking if we do a longer term is there way to create efficiency. S. If there are we will return it to moo month by month. Finally to summarize, the late 1990s demand, it was -- the new golf course was driven by strong community support and council support. It was that decision that was made back then, that this was something -- an amenity that was wanted in our community. One of the things that was not estimated at the time or taken into consideration was a change in the golf economic markets. When we talk about the golf courses that were being built at the time, they were all considered high-end markets that were outside the municipal mark. Because of the down economic times, they changed their business plan and offered promotions and rates that now became competitive in the municipal market. You can go to a high-end market at off-peak times or nonprime time, and you can get rates that are similar to a municipal market. So that has cut into the bottom line. And also, just to give you an idea of who the golf courses do serve, we do have approximately 190 rounds annually through the three golf courses that the city has, Los Lagos serves up about 65,000 of those rounds. 42% of those using golf courses are seniors. Getting senior discounts. About 2 to 4% depending on the course are youth. And the rest of the diversity of the study that utilizes these coerce. And that's what led to the decisions to bring a golf course forward. That concludes my presentation. I'm available for any questions the council may have.

>> Mayor Reed: Thank you. I had a comment or question regarding the finding in recommendation number 6, dealing with land values and alternative uses. The recommendation is, the manager should provide information to the public as to proposed alternatives or solutions to the golf course deficit at Los Lagos and rancho Del pueblo, the staff report goes mostly to the report done in 2008 or so and I think the way United States laid out is a little misleading. I want to clarify it, before we send it to the grand jury report. The land value analysis that the staff was referring to is creablton land prices. And it is certainly clear if we were try to dispose of any of those properties at crealings land prices for other crealings uses they're not going to get enough money to cover the debt services. But if they were to go to other noncreation recreational uses, you could clear the debt both at rancho and Los Lagos. I think it's a statement we need to have in there so it's clear to the grand jury that on a pure economics basis there is a alternatively that doesn't show whether it's the right alternative or anything else but that's the discussion. It least I want to make it clear in here that for example, rancho is not dedicated park land, would not require a vote under the charter. And it's big enough that if you were to sell it as reasonably recent dredges land prices, you could generate enough money out of rancho to pay off both sets of debt service and build a park, a neighborhood park at rancho and clear the debt service issue. I think that just needs to be clear in here, with a little bit more information on the grand jury report. Because otherwise you have to dig through the ERA report to get that alternative consideration. While that is something the council has not considered and may never considered, we need to correct that. Am I correct ton that?

>> Albert Balagso: That's correct, what is the based on the recreational improvement, not land value.

>> Mayor Reed: Los Lagos is park land.

>> Albert Balagso: 90 of the 180 acres is park land.

>> Mayor Reed: Any other questions, Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. Albert, I had a question on how we might help the General Fund. I know there's measure P and other capital funds as well. I know measure P carries on it restrictions based on what we took to the voters. If we were to shift remaining park bond money and create a sinking fund where you would take the forgone interest and put it into a fund for future park development, along the lines that weigh all contemplated on measure P, would that be a means that we could retire the debt save the General Fund the cost and then build up something for future park development? Is that legal?

>> City Attorney Doyle: I -- on the facive it is, the first concern is using general obligation bonds to pay off debt. You're issuing debt to pay off debt. I don't know if bond funds are eligible for -- there are ways you could refund but we'd have to look at ways to do that. Especially with a G.O. bond under the California constitution. The second measure is the measure itself, as I recall upset the only project that we committed to under measure P was the happy hollow zoo.

>> Councilmember Liccardo: Right.

>> City Attorney Doyle: And otherwise you have very broad discretion. It's something we'll have to get back to you.

>> Albert, have you ever looked at that?

>> Councilmember Liccardo: I don't shift the money and then create a sinking fund over time to be able to move money back. At least it would take the stress off our General Fund and debt payments, that would be the hope.

>> City Attorney Doyle: I think we'd have to sit down with the finance department and look at the outstanding debt, what premiums, we can look at that issue.

>> Councilmember Liccardo: Thank you. I had some questions about these consultants, national golf foundation consulting. I've seen in the convention center context where we've had consultants who sort of in the industry providing projections about capital investments by cities. In that case, I think we had a consultant who repeatedly offered pretty rosy predictions to cities and found out these retained by people who wanted to expand convention centers. In this case, NGF, I'm wondering is there a similar tale to tell here? Is this consultant that is repeatedly being retained by cities, for, you know -- are we seeing -- do we know anything about the history of this consulting group or --

>> Albert Balagso: It is a nationally known group that is out there. PRNS was not part of the process in engaging them and accessing the information. So what I have available is what they did provide but they have done work extensively out there in the government community.

>> Councilmember Liccardo: All right, Albert, I'm mindful these are decisions that were made two City Managers and two councils ago. You weren't as much in the middle of things when I look at these, it's really astounding that they can underestimate labor required here in terms of personnel hours by 150%. I think that's just astounding that you can be that far off and still call yourself a consultant. At least, you know, I don't know why anyone would pay for that service if you were going to be that far off. Because I could guess just as badly. The revenues they estimated between '97 and '99. The grand jury puts this well, these revenue projections escalated enormously over a 20-month period of time. I know that was booming economy but I just can't imagine that consultants who you think would have had the longer view. More objective view who would say, let's ride the wave and go with the latest projections based on what we see as incredible growth and assume that's going to be the growth for all time. I was just really troubled by how bad the consultant recommendations were, and I don't know, you know, I know we rely on consultants from time to time. And I don't know if you have any insight about the process in terms of how we got to NGF or --

>> Albert Balagso: This is only Monday morning quarterbacking but in hindsight, if you were going to go with an outside operator, I would bring the operator in early on because that's the one that will be providing that service. Today I can say that but I don't know what the decision was back when this was brought forward.

>> Councilmember Liccardo: Okay. It appears that the repayment of debt, I'm trying to understand what the terms are of our -- I mean, our repayment terms, say, specifically on rancho Del Pueblo. It appears that it's much shorter than the useful life of the golf course, is that right?

>> Albert Balagso: That's correct.

>> Councilmember Liccardo: Certainly, bottom of page 9, where we generally ascribe to the opportunity of the asset. Is there an opportunity to refinance in a low asset world where we can reduce the strain on our General Fund, I'm sorry, Scott, I should have asked you to come down. If you could respond, I'd appreciate it, Scott.

>> Scott Johnson: Thank you, councilmember. Scott Johnson, director of financing. I think we just recently refinanced Los Lagos but we can go back and look at that .

>> Councilmember Liccardo: Thank you. I know civil grand jury reports can only present one side of the picture and not always have all the information but I frankly agree with just about everything that was in there. Because this whole thing just seemed to go South and every -- at every turn. I was really concerned about how the construction scope increased even as prices were escalating. I mean, typically we've had lots of projects here in the city. I know in '07 we talked about escalating consultant cost and we talked about scaling downward to save cost. And exactly the opposite happened. Do you have any insight in that ?

>> Albert Balagso: My understanding is the amenities that were brought on board are not are project was advancing were methods of creating more income, by creating that scope. For instance, going from a single deck to a double deck driving range. And there were other efficiencies as far as the -- how the course plantings were oiled there as well. So this is not different from what a golf course would consist of. The best I could say from what I was watching is the project was evolving . I'm not sure where it was when it went to bid. But I don't see anything in the final project that shouldn't have been there.

>> Councilmember Liccardo: Okay, well, I know hindsight is 20/20 but if I saw escalating construction costs like this, I would look for things to cut even though I did believe they should be in there. I see your point. Again, we're trying to recreate the past and you're relying on documents. Thank you, Albert, I appreciate your insight.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. I just wanted to thank staff for all your work in terms of providing the responses to the grand jury report. I have similar concerns that Councilmember Liccardo raised and I'm sure all of us up here do. And we've talked about this numerous times. But given what we have with Los Lagos golf course, to me this is a community gym. This partnered with local elementary schools as well as local organizations to provide free golf lessons and recreation opportunities in the community. And I know many of us here are not part of that conversation. What happened in terms of the what got us here today, my understanding is the golf course has been able to operate with neutrality in terms of the operational cost but it's the debt service that we're more concerned about given the fact that it has gone through a lot of hoops. About the my understanding is also that we as a council have directed the staff to conduct a study of all the city golf course and come back at a later time to have a more cohesive discussion in terms of the possibility or the feasibility of changing the land use. I think at that time we should have that discussion and we should all be ready for it actually but for what staff has done in terms of providing if response for this report I think you've done a great job and I'd like to make a motion to approve this item and move forward.

>> Second.

>> Mayor Reed: We have a motion to approve, Councilmember Nguyen, as a maker of the motion, would you include my comments with respect to include the land value issues ?

>> Councilmember Nguyen: Yes.

>> Mayor Reed: Okay, that would be included. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I want to say, I mean, I've obviously spoken on this a couple of times. I'm happy that the civil Grand Jury actually put out the report and I'm happy that the council put out the response. And I really appreciate my colleagues comments, Councilmember Liccardo, these are past duties, Albert yourself being on the stolen but the important thing is what less sops do we learn? And I think we just have to be temperate when we have this, you know, this waifs of when people want something. Whether it's a report from an interest group that's specifically trying to promote golf in the United States or some residents who want something, I think we find pain when we try to enter that private market, meaning where private entities offer the service, or amerchity, and we try to go in it. So whether it be golf courses with seven figure dollar nets or it's the Hayes mansion. Circulate we be in that business, should we own that land? And to your point, player, as you look in the economics of land, yeah, there is a value to land if it's zoned differently. And you first of all could say, is that the best use of land? I know people find value in golf because they enjoy it as a sport-hobby. But could you service more people if it was sports fields? Would we have more youth involved in athletics to stay out of trouble if those were all soccer fields for those nearly twond acres of land, the questions out there. I know there's good things that happen with first tee but is there as much you could do with vacant land? I would argue you odo more use with a different use but that said with pes if you were to sell it then it needs to be for that other purpose to be able to pay off the mortgage that we have on if land. Same thing with Hayes. You know some I don't think we should sell it is aa conference center. We should sell it as senior assisted living because that's the highest and best use and to retain the building and also to pay off the debt. So I think those are important. So I think going forward, we just need to be cognizant of decisions that we make. But at the same time, you know, I do not view this, nor do I meet many people who view that the golf course is the core deliverable of the city. It's those other things. Public safety, sewer, streets, libraries, et cetera. So I say you know, I'm going to accept the report because it's a response. You know my viewpoints on this topic. But with that said, I think, again, moving forward, that we'll -- when push comes to shove and the budget constraints hit us in 2010 and 2011 and possibly 2012 that we're going to have to make some hard choices and not make everyone happy and that might be selling of land for another use to pay off the debt and minimize the impact on if General Fund. But that day and that vote will be another afternoon. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I wanted to ask -- first of all I do concur with Councilmember Nguyen in that I think we need to talk to all of them. It's hard to take just one of them and

go from there. But I wanted to ask you a couple of questions. Will the asset management review be limited to Los Lagos or would it also include Muni and Del Pueblo?

>> Albert Balagso: It will include the entire golf program.

>> Councilmember Pyle: Okay, and then do other municipalities subsidize golf courses?

>> Albert Balagso: Yes they do, own and operate it themselves, there are a variety of ways.

>> Councilmember Pyle: So they basically outsource it?

>> Albert Balagso: Yes, those have been done.

>> Councilmember Pyle: And has the parks and rec commission weighed in on this issue?

>> Albert Balagso: Not yet. August was dedicated to their annual retreat and planning and their next meeting I believe is next week.

>> Councilmember Pyle: So at that time they can weigh in on it.

>> Albert Balagso: When we return with the final recommendations, that would be a good opportunity to bring it back then on the way to council.

>> Councilmember Pyle: Thank you. That's it.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. Albert, I think there has been a lot of discussion on this and a lot of feedback. And I'm hoping that as we move forward, there are other components. I know that we're basically just accepting the report, so that you can finalize it and send it back to the grand jury with our response. And I'm just hoping that as you move forward, and adding new information to the report, that it's accurate, and that we can justify the market rate, if we decide that we want to suggest that there's another land use opportunity. But I know that that's not the discussion that we're having right now. I also think that it's important that, as this is portion ends and it goes back to the grand jury that we know that the discussion is not going to end. And I would hope that the maker of the motion would consider that we have our eyes a little bit more on this issue. And I think it would be appropriate to have it come back to a committee. And I think that the neighborhood service and education committee, and I do chair that, I think would be an appropriate committee. It could go to another committee as well, that would serve neighborhoods, so that we could actually get reports as this moves forward in the development. And Albert, I'd like to have your feedback on it, whether you believe that that would be the appropriate checks and balances. But there needs to be another venue that it goes through for discussion before it comes to the full council.

>> Albert Balagso: Councilmember Campos, that would be at the pleasure of the council, of how they would like us to return with it. We will go back to, I believe, the parks and rec commission, that will provide one step in moving forward, and community input. If council expires, we'll come back and either form --

>> Councilmember Campos: I think it would be appropriate to go to a committee before it goes to the full council so we can flesh it out, and I hope you would suggest it.

>> I think that is a good suggestion.

>> Mayor Reed: Is that okay with the seconder?

>> Yes.

>> Mayor Reed: That will be considered in the motion.

>> Councilmember Campos: I think as a final thing, this is a discussion we've needed to have for a long time so it is fair to say that this is the prompt time and it had to come through the grand jury findings. But I want to commend staff for working very hard to respond to the grand jury's findings and I will be supporting the motion, thank you.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: A couple of things. I want us to remember that in ten years, when the grand jury chooses to investigate, the police substation and the cost overruns we will have a similar council discussing our actions. The other thing I want to mention is that in the late '90s I was part of the community that advocated for these golf courses because there was a large community voice of senior citizens most especially that could not afford to get on to these private golf courses, and we had one municipal golf course and we were much smaller then. Again I told the mayor I thank him for putting me in the general plan because it continually gives me more foundations for thought. The growth that we anticipate and kind of the recreational needs, we need to think twice and act once. I know that parks, rec and neighborhood services are looking at more active, quote, seniors. But the truth is that while you might be able to participate in an adult basketball league now, there will come a time where golf will be a legitimate exercise for our senior community. I advocated for these municipal golf courses. And to be quite candid, I hate golf. [Laughter]

>> Councilmember Chirco: But it wasn't for me that I advocated them for. It's because there were diverse interests in our community, and there is responsibility of a municipal government to just not the youth needs of sports fields and aquatic facilities, but that we look at our entire community, and meet their needs. So I support the motion that's on the floor. I think your responses were in keeping with the time. And I was there, and I remember those conversations. Now, the cost, I just want us to remember that in ten years, when the grand jury investigates the action we've taken within the last month. So I will be supporting the motion.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Very well said, Vice Mayor Chirco. But I also think when the grand jury has the discussion on the police station we'll be able to be more forthcoming and some of the things we couldn't say. Thanks.

>> Councilmember Chirco: Well, I don't disagree. I realize golf courses are something that are provided privately. But always remember, private cost can go up as quickly as they can come down. We'll be left with the same underserves populace still needing and wanting oop pps.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: I think you said it very well that we have a population that continues to grow and that's our senior population. And they may not be able to do an 18-hole, they may look to a nine-hole. So I think as we move forward in this scights that's why I think it's appropriate to go to a committee so we can flesh these ideas out. And I also think we should remember that we haven't been able to quantify how the golf courses actually improve the quality of life of our children. Like the first tee, we know there are hundreds of folks that go through that program that probably would never be introduced to this sport if it -- if they didn't have that golf course within their community. so well said, vice mayor and I agree with you on all your points.

>> Mayor Reed: I don't hate golf and I don't love golf. Love it or hate it, that's \$2 million a year, and I usually late my putter from time to time. all right, we have a request to speak, Ross Signorino.

>> Ross Signorino: Thank you, Mayor Reed, members of council. I'll make a statement, I love golf. What the grand jury said in there, San José's financial sand trap. That's a great title. I don't think even tiger woods can get out of this one. I think what you're going to have to consider here, you have Liccardo saying, that happened two council -- two councils ago, and then you have a different councilman saying, how different it was then, cost overruns, but we have the same thing with the Hayes mansion, the Mexican heritage, we go on with that. And not too long ago councilpeople who are sitting here, don't forget, the grand prix was here not so long ago. Are you blind to that too? Do we need another grand jury for that as well? Maybe we will. you sitting on this bench listening to all of this that we're thinking about getting a baseball team here? A.m., soccer too, earthquakes, that may be our major earthquake here. And then we'll have another grand jury investigating all these things. And same thing with the arena. We don't know what the arena is making for us. We know that we're making about a half a million dollars a year, but it wasn't too long ago we had to put \$9 million into the P.A. system, score board system. There went that half a million dollars there. Then you have Councilmember Oliverio ask the city council, the City Attorney said, how much are we making on the arena? And the City Attorney says, we're not allowed to look at their books! Imagine like that! And we keep raving about the arena, how much it's doing for the community and finally --

>> Mayor Reed: Sorry your time is up.

>> Ross Signorino: I knew it would be up pretty soon. Thank you, Mr. Mayor.

>> Mayor Reed: That concludes the public testimony. We have a motion on the floor. Councilmember Liccardo.

>> Councilmember Liccardo: My recollection, is it public record that we're making \$4 million a year, I didn't want the public to be misled by those comments.

>> City Attorney Doyle: That's correct.

>> Mayor Reed: We have a ploaks on the floor. all in favor, opposed, motion is approved, we will move on to our next item, 6.1 which is report of the transportation and environment committee of August 17th. Councilmember Liccardo chairs that committee.

>> Councilmember Liccardo: Mayor, the men's are in the packet. I make a motion to approve.

>> Mayor Reed: Motion is to approve the report. All in favor? Opposed? None opposed, that's approved. Item 6.2, last item of business, is an agreement for airport parking management. Bill Sherry is here. Anybody has any questions? We have a motion to approve. And a second. Got it, City Clerk? Okay. Discussion on that, I have no cards from the public to speak on that item. All in

favor? Opposed? None opposed, that's approved. That leaves the open forum. Ms. Brandhorst you had a card in to speak under the open forum .

>> My name is Kathy Brandhorst, Lisa Maria Presley, Jonbenet Ramsey and John steele. I have a couple of concerns. I was noticing on 8.1, the gaming control fees. I know the gaming is casino. and you're charging quite a bit of money for card table, 22,000. And I just wanted to let you know, some of these things that you are listing for, like, personal equipment, \$80,378. Well, you also mentioned the increase, the police department, and I just wanted to mention this. Because it pertains to the public too. Are they safe? Will they be safe in the casino? I am experienced with Reno's casinos and they were never, ever safe, so we had a lot of bills, like replacing the slot machines, replacing all the lawsuits that we had, because of people being murdered. And so I just wanted to, you know, express my concerns about this. And I also wanted to let you know, the people who run the casinos are not very probable either, they're not people who were ever hired. This is a big problem, too. When you're not hired, you steal payroll checks. Thank you.

>> Mayor Reed: Sorry, your time is up. That concludes the open forum, concludes the meeting. We're adjourned. No meeting tonight.