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SAN JOSÉ CITY COUNCIL TUESDAY, MARCH 10TH, 2009.

>> MAYOR REED: GOOD AFTERNOON, I'D LIKE TO CALL THE SAN JOSÉ CITY COUNCIL MEETING TO ORDER FOR MARCH 10TH, 2009. WE WILL START THE MEETING WITH INVOCATION. COUNCILMEMBER LICCARDO WILL INTRODUCE THE INVOCATOR.

>> COUNCILMEMBER LICCARDO: THANK YOU, MR. MAYOR, WE ARE HERE TO PRESENT AN AZTEC DANCE, AND ELIZABETH IS PART OF A DANCE TROOP CALLED TLALOC CHALCHIHUITLICUE. THAT'S COMMON SPELLING. AND SHE'S DOING THAT IN COLLABORATION WITH DAVID WHO IS WITH THE TEZKATLIPOKA AND I KNOW I MISPRONOUNCED THAT, SO I HOPE THEY'LL BE PATIENT WITH MY MISPRONUNCIATION. ESTABLISHED IN 1985. THE TLALOC CHALCHIHUITLICUE IS A SAN JOSÉ BASED AZTEC DANCE GROUP DEDICATED TO KEEPING ALIVE THE ARTS TRADITIONS AND MUSIC OF PRECOLUMBIAN MEXICO. CLOUDS, RAIN, HAIL, LIGHTNING AND THUNDER, THE LATTER NAME IS FEMALE COUNTERPART, REPRESENTING EARTHLY WATERS, OCEANS, RAINS AND DEW DROPS IN THE MORNING. PRECIOUSNESS OF WATER IS WHAT IT SYMBOLIZES. TODAY SHE IS COLLABORATING WITH THE TEZKATLIPOKA GROUP, A COMMUNITY BASED PERFORMING ARTS GROUP FOUNDED IN 1998 ALSO IN SAN JOSÉ. AND IF YOU'RE INTERESTED IN THEIR PERFORMANCES, YOU CAN JOIN ELIZABETH AND DAVID EVERY TUESDAY FROM 7:30 TO 9:30 OVER IN NORA CAMPOS' DISTRICT, AT EMMA PRUSCH PARK, WHERE THEY OFFER FREE CLASSES TO THE COMMUNITY. WELCOME, ELIZABETH AND DAVID. [DRUMS AND MUSIC]

>> THE DANCE WE'D LIKE TO SHARE WITH YOU IS A DANCE THAT IMPRESSES DUALITY. AS WE LOOK AROUND WE SEE THE VERY BEAUTIFUL FUTURE, THOSE FROM DORSETT ELEMENTARY. THEY ARE THE FUTURE, THEY ARE THE YOUNG PEOPLE OF THE COMMUNITY. SO THIS DANCE REFLECTS DUALITY BETWEEN THE YOUNG AND LET'S SAY, THE MIDDLE AGE. AND ALL THE ACCOMPLISHMENTS THAT WE HAVE SUCCEEDED AT, THEY LOOK TO US AS INSPIRATIONS AS ROLE MODELS. THIS IS THE DANCE OF THE SUN, THE DAYTIME AND THE NIGHT. THE JAGUAR IS THE KNOCK ALTERNATIVELY SPECIES, AND THE EAGLE IS FLYING HIGH. THIS SHOWS THE BALANCE IN OUR NATURE AND THE BALANCE OF OUR DAY-TO-DAY LIFE. WE WELCOME THE YOUNG PEOPLE HERE AND THE MANY FACE THAT MAKE OUR SILICON VALLEY VERY BEAUTIFUL. THANK YOU VERY MUCH. THE DANCE OF THE EAGLE AND THE JAGUAR. [¶MUSIC¶] [APPLAUSE]

>> MAYOR REED: THANK YOU. IT'S NOW TIME FOR THE PLEDGE OF ALLEGIANCE, AND WE DO HAVE SOME SECOND GRADERS FROM DORIS ELEMENTARY SCHOOL HERE. THEY'RE GOING TO HELP US WITH THE PLEDGE OF ALLEGIANCE. PLEASE STAND. [PLEDGE OF ALLEGIANCE]

>> MAYOR REED: THANK YOU, DORIS ELEMENTARY SCHOOL, SECOND GRADERS. OUR NEXT ITEM IS ORDERS OF THE DAY. WE HAVE A COUPLE OF CHANGES TO THE AGENDAS FROM THE PRINTED AGENDA. ITEM -- AGENDA FROM THE PRINTED AGENDA. ITEM 9.1 WILL BE HEARD OUT OF ORDER. WE'LL TAKE IT UP IMMEDIATELY FOLLOWING THE CEREMONIAL ITEMS. ANY OTHER CHANGES CITY MANAGER?

>> CITY MANAGER FIGONE: THANK YOU, MR. MAYOR, THE ADMINISTRATION WOULD LIKE TO DEFER 4.5, THE UPDATE ON SIDEWALK CAFES, BECAUSE WE NEED A LITTLE MORE TIME TO ISSUE A SUPPLEMENTAL MEMO.

>> MAYOR REED: ANOTHER CHANGE, WE'LL ADJOURN TODAY'S MEETING IN FAVOR OF ALFONS AL VINDASIU. COUNCILMEMBER LICCARDO.

>> COUNCILMEMBER LICCARDO: THANK YOU, MR. MAYOR. HERE TODAY, ARE AL'S WIFE ANNA, HIS DAUGHTER JULIA AND SON STEPHEN. IF I COULD ASK THEM TO STAND FOR A MOMENT. THANK YOU VERY MUCH FOR STANDING. I WANTED TO TELL JUST BRIEFLY JUST A LITTLE BIT ABOUT AL'S LIFE. HE EMIGRATED TO THE UNITED STATES, ULTIMATELY FROM LITHUANIA BY WAY OF SWEDEN AND CANADA. HE JOINED FAIRCHILD SEMICONDUCTOR WHO MANY RECOGNIZE AS BEING THE BIRTH PLACE OF MANY OF THE SILICON VALLEY MINDS. WE'VE HEARD LOTS OF STORIES ABOUT THE BOB NOYCES OF THE WORLD. CERTAINLY, AL'S STORY IS QUITE EPIC, THAT WE HEAR IN SILICON VALLEY, AL DID GREAT THINGS AS AN IMMIGRANT. HE RECEIVED SEVERAL PATENTS FOR SEMICONDUCTOR DEVICE. BUT WHY HE'S SPECIAL TO THE DOWNTOWN IS BECAUSE OF HIS COMMUNITY INVOLVEMENT IN THE MARKET-ALMADEN NEIGHBORHOOD. HE WORKED TIRELESSLY WITH SEVERAL PROJECTS IN THE NEIGHBORHOOD ADVISORY COMMISSION, E-MAILS FREQUENTLY, CALLED THE REED STREET WARRIOR BECAUSE OF HIS WORK ON UNDERGROUNDING

UTILITIES, CURB AND GUTTER IMPROVEMENTS, ALL HIS HARD WORK WITH CALTRANS. THE NEIGHBORHOOD PRESIDENT, PETE COLSTEAD IS HERE OUT OF HONOR FOR AL. HE SAID I THINK ONE OF AL'S MOST ENDEARING TRAITS WAS TO OPENLY ENJOY THE PEOPLE AROUND HIM. HE WAS WELL BELOVED IN THE ALMADEN-MARKET NEIGHBORHOOD AND THROUGHOUT THE VALLEY. FOR THAT REASON I'D ASK AND I APPRECIATE THE COUNCIL ADJOURNING THIS MEETING IN HONOR OF AL.

>> MAYOR REED: THANK YOU. ANY OTHER CHANGES UNDER ORDERS OF THE DAY? WE HAVE A MOTION TO APPROVE ORDERS OF THE DAY. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THOSE ARE APPROVED. NEXT ITEM IS THE CLOSED SESSION REPORT. CITY ATTORNEY.

>> CITY ATTORNEY DOYLE: MAYOR, MEMBERS OF THE COUNCIL, PURSUANT TO NOTICE, COUNCIL MET IN CLOSED SESSION, NO REPORT-OUT.

>> MAYOR REED: ALL RIGHT, I'LL ASK MEMBERS OF THE SAN JOSÉ TECH MUSEUM TO MEET ME AT THE LOWER PODIUM. SEEMS WE'VE GOT PETER REESE AND FRANK QUATRONE FROM THE BOARD. WE ARE GOING TO HEAR ABOUT THE LEONARDO DA VINCI EXHIBIT HERE. I'M GOING TO HOLD THE CHECK.

>> THE CHECK IS GETTING BIGGER AND BIGGER. PROBABLY NOT IN NUMBERS ON IT. I WANT TO SAY THANKS TO THE CITY OF SAN JOSÉ, REDEVELOPMENT AGENCY, THE MAYOR WHO HAS HELPED US PUT IN A REAL TRUE PARTNERSHIP THIS EXHIBITION ON LEONARDO DA VINCI TOGETHER. I'M SURE THE CITY WILL BE VERY HAPPY ABOUT THE RESULTS. ONE OF THE REAL BIGGEST RESULTS IS THIS THAT THIS JOINT VENTURE WITH TEAM SAN JOSÉ WITH THE REDEVELOPMENT AGENCY BROUGHT ABOUT -- NOT ABOUT, 170,018 VISITORS WITHIN ONE MONTH TO THE TECH MUSEUM. IN ADDITION TO THE VISITORS WE HAVE THERE NORMALLY. AND THE IMPACT THAT HAS FOR THE CITY IS PROBABLY NOT TO BE EXPRESSED IN DOLLARS, IT'S MORE EXPRESSED IN WHAT THE CITY REALLY IS DOING HERE TO BECOMING A CULTURAL CENTER BESIDES SAN FRANCISCO AND OTHER BIG CITIES. SO I THINK IT'S A REAL, REAL APPROACH TO MAKE DOWNTOWN SAN JOSE TO BE A MORE LIVELY PLACE, EVEN AT NIGHT, SINCE OUR EXHIBITIONS ARE NOT ONLY OPEN DURING THE DAY BUT IT WAS OPEN AT NIGHT. I'D LIKE TO HAND OVER TO FRANK QUATRONE, OUR CHAIRMAN, WHO BY THE WAY HAD A HUGE OPENING AT THE BEGINNING OF THE SHOW, AND NOBODY IS GOING TO FORGET THAT.

>> AND THANK YOU, MR. MAYOR, AND MEMBERS OF THE COUNCIL FOR GIVING US THIS OPPORTUNITY TO PRESENT. I'M PETER'S NUMBERS GUY. I WANT TO GO OVER A FEW STATISTICS RELATIVE TO THE SUCCESS OF THE LEONARDO SHOW IN SAN JOSÉ. BASED ON THE RESEARCH DONE BY TEAM SAN JOSÉ, WE ESTIMATE THAT NEARLY \$9 MILLION WAS PUMPED INTO THE CITY'S ECONOMY THROUGH VISITOR SPENDING AT RESTAURANTS, HOTELS AND OTHER RETAIL OUTLETS. THAT'S ON TOP OF LAST YEAR, A SIMILAR FIGURE, \$15 MILLION WAS THE IMPACT ON THE CITY FROM OUR FIRST BLOCK BUSTER EXHIBITS, BODY WORLDS. AND SO TOGETHER, BODY WORLDS AND LEONARDO HAS BROUGHT ALMOST HALF-MILLION VISITORS TO THE TECH MUSEUM AND HAS HAD A TOTAL IMPACT ON THE CITY OF SAN JOSÉ OVER THE PAST COUPLE OF YEARS OF OVER \$24 MILLION. AND SO THERE'S ONLY ONE MORE CHECK OR ONE MORE NUMBER THAT I WANT TO TALK TO YOU ABOUT, WHICH IS THE NUMBER ON THE CHECK WE'RE PRESENTING TO THE MAYOR AND THAT'S FOR \$648,783 MADE OUT TO THE REDEVELOPMENT AGENCY OF SAN JOSÉ, AND TEAM SAN JOSÉ, FOR YOUR SHARE OF THE PROCEEDS OF THE TICKET SALES FOR LEONARDO. THANK YOU VERY MUCH. [APPLAUSE]

>> MAYOR REED: I'M GOING TO HAVE TO GET A BIGGER BANK ACCOUNT TO HANDLE THESE KINDS OF CHECKS. THE ONLY REAL QUESTION I HAVE FOR PETER AND FRANK IS, HOW ARE YOU GOING TO TOP THIS? THE ANSWER WILL COME LATER. ALL RIGHT. FOR OUR NEXT ITEM, I'D LIKE TO INVITE COUNCILMEMBER NGUYEN, HARRY MAVROGENES AND MEMBERS OF AIRTRONICS TO JOIN ME AT THE PODIUM. PLEASE COME ON DOWN. AIRTRONICS IS DOING SOME GREAT LEADING WORK IN SAN JOSÉ, AND THEY HAVE A NICE MANUFACTURING FACILITY IN SAN JOSÉ. AND WE HAVE A COMMENDATION. AIRTRONICS IS A FULL SERVICE PRECISION ELECTRONICS SHEET METAL MANUFACTURING. THAT'S A PRETTY LONG TITLE. BUT WE'VE GOT STATE-OF-THE-ART COMPUTER ROBOTIC EQUIPMENT, MORE THAN 6500 SQUARE FEET OF MANUFACTURING SPACE IN SAN JOSÉ, RECOGNIZED INDUSTRY

LEADER, REPUTATION FOR INTEGRITY, QUALITY, ON TIME PRODUCTION OF CUSTOM SHEET METAL PRODUCTS. MORE IMPORTANTLY, THEY WERE LOCATED IN COUNCILMEMBER NGUYEN'S COUNCIL DISTRICT. CREATING JOBS, HELPING PEOPLE TAKE CARE OF THEIR FAMILIES AND HELPING US TO BE THE WORLD CENTER OF INNOVATION WITH THE KINDS OF PRODUCTS THAT ARE NECESSARY TO CARRY OUT THE INNOVATION THAT HAPPENS HERE. ON BEHALF OF THE CITY OF SAN JOSÉ, I WANT TO PRESENT THIS COMMENDATION. [APPLAUSE]

>> I'D LIKE TO THANK YOU MAYOR, COUNCILMEMBER NGUYEN, AND ALSO, THE REDEVELOPMENT AGENCY OF SAN JOSÉ. AIRTRONICS HAS BEEN IN EXISTENCE IN THE VALLEY FOR WELL OVER 40 YEARS, IN SAN JOSÉ FOR THE LAST 14. AND THE REDEVELOPMENT AGENCY AND SPECIFICALLY THE ENTERPRISE ZONE HAS BEEN A MAJOR BENEFIT TO AIRTRONICS. AIRTRONICS IS IN THE PROCESS OF GROWING. WE CURRENTLY EMPLOY ABOUT 70 EMPLOYEES AND WITHIN THE NEXT TWO MONTHS WE'RE GOING TO TAKE THAT UP TO OVER 90 EMPLOYEES. SO WE'D LIKE TO CONTINUE TO SUPPORT SAN JOSÉ. THANK YOU ALL, VERY MUCH. [APPLAUSE]

>> MAYOR REED: WE'RE NOW GOING TO TAKE UP AGENDA ITEM 9.1, ACTIONS RELATED TO THE ADOPTION OF A CONVENTION CENTER FACILITIES DISTRICT. WE'VE BEEN AT THIS FOR QUITE SOME TIME. MAKE SURE OUR STAFF THAT NEEDS TO BE HERE IS PRESENT, WE'RE A LITTLE BIT AHEAD OF SCHEDULE. IF STAFF'S NOT READY WE CAN TAKE UP THE CONSENT CALENDAR AND MAKE SURE ALL THE PARTICIPANTS ARE HERE.

>> PAUL KRUTKO: GOOD AFTERNOON, MAYOR AND COUNCIL, PAUL KRUTKO, CHIEF DEVELOPMENT OFFICER. WE DID NOT HAVE A PRESENTATION PLANNED FOR THIS PARTICULAR ITEM. THIS IS AN IMPLEMENTATION STAFF OF PRIOR ACTIONS THAT THE COUNCIL HAD TAKEN. AND IT IS ACTUALLY THE STEPS THAT WOULD ACTUALLY ESTABLISH THE CONVENTION CENTER'S FACILITIES DISTRICT AND ORGANIZE THE NEXT STEPS FOR AN ELECTION AMONG THOSE OWNERS OF HOTEL PROPERTIES TO SUPPORT THE DISTRICT. WE'RE PREPARED TO ANSWER ANY QUESTIONS. I THINK A LOT OF THE WORK ON THIS, HEAVY LIFTING HAS BEEN DONE BY THE CITY ATTORNEY'S OFFICE, AND IN PARTICULAR, PATTY DEGNAN. SO IF THERE ARE ANY QUESTIONS WE'RE READY TO ANSWER THEM.

>> MAYOR REED: WE HAVE A MOTION TO APPROVE. DAN FENTON IS HERE AND HE WANTS TO SPEAK. WHY DON'T WE TAKE THAT UP NOW AND AFTER THAT ANY QUESTIONS THAT ANYBODY MIGHT HAVE.

>> DAN FENTON: THANK YOU, MR. MAYOR AND COUNCIL, DAN FENTON ON BEHALF OF TEAM SAN JOSÉ. JUST WANTED TO SAY WE'RE CERTAINLY EXCITE BED THIS STEP. WE'VE WORKED VERY CLOSELY WITH A LOT OF THE HOTELS IN SAN JOSÉ AND REALLY AS PART OF THIS WILL CONTINUE TO WORK WITH ALL THE HOTELS THROUGHOUT THE CITY TO MAKE SURE THAT WE HAVE A GOOD OPPORTUNITY TO TALK ABOUT THE BENEFITS OF THE CONVENTION CENTER AND WHY IT IS IMPORTANT FOR THE FUTURE OF OUR ECONOMY AND THE FUTURE OF OUR INDUSTRY. JUST WANTED TO CERTAINLY URGE SUPPORT, AND THANKS FOR TAKING THIS UP.

>> MAYOR REED: OKAY, LET'S SEE IF WE HAVE SOME QUESTIONS FOR EITHER YOU OR FOR OTHER STAFF. COUNCILMEMBER LICCARDO.

>> COUNCILMEMBER LICCARDO: THANK YOU, MAYOR. DAN, I'M SORRY TO CALL YOU BACK DOWN. JUST A QUICK QUESTION. WE RECEIVED A LETTER FROM MR. PATEL. I ASSUME YOU ALSO RECEIVED THAT LETTER. I UNDERSTAND HE HAS A MOTEL THAT IS DOWN ON MONTEREY ROAD, PRESUMABLY GUESSING FROM THE ADDRESS THAT IT'S QUITE A WAYS FROM THE CONVENTION CENTER. IS THERE ANY EVIDENCE THAT SOME OF THESE MOTELS AND HOTELS THAT ARE FARTHER FROM LOCATION ACTUALLY WILL BENEFIT FROM THIS PROJECT? CAN YOU DESCRIBE THAT SOMEHOW?

>> DAN FENTON: SURE. A COUPLE OF THINGS HERE. ONE, LET ME STATE A COUPLE OF THINGS PART OF THIS CAMPAIGN BEFORE I ANSWER THAT QUESTION QUICKLY, AND THAT IS AS PART OF TODAY'S MOTION WE WILL BE THEN MORE FORMALLY, GOING TO EVERY PROPERTY IN SAN JOSÉ AND TALKING ABOUT THIS ISSUE FURTHER. THIS PARTICULAR PROPERTY IS A WONDERFUL PART OF OUR CITY. WE HAVEN'T HAD A CHANCE TO TALK TO EVERY PROPERTY IN SAN JOSÉ, I WANT YOU TO BE ASSURED WE'RE GOING TO DO THAT. SECONDARILY, IF YOU WERE TO LOOK AT VIRTUALLY EVERY PROPERTY IN SAN JOSÉ, MONITOR THEM DURING THE TIME THERE IS A BIG CONVENTION IN OR WHEN THEY'RE

THROUGH THE CONVENTION CENTER AND THE GENERAL WORK THAT WE DO, THERE IS WHAT WE CALL CONVENTION AND ROOM NIGHTS THAT ARE MOVED INTO SAN JOSÉ. YOU CAN SEE FLUCTUATIONS IN OCCUPANCY WITHIN MANY PROPERTIES WITHIN SAN JOSÉ, BASED ON HOW BUSY WE ARE AT THE CITY, PERIOD. SO THERE ARE A LOT OF DIRECT AND INDIRECT BENEFITS TO MANY PROPERTIES BASED ON ACTIVITY LEVEL AND ABILITY OF US TO DELIVER ROOM NIGHTS THROUGH THE CONVENTION CENTER.

>> PAUL KRUTKO: COUNCILMEMBER, IF I COULD ALSO AMPLIFY WITH DAN, AND SPUR SOMETHING FOR HIM TO RESPOND TO, WE ALSO KNOW THAT THE PEOPLE THAT ARE ACTIVELY PUTTING ON SHOWS, THROUGH THE CONVENTION CENTER PROGRAM WHO MAY BE A SALESPERSON THROUGH THAT, MANY TIMES THEY CHOOSE TO LOCATE THEIR STAY AT A LESS EXPENSIVE LOCATION OUTSIDE DOWNTOWN. AND WE DO TRACK -- I THINK IN THE NUMBERS THAT WE SHARE WITH EACH OTHER, WE TRACK SEPARATELY HOW MANY PEOPLE ARE INVOLVED IN THAT, WHAT THEIR SPENDING PATTERNS ARE. BUT WE DO KNOW THAT THEY WILL LOCATE OUTSIDE THE DOWNTOWN, SO --

>> DAN FENTON: DIFFERENT TYPES OF EVENTS HAVE DIFFERENT IMPACTS. AS PAUL MENTIONED, OFTENTIMES IF YOU'RE A SUPPLIER TO AN EVENT YOU MAY BE STAYING LONGER AND SO YOU MAY STAY AT A HOTEL THAT'S FURTHER OUT OR DIFFERENT PROPERTIES. THERE ARE ALL SORTS OF WAYS THAT THE HOTEL COMMUNITY GETS IMPACTED THROUGH THIS.

>> COUNCILMEMBER LICCARDO: THANKS, DAN. AND THEN QUESTIONS FOR PAUL. THE LAST PAGE OF THE WILBURN REPORT, I THINK IT'S EXHIBIT D, IF YOU LOOK AT THE BACK THERE, IT DESCRIBES THE DIFFERENT COST ESTIMATES FOR DIFFERENT ITEMS LISTED UNDER HARD AND SOFT COSTS. WELL, REALLY THE ONLY PORTION OF THE SOFT COST, AND PUBLIC ART IS LISTED AT \$4 MILLION. I WAS WONDERING HOW WE GOT TO \$4 MILLION. MY UNDERSTANDING WAS, THERE WAS EITHER A 1% OR 2% FOR PUBLIC ART, AND THAT SEEMS LIKE SOMETHING OF A HYBRID. AND I'M SORRY, BECAUSE I DIDN'T GIVE YOU ANY HEADS-UP ABOUT THIS QUESTION.

>> PAUL KRUTKO: PROBABLY REALLY A BILL EKERN QUESTION. THIS WAS A COST THAT WAS PRODUCED BY --

>> COUNCILMEMBER LICCARDO: GOOD POINT. BILL, DO YOU HAVE ANY IDEA?

>> BILL EKERN: THANK YOU, MR. MAYOR, MEMBERS OF THE CITY COUNCIL. EXCUSE ME. THE \$4 MILLION IS BASED ON TREATING THIS AS A REDEVELOPMENT AGENCY PROJECT BUT ROUGHLY \$200 MILLION CONSTRUCTION BUDGET. AND SO WE TOOK 2% OF THAT BASED ON THE COUNCIL'S ADOPTED POLICY FOR PUBLIC ART.

>> COUNCILMEMBER LICCARDO: OKAY. SO THE 100 MILLION OF REHAB IS EXCLUDED FROM THAT, IS THAT THE IDEA?

>> BILL EKERN: MOST OF THE 100 MILLION GOES INTO OTHER SOFT COSTS AND OTHER COSTS OVERALL. WHEN WE WERE SETTING UP THE PUBLIC ART BUDGET WE SPLIT IT UP THAT WAY.

>> COUNCILMEMBER LICCARDO: THANKS A LOT.

>> MAYOR REED: COUNCILMEMBER KALRA.

>> COUNCILMEMBER KALRA: THANK YOU, MAYOR. I HAVE SOME OF THE SAME CONCERNS AS COUNCILMEMBER LICCARDO. THE LETTER FROM MR. PATEL IS ACTUALLY WELL WRITTEN AND STATES THE POSITION RELATIVELY WELL OF A LOT OF THE SMALLER PROPERTY OWNERS, AND THE FURTHER YOU GET AWAY FROM DOWNTOWN, AND I DO HAVE A CONCERN THAT BY LEVYING A FEE, IT'S GOING TO BE EITHER A FEE AGAINST A PROPERTY OWNER THAT DOESN'T BENEFIT AT ALL OR THAT BENEFITS MINIMALLY AND THE FEE WILL BE APPLIED TO ALL OF THE RESIDENTS OF THAT PARTICULAR HOTEL. AND THERE ARE SOME -- AND I THINK THAT TO JUST HAVE A ZONE 1 AND ZONE 2, DOES THAT REALLY HAVE ENOUGH SPECIFICITY? THE REASON I BRING THAT UP IS BECAUSE OF HOTELS AND MOTELS, CERTAINLY I CAN JUST ON THE SURFACE UNDERSTAND THAT IN SOUTH SAN JOSÉ WE HAVE A HOLIDAY AND PROBABLY ONE OF THE FURTHEST POINTS YOU CAN GET FROM THE CONVENTION CENTER IN THE CITY. BUT I CAN UNDERSTAND BECAUSE THAT'S A HOLIDAY INN. IF THERE IS A MAJOR CONVENTION THERE COULD BE AN UPTICK HOWEVER SLIGHT OF ROOM RESERVATIONS. ALONG THE MONTEREY, THERE ARE A LOT OF HOTELS THAT DON'T BENEFIT FROM THE INTERNET OR CONVENTION CENTER. DO THEY REALLY BENEFIT? IS

THERE DATA THAT CURRENTLY EXISTS THAT CAN TELL US IN? DO WE HAVE A SITE BY SITE DATA?

>> DAN FENTON: COUNCILMEMBER KALRA, ONE OF THE CHALLENGES THERE IS WE DON'T ALWAYS GET ALL OF THAT DATA BACK FROM GROUPS. WE CERTAINLY, AS PAUL MENTIONED, WE REALLY DO HAVE -- CALL IT ANECDOTAL DATA AS IT RELATES TO TYPES OF PLACES OF SERVICE CONVENTIONS OR DIFFERENT TYPES OF CONVENTIONS WILL STAY. AND THERE IS A BROAD TYPE OF PROPERTY THAT PEOPLE THAT COCK TO THE CONVENTION CENTER STAY IN. SO WE CLEARLY COULD DEMONSTRATE THE FACT THAT FROM THE, FOR LACK OF BETTER TERM THE LARGEST FULL SERVICE PROPERTIES TO SOME OF THE SMALLEST LIMITED SERVICE PROPERTIES, WE CAN DEMONSTRATE ANECDOTALLY, THAT THESE WILL STAY IN A MYRIAD TYPES OF PROPERTIES THROUGHOUT SAN JOSÉ.

>> COUNCILMEMBER KALRA: WHEN YOU SAY MYRIAD, THAT COULD HAPPEN OUTSIDE THE DOWNTOWN AREA, ROADWAY INN OR OTHERS, THAT MIGHT WANT TO GET A CHEAPER WAY. IN MY DISTRICT 7 THERE ARE HOTELS THAT HIGHLY DOUBT ARE BEING USED BY CONVENTIONEERS. IS IT FAIR TO TREAT ALL THOSE ESTABLISHMENTS THE SAME? AND IT MAY BE. THAT'S KINDS OF WHERE I'M GOING WITH THE QUESTION.

>> DAN FENTON: IT'S A GREAT QUESTION. AND WE AS PART OF THIS CAMPAIGN AND REALLY, THIS CAMPAIGN IS STILL IN ITS EARLY STAGES. AND AS PART OF THIS CAMPAIGN, ONE OF THE THINGS WE HAVE DONE AND CONTINUE TO DO IS WORK VERY CLOSELY WITH ALL THOSE PROPERTIES AS PART OF THIS PROCESS. SO WE CERTAINLY DON'T WANT TO DIMINISH THE NEED TO CONTINUE THE COMMUNICATION THERE AS PART OF WHAT WE'RE TALKING ABOUT TODAY. BUT JUST TO TALK A LITTLE BIT ABOUT HOW WE LOOKED AT THIS POSSIBILITY FOR PROPERTIES THAT ARE FURTHER OUT, AND THEY WOULD GRADUALLY MOVE UP TO THIS 14% POINT WE'RE TALKING ABOUT, AND WE LOOKED AT OTHER DESTINATIONS CITYWIDE, WHEN WE LOOKED AT OTHER DESTINATIONS, WE WEREN'T LOOKING AT JUST FULL SERVICE HOTELS, WE WERE LOOKING AT OTHER DESTINATIONS CITYWIDE. FOR TRAVELERS IN DESTINATIONS THROUGHOUT THE UNITED STATES IS A COMMON LEVEL. SO THIS IS NOT SOMETHING THAT A TRAVELER IN PORTLAND, OREGON OR A TRAVELER IN DENVER, COLORADO, THEY'RE USED TO SEEING 14% HOTEL TAX WHEN THEY PAY THEIR BILL. SO THIS IS NOT A NUMBER THAT A TRAVELER'S NOT USED TO SEEING AND WE REALLY TOOK THAT INTO CONSIDERATION BECAUSE WE THINK THAT'S AN IMPORTANT COMPETITIVE ISSUE AS IT RELATES TO SAN JOSÉ, PERIOD.

>> COUNCILMEMBER KALRA: I GUESS I CAN UNDERSTAND THAT. BUT THESE SMALLER HOTELS MAY FIND IT MORE CHALLENGING TO COMPETE WITH BIGGER NAMES, EVEN THE MODESTLY PRICED LARGER CHAIN HOTELS, I CAN SEE WHERE THEIR CONCERN WOULD BE, EVEN IN AN EQUAL INCREASE IN THE RATES. AND THE OTHER THING IS THAT SOME THESE MOTELS ARE ESSENTIALLY TREATED AS LIVING ARRANGEMENTS FOR BOTH. SO EXTENDED STAYS TO ACTUAL PERMANENT RESIDENCES FOR LOWER INCOME PEOPLE WHO CANNOT AFFORD ANY OTHER ARRANGEMENTS FOR THE TIME BEING.

>> DAN FENTON: LET ME ASK SCOTT JOHNSON -- WE HAVE DETERMINED THAT WE WILL MIRROR THE DISTRICT, AS WE DO WITH TRANSIENT OCCUPANCY TAX. IN THAT PRACTICE IF YOU STAY OVER 30 DAYS IN A ROOM THEN YOU BECOME EXEMPT FROM THE TRANSIENT OCCUPANCY TAX AROUND THEREFORE, FROM THIS TAX ALSO. WE ARE GOING TO MIRROR ALL TAXES IN TERMS OF HOW WE TREAT EXTENDED STAY. THAT'S AN IMPORTANT PIECE BECAUSE WE HAVE MET WITH A LOT OF EXTENDED STAY HOTELS WHERE THEY ARE CATERING TO PEOPLE WHO STAY LONGER. BY THE WAY A VERY IMPORTANT SEGMENT OF OUR INDUSTRY AND THAT WILL ALL BE TREATED THE SAME. SO THOSE WILL BE TAX EXEMPT ROOMS BASICALLY ONCE YOU GET PAST DAY 36.

>> COUNCILMEMBER KALRA: IN THE WAY IT'S BEING IMPLEMENTED IF YOU WERE TO FALL ALONG WITH THE RECOMMENDATION AND THE MOTION RIGHT NOW, ADOPTING THE RESOLUTION TO ESTABLISH THE PROFESSIONAL TAXES BY THE -- RIGHT NOW, WOULD THAT BE -- IT'S SUBMITTING THE AUTHORIZATION, WHEN WOULD IT ACTUALLY -- WHAT IS A TIME LINE? IS IT STARTING JUST WITH ZONE 1, ARE WE TALKING ABOUT CITYWIDE OR IS THIS SOMETHING WE'RE GOING TO BUILD UP TO?

>> DAN FENTON: JUST TO TALK A LITTLE BIT ABOUT THE DIFFERENCE IN THE TWO ZONES YOU SEE, WITH WHAT WE ARE CALLING ZONE 2, WHAT WE'RE PROPOSING IS A MORE

GRADUATED APPROACH TO GETTING TO THE ADDITIONAL 4%. BUT AS SOON AS THE ELECTION IS COMPLETE AND I'LL LET PATTY OR PAUL SPEAK TO THIS, THERE IS A RELATIVELY SHORT PERIOD OF TIME.

>> PAUL KRUTKO: DAN, IT IS MY UNDERSTANDING WE WOULD START COLLECTING THE TAX SHORTLY AFTER JULY 1ST, THAT'S THE GAME PLAN. I WOULD WANT TO ADD FOR THE COUNCIL'S CONSIDERATION AND THE DIALOGUE THAT COUNCIL IS HAVING WITH MR. FENTON, THE FIRST IS AS THIS PLAN EVOLVED, WE BECAME VERY CONCERNED THAT WE WOULD HAVE SUFFICIENT REVENUE STREAMS TO BE ABLE TO SUPPORT THE CONSTRUCTION PROGRAM THAT WAS DEVELOPED. AND YOU'LL RECALL WE CAME BACK AND THERE WAS A COMMITMENT BY THE HOTEL COMMUNITY TO, A, IN THE DOWNTOWN, WE WERE ALWAYS ON A PHASED IN SCHEDULE THROUGHOUT THE CITY. WE NOTED THAT THERE WAS INSUFFICIENT REVENUES TO SUPPORT THE BOND WE WERE LOOKING FOR, AND SO THE CORE, THE INNER RING AREA, AGREED TO BEGIN TO COLLECT THE 4% IMMEDIATELY. THEY AGREED TO COLLECT THE 4%, AS I SAID, RIGHT AWAY AFTER JULY 1ST. ANOTHER IMPORTANT CONSIDERATION I THINK, AS THE COUNCIL THINKS ABOUT THIS FINANCING DISTRICT, IS THAT IT ALSO LOOKS TO THE FUTURE AND RECOGNIZES THAT ALL AND ANY NEW HOTELS THAT WOULD COME INTO THE CITY, OR HOTELS THAT WOULD EXPAND, WOULD BE TREATED UNDER THIS NEW FEE BASIS TO BE A PART OF THAT SYSTEM. AS WE, AGAIN, LOOKED AT THE FINANCING, WE WERE CONCERNED, AND WHAT'S INCLUDED IN THIS PACKAGE IS WHAT'S CALLED THE BLINKER TAX, WHICH WOULD PUT ON AN ADDITIONAL 5% IF THERE WASN'T SUFFICIENT REVENUES. BUT EVEN WITH THAT, WHEN WE PRESENTED TO THE COUNCIL AT FEBRUARY, THE CONCERN WE HAD WAS THAT WE MAY HAVE TO SCALE BACK THE PROGRAM AND DEFER SIGNIFICANT PARTS OF THE CONSTRUCTION, ESPECIALLY THINGS THAT ARE NEEDED IN THE MAIN BUILDING, UNTIL LATER IN THE FUTURE WHEN THERE'S AN OPPORTUNITY FOR REVENUES TO BUILD UP. SO THE POINT I GUESS I'M TRYING TO MAKE IS THAT WE SHOWED YOU THAT DEPENDING UPON ECONOMIC CONDITIONS, WE MIGHT RAISE FROM 80 MILLION TO 110 MILLION, TO BE MATCHED BY THE AGENCY. WE'D BE HAVING TO DEFER WORK. SO THE REVENUE, IF WE BEGIN TO TAKE HOTELS OUT OF THE MIX, THAT MEANS WE WILL GENERATE LESS REVENUES, AND THE RULE OF THUMB IS FOR EVERY DOLLAR WE DON'T RECEIVE, THAT'S ABOUT \$10 WORTH OF WORK THAT WE'LL BE ABLE TO DO. SO THE SYSTEM WE HAVE RIGHT NOW IS BASED UPON ALL OF THE HOTELS IN THE CITY BEING A PART OF SUPPORTING FINANCING THE PROJECT.

>> COUNCILMEMBER KALRA: AND I UNDERSTAND AND ACTUALLY APPRECIATE THE PREVIOUS PRESENTATION. IS IT EQUITABLE, THE FURTHER WE GET AWAY FROM DOWNTOWN? IT IS MY UNDERSTANDING, THE WAY I READ IT WAS -- AND I THINK PAUL YOU JUST REFERRED TO JULY 1ST IS WHEN IT WAS AGAIN TO BEGIN THE PHASE-IN BUT THAT IS A PHASE-IN CITYWIDE, CORRECT?

>> PAUL KRUTKO: THAT'S CORRECT.

>> COUNCILMEMBER KALRA: AND WHEN IT COMES TO THE PART B UNDER A OF THE RECOMMENDATIONS, ADOPTING A RESOLUTION CALLING FOR A SPECIAL MAIL BALLOT AMONG PROPERTY OWNERS IN THE DISTRICT, I ASSUME THAT WOULD BE OUTREACH, I IMAGINE YOU WOULD HAVE TO GET A CERTAIN PERCENTAGE OF THE PROPERTY OWNERS TO AGREE?

>> DAN FENTON: LET ME SAY ON THE OUTREACH, WE'RE COMMITTED ON THIS THAT BEFORE ANY HOTEL IN SAN JOSÉ, THAT ULTIMATELY MARKS THEIR VOTE, THAT WE HAVE TALKED TO PROBABLY 60 TO 70% OF THE HOTELS SO FAR, PART OF TODAY IS TO THEN FORMALLY HAVE US GO AND I'LL TURN IT OVER TO PATTY BUT THE THRESHOLD IS ROUGHLY 2/3.

>> YES, WE WOULD NEED 2/3 WEIGHTED BY THE NUMBER OF HOTEL ROOMS.

>> COUNCILMEMBER KALRA: WOULD THERE BE ANY POTENTIAL FOR A LEGAL CHALLENGE FOR A MOTEL THAT IS SEVERAL MILES AWAY FROM DOWNTOWN, THAT SMALL OF A HOTEL THAT CLAIMS THEY DON'T GET ANY BENEFIT, IS THERE ANY REALISTIC CHANCE FOR ANY CHALLENGE BASED ON THOSE GROUNDS?

>> CITY ATTORNEY DOYLE: I DON'T THINK IT'S BASED ON PROXIMITY TO THE CONVENTION CENTER OR THE DOWNTOWN. THIS IS A SPECIAL TAX SO IF 2/3 OF THOSE WITHIN THE DISTRICT VOTE TO APPROVE IT, THEN IT'S PRESUMED VALID. WE ARE PLANNING TO GO FORWARD WITH A VALIDATION ACTION. THAT IS, WE NEED TO GET SOME JUDICIAL SIGNOFF

THAT THE TAX IS VALID, AND MORE IMPORTANTLY, THE ABILITY TO ISSUE BONDS. I THINK AS WE HAVE INDICATED IN PRIOR CONNECTIONS, THIS IS MODELED AFTER THE MELLO-ROOS STATE LAW, AND WE HAVE MODELED IT OFF OUR CHARTER POWERS AND WE NEED TO GET TWO-THIRDS VOTE.

>> COUNCILMEMBER KALRA: IS THAT CITYWIDE OR TWO-THIRDS OF THE HOTEL ROOMS?

>> IT IS CITYWIDE HOTEL ROOMS, YES. SO IT'S BASED ON NUMBER OF HOTEL ROOMS BUT NOT LOCATIONS.

>> COUNCILMEMBER KALRA: I GUESS THAT RAISES A DIFFERENT CONCERN ABOUT LARGER HOTELS, APPROXIMATE THEY HAVE A GREATER STAKE IN IT AS WELL BUT IT ALSO LOOKS LIKE IT SHOULD BE HEAVILY WEIGHTED TO DOWNTOWN. MY CONCERN IS I GUESS, AS YOU DO THE OUTREACH, THERE IS A PROPOSAL FOR MR. PATEL TO HAVE THREE ZONES. THAT MAYBE NOT NECESSARILY WHAT WE SHOULD GO TO, BUT INSIDE HERE, ZONE 2, INSIDE HERE ZONE 1, OR IS THIS THE CLEANEST WAY TO DO IT?

>> DAN FENTON: I THINK WE THOUGHT THIS WAS THE BEST WAY THERE WAS. I WANT TO RECOMMIT. WE BELIEVE THAT EVERY HOTEL IS IMPORTANT HERE. THEY WILL BECOME MEMBERS OF THIS DISTRICT. I THINK IN PRINCIPLE THESE CONVERSATIONS ARE IMPORTANT. BECAUSE THEY'RE CERTAINLY ABOUT THE ISSUE HERE BUT THEY ARE ALSO CERTAINLY ABOUT MAKING SURE THERE IS BENEFIT AND HOW DO WE WORK TOGETHER ON THAT. SO WE LOOK FORWARD TO THESE CONVERSATION WEST THOSE HOTELS THAT WE HAVEN'T GOT A CHANCE TO SPEND TIME WITH AND THIS IS ONE OF THEM.

>> COUNCILMEMBER KALRA: IS THERE ANYTHING SHORT OF THE BUREAUCRATIC NIGHTMARE TO HAVE A DIFFERENT TIME PERIOD? YOU INDICATED THAT AFTER 30 DAYS THEY'RE EXEMPT, JUST WITH A SPECIAL TAX TO HAVE A TWO-WEEK OR WOULD THERE BE A WAY OF DOING THAT?

>> DAN FENTON: I THINK I'LL TURN THIS BACK OVER TO PATTY ALSO. WE THOUGHT WE WOULD COORDINATE THIS WITH THE T.O.T.

>> CITY ATTORNEY DOYLE: FOR ADMINISTRATIVE EASE, YOU KNOW, THE HOTEL IS LOOKING AT A 14% NUMBER AND THEY'RE GOING TO BASE IT ON, ARE YOU THERE FOR 30 DAYS OR LESS, VERSUS BEYOND 30 DAYS.

>> COUNCILMEMBER KALRA: THAT WOULD BE PARALLEL TO THE T.O.T.?

>> CITY ATTORNEY DOYLE: YES.

>> COUNCILMEMBER KALRA: THANK YOU.

>> MAYOR REED: COUNCILMEMBER OLIVERIO.

>> COUNCILMEMBER OLIVERIO: THANK YOU, MAYOR REED. IF THE DISTRICT IS SUCCESSFUL, IF A NEW HOTEL WANTED TO OPEN UP DOWNTOWN, FOUR TO FIVE YEARS FROM NOW, 300 ROOMS, ET CETERA, WOULD YOU FEEL, WHAT ARE YOUR ARGUMENTS FOR IT BEING AN IMPEDIMENT TO THEM OPENING UP THE NEW HOTEL BECAUSE OF THE HOTEL DISTRICT?

>> PAUL KRUTKO: COUNCILMEMBER OLIVERIO, I DON'T BELIEVE THAT THE HOTEL TAX IS GOING TO BE AN IMPEDIMENT TO A NEW HOTEL WANTING TO OPEN IN THIS MARKETPLACE. THERE WILL BE A WHOLE ARRAY OF OTHER FACTORS THAT THEY WILL LOAD INTO THEIR PRO FORMA TO MAKE THAT DECISION. BUT THE ADDITION, GETTING US TO 14, WE CERTAINLY CAN PROVIDE THE COUNCIL WITH THE GRAPHS THAT WE HAVE THAT SHOW, AS DAN WAS ALLUDING TO, MR. FENTON WAS ALLUDING TO THAT SHOWS OUR POSITION COMPARED TO OUR COMPETITORS. WE ARE ACTUALLY, EVEN IN THE DEPTHS OF THIS RECESSION, SEEING PROPOSALS FROM HOTELS COMING FORWARD AT THIS TIME. I DON'T SEE THAT AS AN ISSUE. IF YOU HAVE A LIMITED SERVICE HOTEL, SAY, IN NORTH SAN JOSÉ THAT MIGHT BE CHARGING A \$100 A NIGHT CHARGE OR A \$110 CHARGE, THIS WOULD REPRESENT IN THE OUTER ZONE AS IT RAMPS UP \$1 MORE ON THE BILL GROWING TO \$4. THAT, WE DON'T BELIEVE, IS GOING TO CAUSE AN INVESTOR IN A HOTEL TO SAY, I DON'T WANT TO MAKE THAT INVESTMENT.

>> COUNCILMEMBER OLIVERIO: THANK YOU.

>> MAYOR REED: COUNCILMEMBER LICCARDO.

>> COUNCILMEMBER LICCARDO: THANKS, MAYOR. RICK, I JUST WANT TO FOLLOW UP ON THE QUESTION THAT WAS ASKED BY COUNCILMEMBER KALRA. YOU SAY UNDER 218, IT'S NOT UNDER 218?

>> CITY ATTORNEY DOYLE: NO, IT'S WELL ESTABLISHED. I MEAN THE IDEA THAT YOU TAX TRANSIENT OCCUPANCY, THE 30-DAY CUTOFF --

>> COUNCILMEMBER LICCARDO: IT WAS ANOTHER QUESTION. LET ME TRY TO -- SORRY. THE SUIT WE WOULD BE BRINGING TO TEST THIS. AS I UNDERSTAND IT, IF YOU'VE GOT A VOTE, TYPICALLY THAT IMMUNIZES YOU FROM SUIT. YOU SAY IT ESSENTIALLY CREATES A PRESUMPTION. PRESUMABLY, THAT COULD BE REBUTTABLE?

>> CITY ATTORNEY DOYLE: THIS IS NOVEL. THIS HASN'T BEEN DONE ANYWHERE ELSE IN THE STATE TO MY KNOWLEDGE. WHAT WE'RE DOING IS ESTABLISH PURSUANT TO OUR CHARTER PROVISIONS, IF IT IS APPROVED, UNDER THE MELLO-ROOS LAW, THAT WOULD BE A VEHICLE TO ISSUE BONDS AND BE ABLE TO FOLLOW THROUGH WITH THE PROJECT. THE FACT THAT YOU HAVE SOMETHING THAT IS NEW, BEFORE YOU CAN SELL THOSE BONDS ANYONE IS GOING TO BUY THOSE BONDS, YOU'RE GOING TO WANT TO HAVE A JUDGMENT THAT SAYS IT'S VALID. THAT'S THE REASON FOR THE VALIDATION ACTION. BOND COUNSEL IS HERE WITH US TODAY TOO, DAN BORG. WE'RE WORKING VERY CLOSELY WITH ORRICK, HARRINGTON TO TAKE IT DOWN THE RIGHT ROADS.

>> COUNCILMEMBER LICCARDO: I'M JUST A LITTLE UNCLEAR AS TO WHETHER A VOTE PROVIDES US IMMUNITY OR DOES IT CREATE A PRESUMPTION OF SORTS. AND IF YOU COULD HELP US UNDERSTAND THAT?

>> WELL, THE VOTE IS AN ABSOLUTE REQUIREMENT FOR A SPECIAL TAX.

>> COUNCILMEMBER LICCARDO: SURE.

>> THERE'S THE VOTE. THE MELLO-ROOS SETS UP A DIFFERENTIATION WHETHER THE DISTRICT IS INHABITED OR UNINHABITED. THIS IS CONSIDERED AN UNINHABITED DISTRICT, I TAKE IT BACK. THIS IS AN INHABITED DISTRICT. BUT BECAUSE THE TAX IS NEVER GOING TO BE LEVIED ON ANY PROPERTY WHICH IS EVER IN RESIDENTIAL USE, HOTEL USE IS NOT CONSIDERED RESIDENTIAL USE, IT IS DESPITE THE FACT THAT IT'S AN INHABITED DISTRICT THE QUALIFIED ELECTORS UNDER THE STATE LAW ARE THE PROPERTY OWNERS. WHAT WE'VE DONE WITH THE CHARTER POWERS IS TO CHANGE THE STATE LAW WHICH SAYS THE VOTES ARE ALLOCATED ON THE BASIS OF ACREAGE, AND INSTEAD TO ALLOCATE THEM ON THE BASIS OF NUMBER OF HOTEL ROOMS.

>> COUNCILMEMBER LICCARDO: RIGHT.

>> SEEMS TO BE A CLOSER MEASURE OF THE INTEREST THAT PEOPLE HAVE. BUT THERE ARE -- BECAUSE IT IS, AS THE CITY ATTORNEY HAS SAID, BECAUSE IT IS NEW AND UNIQUE, TO JUST BRING COMFORT TO THE BOND MARKET, AND IF BOND MARKET NEEDS ANYTHING THESE DAYS, IT IS COMFORT, THE VALIDATION JUDGMENT WILL GIVE THEM THAT COMFORT. WE'RE IN THE ANTICIPATING ANY DIFFICULTY WITH THE VALIDATION JUDGMENT. EVERYTHING WE'RE DOING IS IN OUR VIEW COMPLETELY VALID. BUT THE BOND MARKET NEEDS THAT ASSURANCE WHEN IT SEES SOMETHING THAT'S NEVER DONE BEFORE.

>> COUNCILMEMBER LICCARDO: IS THAT RES JUDICATA FOR ALL LAWSUITS? WHAT I'M WORRYING ABOUT IS SOMEONE COMING DOWN THE ROAD IN YEAR 3, CHALLENGING AS A PROPERTY OWNER. YOU'RE ESTOPPED FROM BRINGING SUIT? ARE WE GOING TO BE LITIGATING THIS ALL OVER AGAIN?

>> NO, YOU'RE CORRECT. ONE OF THE ASPECTS OF THE VALIDATION JUDGMENT IS AN INJUNCTION AGAINST THE WORLD AGAINST ANY LAWSUIT. IT WILL BE OVER.

>> COUNCILMEMBER LICCARDO: MY LAST QUESTION, THANK YOU VERY MUCH FOR THAT HELP. MY LAST QUESTION WOULD BE THIS, LET'S SAY DURING THE VALIDATION ACTION THE COURT SAYS SORRY, YOU SHOULD HAVE CREATED A TIER 3. THIS IS A QUESTION FOR PAUL OR DAN OR ANYBODY ELSE WHO CAN ANSWER THIS. IF YOU HOTELS ARE OUTSIDE OF NORTH SAN JOSÉ AND DOWNTOWN, WHICH WE PRESUME WOULD BE THE MOST LOGICAL BENEFICIARIES OF THIS, YOU CREATE SOME SORT OF TIER 3 FOR FOLKS OUTSIDE, DISTRICT 3 AND 4, LET'S SAY, DO YOU HAVE ANY ESTIMATED NUMBER OF ROOMS THAT WOULD BE AS HOW IT IMPACTS OUR REVENUE, IS IT MORE THAN 10%, MORE THAN 20?

>> I JUST MENTION HEED AS A PROCEDURAL MATTER, COURTS ARE NOT ENTITLED TO CHANGE WHAT THE VOTERS HAVE AUTHORIZED. NOW, A COURT CAN SAY WHAT THE VOTERS HAVE AUTHORIZED, I SUPPOSE, IS ILLEGAL AND YOU HAVE TO GO BACK TO THE DRAWING BOARD. BUT THE COURT CAN'T SAY I'M GOING TO MODIFY WHAT THE VOTER'S AUTHORIZED

TO MAKE THIS CHANGE THAT YOU HAVE POSITED WOULD REQUIRE GOING ALL THE WAY BACK TO THE BEGINNING. GOING BACK FURTHER THAN TODAY.

>> COUNCILMEMBER LICCARDO: THE POINT'S WELL TAKEN. I'M NOT GOING TO SUGGEST THAT THE COURT IS GOING TO DRAW THE LINE FOR US. I'M SIMPLY SAYING, IF THE COURT SAYS SORRY, YOU HAVE OVERSTEPPED YOUR BOUNDS, AND WE HAVE TO GO BACK AND REDRAW THE LINE, I'M TRYING TO UNDERSTAND WHAT THE IMPLICATIONS WOULD BE.

>> DAN FENTON: I THINK WE HAVE TO LOOK AT A COURSE EXACTLY, MEANING THERE IS A LITTLE "WHAT-IF" THERE. I DON'T WANT TO QUOTE ONE OFF THE TOP OF OUR HEADS.

>> PAUL KRUTKO: I WOULD ECHO, IN THE COMMENTS I WAS MAKE WHEN COUNCILMEMBER KALRA WAS ASKING QUESTIONS, THE PLAN IS PREDICATED ON ALL THE HOTELS PARTICIPATING. WE HAVEN'T DONE ANY ANALYSIS OF EXCLUDING HOTELS. AND OUR STARTING POINT WAS A METHODOLOGY THAT HAD US STARTING COLLECTING 1% FROM EVERYBODY ACROSS THE BOARD. THEN RAISING IT TO 2 AND 3 AND 4. WE NEVER HAD A STARTING POINT AND ANALYSIS THAT SAID WE WEREN'T INCLUDING HOTELS. SO AS DAN SAID, IT'S KIND OF A WHAT-IF. I'M NOT REALLY SURE WHERE WE WOULD STARTLE, WHAT WE USE AS A CRITERIA TO DECIDE WHO BENEFITS AND WHO DOESN'T BENEFIT.

>> COUNCILMEMBER LICCARDO: I REALLY WASN'T LOOKING FOR GREAT PRECISION ON THIS. ALL I WAS TRYING TO SAY IS IF WE TALKED ABOUT HOTELS THAT ARE OUTSIDE OF NORTH SAN JOSÉ AND, SAY, DOWNTOWN, REALLY IS THAT A SIGNIFICANT NUMBER OF HOTEL ROOMS? THAT WAS ALL I WAS HOPING TO GET AT. IT SOUNDS LIKE WE HAVEN'T LOOKED AT IT THAT CAREFULLY SO THAT'S FINE.

>> MAYOR REED: CITY ATTORNEY.

>> CITY ATTORNEY DOYLE: I JUST WANT TO COMMENT THAT WHILE I'M AWARE, THE POLICY DISCUSSION OF WHETHER WE SHOULD HAVE A ZONE 3, THIS IS A TAX. IT'S NOT A FEE, IT'S NOT AN ASSESSMENT. AND THE NEXUS REQUIREMENTS AREN'T THE SAME. IN FACT AS A SPECIAL TAX IT'S REALLY GETTING THAT APPROVAL. AS MR. BORG POINTED OUT, WE ARE TAXING THEM BASED ON NUMBER OF ROOMS. WHERE IT'S SITUATED IN THE CITY, YOU DON'T HAVE THE SAME NEXUS CONCERN YOU WOULD HAVE IF YOU ESTABLISHED A TAX OR A FEE.

>> COUNCILMEMBER LICCARDO: THANKS, RICK.

>> MAYOR REED: THIS IS A PUBLIC HEARING SPECIFICALLY ON THIS. I WANT TO MAKE SURE THAT IF ANYBODY ELSE WANTS TO ADDRESS US, PLEASE GET THE CARDS IN. I HAVE ONE ADDITIONAL CARD THAT'S COME IN. ANYBODY ELSE PLEASE COME IN. CYRIL ISNARD. THE MOTION INCLUDES ABOUT HALF A DOZEN DIFFERENT ACTIONS AS RECOMMENDED BY THE STAFF AND HOLDING THIS PUBLIC HEARING IS JUST A STEP ALONG THE WAY.

>> THANK YOU, MAYOR REED. I'M HERE TODAY ON BEHALF OF THE FAIRMONT SAN JOSÉ AND THE SAN JOSÉ HOTELS, INC, TOURISM HOTEL BUSINESS IMPROVEMENT DISTRICT WHICH WAS ESTABLISHED IN 2006, AND APPROVED ANNUALLY BY THE SAN JOSÉ HOTELS. THIS DISTRICT WE PRESENT ABOUT 80% OF ALL HOTEL ROOMS IN SAN JOSÉ AND THE HOTEL COMMUNITY SUPPORTS THE CITY COUNCIL ACTION TODAY TO MOVE FORWARD WITH STEPS TO CREATE THE FACILITY DISTRICT TO HELP FUND THE PROPOSED CONVENTION CENTER EXPANSION AND RENOVATION. THIS NEW PARTNERSHIP AND INVESTMENT WILL BE SUCCESSFUL ONLY IF THE PRESENT LEVEL OF FUNDINGS OF THE CONVENTION BUREAU KEPT AT THE SAME LEVEL. OTHER COMMUNITIES INCREASE THEIR SALES AND MARKETING FUNDING WHEN THEY INVEST CAPITAL FUNDS FOR CONVENTION CENTERS. LOCAL HOTELS ARE CONCERNED BY THE CITY CHANGE IN THEIR COMMITMENT TO FUND THE CVB AT THIS CURRENT LEVEL, ESPECIALLY BECAUSE THE IMPROVEMENT DISTRICT'S MISSION WAS NOT TO SUPPLEMENT SALES AND MARKETING FUNDING BUT TO AUGMENT THESE EFFORTS. THE DISTRICT IS NOT AN ONGOING FUNDING SOURCE AND WILL NOT BE USED TO FUND CVB STAFF OR PROGRAMS. WE URGE THE CITY COUNCIL TO SUPPORT SAN JOSÉ'S FUTURE ECONOMIC VIABILITY BY APPROVING TODAY'S ITEM AND DURING BUDGET DISCUSSION TO VOTE TO SECURE CVB FUNDING THROUGH THE GENERAL FUND. THANK YOU.

>> MAYOR REED: BICAS PATEL.

>> GOOD AFTERNOON, MAYOR, CITY ATTORNEY, CITY COUNCIL MEMBERS AND CITY MANAGER. MY NAME IS BICAS PATEL. OUR FAMILY OWN HOTELS ALONG MONTEREY HIGHWAY. THE QUESTION CAME UP WHETHER WE WOULD ACTUALLY BENEFIT FROM THE PROPOSED PLAN. I'M THE FIRST ONE TO ADMIT THAT THE PLAN IS FANTASTIC AND THAT'S

WHAT WE NEED TO GO FORWARD WITH. HOWEVER THERE ARE A SUBSET OF HOTELS, THE INDEPENDENT HOTELS OF MONTEREY ROAD. AND IN FACT I WOULD SAY MORE SO THE INDEPENDENT HOTELS IN THE CITY OF SAN JOSÉ THAT DO NOT GET ANY BENEFIT FROM WEBSITE ADVERTISING, NATIONAL FRANCHISES. THAT THE CONVENTION TRAVELER IS NOT GOING TO STAY AT. WE HAVE OWNED THOSE HOTELS FOR 30 YEARS. WE HAVE FRIENDS THAT OWN THE HOTELS NEXT DOOR THAT ARE FRANCHISE PROPERTIES. WHEN THERE IS A CONVENTION IN TOWN, THEIR INCOME GOES THROUGH THE ROOF. THE PEOPLE IN THE NEIGHBORHOOD ARE IN A LIMITED INCOME, THEY PAY BY CASH, THEY ARE NOT -- YOU KNOW THESE PEOPLE ARE NOT GOING TO STAY EVEN AT A FRANCHISE HOTEL. SO THERE IS A SUBSET OF HOTELS THAT WILL NOT BENEFIT. I'M MORE THAN OPEN TO OPEN MY BOOKS TO THE CITY IN FACT AND SHOW YOU THAT WHENEVER THERE'S A CONVENTION IN TOWN, THERE IS ABSOLUTELY NO CHANGE IN BUSINESS TO OUR INDEPENDENT HOTELS. WHILE THE OTHER QUESTION CAME UP THERE IS A VOTE, I UNDERSTAND THE VOTE, IT'S GOING TO PASS NO MATTER WHAT. THE REASON I SAY THAT IS BECAUSE THERE'S ONLY 30, 40 INDEPENDENT HOTELS THAT ARE PROBABLY 20 ROOMS. THAT'S A TOTAL OF 800 ROOM NIGHTS OR 800 ROOMS. YOU TAKE 800 AND THAT WIPES OUT THEIR VOTE. WE REALLY DON'T HAVE A VOICE. SO WHAT I'M ASKING IS MAYBE THE CITY COUNCIL TO CONSIDER AN EXEMPTION MAYBE A DIFFERENT ZONE LINE WOULD BE DIFFERENT. BUT MAYBE IF WE CAN CONSIDER AN EXEMPTION AND MAYBE MAKE CRITERIA FOR THAT EXEMPTION TO SAY HEY, THESE HOTELS ARE NOT INDEPENDENT, ARE NOT GOING TO BENEFIT AT ALL FROM THE CONVENTION CENTER. WE'VE HAD THE HOTEL AS I SAID FOR 30 YEARS. WE'D WELCOME TO CHALLENGE ANYBODY, LOOK AT OUR RECORDS. MOST OF THE HOTELS ARE OWNED BY OLDER PARENTS, THEY DON'T UNDERSTAND ENGLISH VERY WELL. EVEN THE COMMUNICATION PROCESS WITH THE OLD MA AND PA HOTELS, IS GOING TO BE DIFFICULT. THE LETTER IN THE MAIL, MY MOM GETS IT AND HAS NO CLUE WHAT IT MEANS. SHE HANDS IT TO ME, I SPEND MY TIME TO TAKE MY DAY OFF OF WORK TO COME HELP HER OUT. SO IF I COULD URGE THE COUNCILMEMBERS TO SAY MAYBE WE CAN EXEMPT A CERTAIN CLASS OF HOTEL, AND MAYBE MAKE SOME CRITERIA, OR EVEN, I KNOW IT'S A BIG THING TO ASK BUT MAYBE WE CAN EVEN CREATE A SUBCOMMITTEE. I'D BE HAPPY TO SPEND MY TIME ON THAT SUBCOMMITTEE TO HELP EXEMPT A FEW HOTELS. AND AFTER ALL IF WE ARE TALKING ABOUT 30 HOTELS --

>> MAYOR REED: I'M SORRY, SIR, YOUR TIME IS UP.

>> THANK YOU.

>> MAYOR REED: THANK YOU. DOYLE O'NEIL.

>> HI, MY NAME IS DOYLE O'NEIL, I'M GENERAL MANAGER OF THE HOMEWOOD SUITES IN SAN JOSÉ. MANAGING THE HOTEL WE RUN PRETTY GOOD OCCUPANCY, THIS NEEDS TO HAPPEN FOR THE CITY OF SAN JOSÉ, FOR THE CONVENTION BUREAU, TO BRING OTHER PEOPLE INTO THE CITY. IT'S VERY IMPORTANT. I HAVE NOT LOST A CUSTOMER BECAUSE OF SALES TAX. IT'S BECAUSE OF SERVICE. AND FOR ME TO UNDERSTAND THIS, THIS MAN WORKS VERY HARD TO GET THIS DONE, AND I THINK THIS SHOULD HAPPEN. THANK YOU.

>> MAYOR REED: THANK YOU. BEFORE I CLOSE THE PUBLIC HEARING, IS THERE ANYBODY ELSE THAT WANTS TO SPEAK ON THIS? I DON'T HAVE ANY ADDITIONAL CARDS ON THIS ITEM. LET'S COME BACK TO COUNCIL DISCUSSION, THEN, WE HAVE A HALF-DOZEN ITEMS IN THE RECOMMENDATION. I JUST WANTED TO ASK ONE MORE QUESTION. IF WE WERE TO GO BACK AND RESTRUCTURE THIS, HOW LONG WOULD IT TAKE AND WHAT WOULD BE THE IMPACT ON THE PLANS FOR THE EXPANSION OF THE CONVENTION CENTER?

>> PAUL KRUTKO: I HAVE TO LOOK TO MY GOOD FRIEND PATTY TO TELL ME HOW LONG IT WOULD TAKE HER TO RESTRUCTURE IT.

>> IF WE WOULD HAVE TO GO BACK, WE WOULD HAVE TO RE-DO THE INITIAL RESOLUTION. I'M SORRY, DAN, GO AHEAD.

>> YOU HAVE THE OPTION AT THIS POINT TO SCALE BACK ANYTHING THAT'S BEEN PROPOSED. YOU DON'T HAVE THE OPTION AT THIS POINT TO INCREASE ANYTHING THAT'S BEEN PROPOSED. SO IT WOULD JUST BE A -- SIMPLY A MATTER OF LOGISTICAL TASK OF MAKING ANY DOWNWARD ADJUSTMENTS IN THE TAX, AND THEN CALCULATING WHAT THAT WOULD DO TO YOUR REVENUE, AND WHEN THAT WOULD DO TO YOUR PROJECT AND OBVIOUSLY I'M NOT THE PERSON TO DO THAT.

>> DAN FENTON: MR. MAYOR, I THINK ONE OF THE ISSUES WOULD BE, THE ISSUE OF HOW YOU WOULD GO ABOUT THIS, THERE WOULD CLEARLY BE PROPERTIES THAT WOULD BEGIN TO DISCUSS THE ISSUE OF EQUITY, IN A CONVERSATION LIKE THIS. SO I THINK THAT IT IS -- THERE IS A CHALLENGE AS TO HOW YOU WOULD APPROACH IT. I THINK THAT HEARING THE GREAT COMMENTS, I THINK THERE'S OPPORTUNITIES HERE TO REALLY TALK ABOUT GOING FORWARD, HOW DO WE MAKE SURE THAT WE DO EVERYTHING WE CAN TO BENEFIT THOSE PROPERTIES. HOW DO WE WORK WITH THEM CLOSER? YOU KNOW, THEY'RE IMPORTANT PARTS OF OUR COMMUNITY. AND WE'RE LISTENING CAREFULLY TO THIS. BUT I THINK THAT TO GO BACK AND TRY TO FIGURE OUT A SYSTEM, YOU WOULD THEN CREATE ANOTHER WHOLE DOMINO EFFECT OF PROPERTIES, OTHER PROPERTIES LOOKING AT EQUITY ISSUES. BECAUSE THE ISSUE OF A TAX IF YOU WILL OR AN OCCUPANCY TAX IS A FAIRLY STANDARD MEASURE OF THE WAY CUSTOMERS SORT OF LOOK AT A DESTINATION PERIOD. AND I THINK WE'D HAVE SOME OTHER CHALLENGES THAT WE'D BE LOOKING AT. SO I THINK THAT WHAT WE REALLY WOULD WANT TO DO IS MAKE SURE THE COMMUNICATION IS STRONG AND REALLY ENSURE THAT THERE IS BENEFIT GOING FORWARD FROM THESE PROPERTIES AS PART OF OUR COMMUNITY.

>> MAYOR REED: THANK YOU. I DON'T FAVOR STARTING OVER. WE'VE BEEN AT THIS SEVERAL MONTHS AND IF WE START OVER WE'RE GOING TO LOSE MONTHS AND EXPANSION CENTER PROJECT. WE DON'T HAVE ENOUGH MONEY TO DO IT EITHER. I THINK WE'RE GOING TO HAVE TO MOVE AHEAD SO I'M GOING TO SUPPORT THE MOTION. COUNCILMEMBER PYLE.

>> COUNCILMEMBER PYLE: I JUST WONDERED IF THERE'S SOME WAY THAT SOME KIND OF A HARDSHIP SITUATION COULD BE SET UP SO THAT BY REQUEST, AS IN THE CASE OF MR. PATEL'S MOM, FOR EXAMPLE, WOULD IT BE POSSIBLE TO MAKE EXEMPTIONS FOR SMALL HOTEL OWNERS? RATHER THAN THROW THE BABY OUT WITH THE BATH? I AGREE WITH THE MAYOR, THAT WE'VE BEEN AT THIS A VERY, VERY LONG TIME.

>> CITY ATTORNEY DOYLE: YOU CAN ALWAYS CRAFT EXEMPTIONS. I THINK, THOUGH, THAT WE WOULD WANT THE OPPORTUNITY TO COME BACK IN A COUPLE OF WEEKS BEFORE YOU ADOPT ANYTHING SO WE COULD GIVE YOU THAT INFORMATION IF THAT'S WHERE THE COUNCIL WANTS TO GO.

>> MAYOR REED: CITY MANAGER.

>> CITY MANAGER FIGONE: YES, AND JUST THE REMINDER, IT IS THE RATEPAYER WHO WILL BE PAYING FOR THE ASSESSMENT. AND IF WE TAKE THE LONGER VIEW, WE SHOULD ALSO BEAR IN MIND THAT THESE PROPERTIES MIGHT REDEVELOP OVER THE YEARS, ALSO. SO I WOULD JUST ENCOURAGE THE COUNCIL TO CONSIDER THAT COMPONENT OF THE FUTURE POTENTIAL.

>> MAYOR REED: COUNCILMEMBER KALRA.

>> COUNCILMEMBER KALRA: THANK YOU, MAYOR. IF WE WERE TO LOOK AT A WAY OF NOT NECESSARILY SCALING BACK ALONG THE LINE THAT COUNCILMEMBER PYLE HAS SAID, WHERE AN INDEPENDENT OWNER COULD ASK FOR AN EXEMPTION, AND CRITERIA WOULD HAVE TO BE SET UP AND YOU KNOW, OPENING OF THE BOOKS AS WAS MENTIONED BY ONE OF THE SPEAKERS, AND AGAIN, I THINK THAT AS WAS MENTIONED IN THE LETTER, FROM MR. ASHWIN PATEL, OF COURSE THAT IS ACCORDING TO HIS REPRESENTATION, I DON'T ATTRACT AND PLAN TO ATTRACT CONVENTIONEERS, WHETHER IT'S AN EXPANSION OR NOT IS WHAT THE IMPLICATION IS. AND AGAIN MY CONCERN IS THAT THE DISTRICT GIVE THE OPPORTUNITY FOR SOME OF THESE SMALL INDEPENDENT OPERATORS, JUST HAVE AN OPPORTUNITY TO MAKE A CASE AS TO WHETHER THEY COULD BE EXEMPT OR NOT. AND I UNDERSTAND THAT THE RATEPAYER IS THE ONE THAT HAS TO PAY THE EXTRA. BUT I ALSO UNDERSTAND THAT A LOT OF THESE INDEPENDENT MOTELS ARE ONE OF THE FEW CHOICES THAT A LOT OF LOW INCOME PEOPLE HAVE, A LOT OF PEOPLE ARE STRAIGHT OUT OF JAIL, WANT TO FIND STABLE HOUSING, A LOT OF PEOPLE DON'T HAVE ANY OPTIONS OTHER THAN BEING HOMELESS, TO HAVING A ROOF OVER THEIR HEAD A COUPLE OF WEEKS. IT IS 14%, YES, IT IS NOT A BURDEN TO THE MOTEL OWNER BUT IT COULD HAVE OTHER IMPACTS AS WELL THAT GO BEYOND THE MOTEL OWNER. AND WHATEVER CIRCUMSTANCES THEY WOULD SUFFER FROM IT.

>> MAYOR REED: COUNCILMEMBER CONSTANT.

>> COUNCILMEMBER CONSTANT: THANK YOU. I JUST WANT TO ECHO THE MAYOR'S COMMENTS THAT THIS IS SOMETHING WE'VE INVESTED A LOT OF TIME AND EFFORT IN. AND

WE HAVE A BIG PROJECT THAT IS REALLY HINGING ON THE SUCCESS OF THIS PARTICULAR ITEM. AND I THINK IT'S SOMETHING THAT WE REALLY NEED TO MOVE FORWARD WITH. THE CONVENTION CENTER IS TOO BIG OF AN ECONOMIC DRIVER. AND THIS PROJECT OF THE CONVENTION CENTER EXPANSION IS TOO IMPORTANT TO OUR ECONOMIC VITALITY AND OUR PLANS FOR ECONOMIC GROWTH. SO I JUST URGE ALL MY COLLEAGUES TO VOTE YES.

>> MAYOR REED: COUNCILMEMBER LICCARDO.

>> COUNCILMEMBER LICCARDO: I THINK -- I CERTAINLY SHARE THE CONCERNS OF COUNCILMEMBER KALRA. I WANT US TO SAY THAT IF WE HAD STARTED THIS PROCESS A YEAR AGO, WE WOULD HAVE FOUND SOME WAY TO CREATE THIS. I UNDERSTAND THIS IS THE 11TH HOUR AND GIVEN WHAT'S AT STAKE HERE AND THE DELAYS INVOLVED IN TRYING TO REFASHION THIS, IT'S PROBABLY NOT THE RIGHT TIME TO BE BACKING UP. AND SO I'M GOING TO SUPPORT THIS. WITH, I THINK, WITH WHAT WAS NOTED I THINK BY THE BOND -- THE GENTLEMAN WHO IS BOND COUNSEL, THAT THERE MAY IN FACT BE SOME OPPORTUNITY TO LOOK AT RATCHETING DOWN. I DON'T KNOW IF THAT'S TRUE OR NOT, ONCE WE APPROVE THIS. I THINK AT THE VERY LEAST WE NEED TO HAVE SOME SERIOUS CONSIDERATION WITH HOW IT IS WE BRING MOTELS AND BUSINESSES LIKE MR. PATEL'S INTO THE FOLD, SO THEY CAN BENEFIT. CERTAINLY, THERE ARE EQUITY CONCERNS, AND I'M VERY MINDFUL OF HERE, BUT I ALSO KNOW THAT THIS IS SOMETHING THAT'S VITALLY IMPORTANT FOR THE CITY. SO FOR THAT REASON I'M GOING TO SUPPORT THE MOTION.

>> MAYOR REED: COUNCILMEMBER KALRA.

>> COUNCILMEMBER KALRA: THANK YOU, MAYOR. AND I ALSO WOULD BE SUPPORTING THE MOTION. I AGREE THERE'S BEEN A LOT OF TIME AND ENERGY PUT INTO THIS, AND THIS IS GOOD FOR SAN JOSÉ. I WILL ECHO COUNCILMEMBER LICCARDO'S SENTIMENT AND TO WHATEVER EXTENT POSSIBLE MOVE FORWARD AND WE CAN MOVE FORWARD AND LOOK AT DIFFERENT SETS OF POLICIES, GIVEN WHERE WE ARE NOW, THAT COULD INCLUDE GRANTS OR OTHER OPPORTUNITIES FOR SOME OF THESE SMALL PROPERTIES THAT MAY NOT BENEFIT FOR SITE IMPROVEMENTS, PAVEMENT GRANTS AND SO ON, OR POTENTIALLY, IMPLEMENTING SOME KIND OF EXEMPTION APPLICATION PROCESS WITH CRITERIA THAT MAKES SENSE. SO I DON'T -- I MEAN I DON'T NECESSARILY SEE HOW GOING FORWARD PRECLUDES US FROM DOING ANY OF THAT, OR DOES IT? WOULD IT PRECLUDE US FOR DOING ANY OF THAT?

>> CITY ATTORNEY DOYLE: I DON'T QUITE KNOW THE ANSWER TO THAT. GENERALLY IN ANY TAX, YOU CAN ENACT EXEMPTIONS TO THE TAX WITHOUT VOTER APPROVAL. YOU DO IT IN OTHER CASES. EXAMPLE, LOW-INCOME HOUSING DOESN'T PAY CERTAIN CONSTRUCTION TAXES. YOU'VE CREATED OTHER EXEMPTIONS. WHETHER OR NOT YOU CAN DO THAT IN THIS CASE WITH A SPECIAL TAX I DON'T KNOW THAT. WE'D HAVE TO GET BACK TO YOU.

>> COUNCILMEMBER KALRA: I WOULD ASK IF I COULD TRY TO FIND ANSWERS TO WHETHER IT BE AN EXEMPTION OR WHETHER IT BE SOME KIND OF GRANT APPLICATION THAT CREATES INSTEAD OF A STRAIGHT CASH EXEMPTION, BUT INSTEAD ALLOWS FOR SOME OF THESE SMALLER INDEPENDENT BUSINESSES TO APPLY FOR SOME KIND OF IMPROVEMENT TO THEIR PROPERTY, OR SOME KIND OF GRANT PROCESS. AGAIN, WITH SOME VERY STRICT CRITERIA. BUT AGAIN, IF WE'RE LOOKING LEGALLY AT BOTH OF THOSE, GRANT PROCESS OR EXEMPTION THAT ALLOWS THEM TO GET SOME KIND OF GRANT PROCESS IN SOME FORM OR FASHION.

>> MAYOR REED: COUNCILMEMBER HERRERA.

>> COUNCILMEMBER HERRERA: I WANT TO SAY I'M GOING TO BE SUPPORTING THE MOTION BUT I AM CONCERNED ABOUT THE SMALL HOTEL OWNER WHO WOULD BE AFFECTED BY THIS. IF THERE IS SOMETHING WE CAN DO AFTER THE FACT THAT WOULD BE A GOOD IDEA. I'M ALSO WONDERING ABOUT, I ALSO REMEMBER GROWING UP HAVING TO STAY IN ONE OF THOSE HOTELS ALONG WITH MY FAMILY WHEN WE WERE COMING TO MOVE FROM ONE PLACE TO THE OTHER AND HOW THEY LOOKED TO EVERY PENNY TO SAVE ALONG MONTEREY ROADS. THERE MAY BE FAMILIES USING THIS, FAMILIES WHO LOST JOBS WHO OTHERWISE WOULD BE ON THE STREET. SO IT WOULD ALSO KEEP PEOPLE FROM BEING HOMELESS. SO IS THERE SOME WAY SOME GRANT OR SOME WAY IF THAT'S TRUE AND I DON'T KNOW THE SPECIFICS BECAUSE I DIDN'T RECEIVE THE LETTER FROM THIS GENTLEMAN, BUT I WOULD LIKE TO KNOW IF THERE'S SOME WAY WE COULD LOOK AT OTHER

POTENTIAL GRANTS, NOT IN TERMS OF REVISING THE TAX BUT LOOKING AT IT FROM A DIFFERENT POT OF MONEY IN HOUSING OR SOMEWHERE. IF THESE LOCATIONS ARE RELIEVING PEOPLE FROM HOMELESSNESS AND I'M CERTAIN THESE ARE THINGS THAT THEY DO.

>> MAYOR REED: WE COULD ASK THE STAFF TO WORK WITH SOME THESE OTHER IDEAS AND WORK WITH TEAM SAN JOSÉ AND SEE HOW WE COULD ADDRESS THESE PROBLEMS. THAT WOULD BE A SEPARATE REFERRAL, IF THIS MOTION WAS APPROVED.

>> MR. MAYOR, EXCUSE ME. IF WE ARE GOING TO LOOK AT AN EXEMPTION OR A CHANGE IN THE PEOPLE IN THE DISTRICT, WE WOULD WANT TO COME BACK AND BRING THAT WHOLE PACKAGE BACK TO YOU, TO VOTE ON.

>> MAYOR REED: WE'RE NOT ASKING YOU TO DO THAT. WE'VE IDENTIFIED SOME PROBLEMS IN A HALF A DOZEN POTENTIAL SOLUTIONS. I THINK THE REFERRAL WOULD BE TO GO SEE WHAT YOU CAN DO.

>> WITHOUT CHANGING THE DISTRICT AT THIS POINT?

>> MAYOR REED: WITHOUT CHANGING THE DISTRICT. BECAUSE THE MOTION IS TO APPROVE THE DISTRICT AS RECOMMENDED BY THE STAFF. THAT WOULD BE THE MOTION. AND THEN IF WE WANT TO MAKE AN ADDITIONAL REFERRAL, COUNCIL COULD DO THAT. ON THE MOTION, COUNCILMEMBER KALRA.

>> COUNCILMEMBER KALRA: JUST AS YOU STATED MAYOR REED, I WOULD LIKE TO ASK IF WE COULD MAKE AN ADDITIONAL REFERRAL, TO LOOK INTO SOME OF THE SUGGESTIONS THAT WERE MADE, BOTH LOOK AT IT LEGALLY AS WELL AS PRACTICALLY, WHAT WE COULD DO AFTER THE FACT IN HELPING SOME OF THESE INDEPENDENT BUSINESSES SINCE WE ARE GOING TO REACH OUT TO THEM AFTER THIS PROCESS.

>> MAYOR REED: WE'LL TAKE THE VOTE ON THAT AFTER THE MOTION IN CHIEF.

>> COUNCILMEMBER KALRA: THANK YOU.

>> MAYOR REED: THE MOTION IN CHIEF, THE HALF DOZEN ITEMS AS RECOMMENDED ACTIONS, WE'VE HAD OUR PUBLIC HEARING, TIME TO VOTE. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THAT'S APPROVED. NOW, ON THE ADDITIONAL REFERRAL, FOR SOME ADDITIONAL LOOK AT SOME OF THE PROBLEMS, COUNCILMEMBER KALRA.

>> COUNCILMEMBER KALRA: JUST AS I'VE STATED, JUST A REFERRAL, TO LOOK AT THE SUGGESTIONS THAT MYSELF AND SOME OF THE OTHER COUNCILMEMBERS MADE AS FAR AS FROM A LEGAL PERSPECTIVE AS WELL AS PRACTICALLY, WHAT CAN BE DONE IN REACHING OUT TO THESE BUSINESSES, GIVEN THE FACT THAT THEY MAY NOT BE BENEFITING FROM THE H BID.

>> MAYOR REED: I MIGHT ADD, LET'S SEE IF WE CAN GET THEM SOME BUSINESS, AS WELL. I'M SURE TEAM SAN JOSÉ AND THE CONVENTION CENTER WILL BE LOOKING AT GETTING PEOPLE MORE BUSINESS. COUNCILMEMBER LICCARDO.

>> COUNCILMEMBER LICCARDO: IF WE CAN GET THESE BUSINESSES ON THE TEAM SAN JOSÉ LIST I THINK THAT WOULD BE A GREAT FIRST START.

>> MAYOR REED: OKAY, SO ON THE REFERRAL, ALL IN FAVOR? OPPOSED? NONE OPPOSED, SO WE HAVE THE ADDITIONAL REFERRAL. OKAY. THAT CONCLUDES OUR WORK ON DID CONVENTION CENTER FACILITIES DISTRICT. WE'LL NOW GO TO THE CONSENT CALENDAR. THERE ARE ITEMS ON THE CONSENT CALENDAR THAT COUNCIL WOULD LIKE TO PULL TO DISCUSS? COUNCILMEMBER OLIVERIO. ITEM 2.9, BUENA VISTA PARK. ANY OTHER ITEMS ON CONSENT CALENDAR? WE HAVE A MOTION TO APPROVE THE BALANCE OF THE CONSENT CALENDAR. COUNCILMEMBER PYLE GOT THE MOTION. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THE REST OF THE CONSENT CALENDAR IS APPROVED. ITEM 2.9, COUNCILMEMBER OLIVERIO.

>> COUNCILMEMBER OLIVERIO: THANK YOU, MAYOR REED. I WANTED TO TAKE A MOCKS TO ACKNOWLEDGE THE BUENA VISTA NEIGHBORHOOD ASSOCIATION AND OUR PARK STAFF, MATTKANO IN THE AUDIENCE, SIMEON, IN THEIR DUE DILIGENCE IN MAKING BUENA VISTA PARK A REALITY. I WANT TO THANK THE HOME DEVELOPERS, SUMMERHILL AND OTHERS, WITHOUT THEIR PARK FEES WE WOULDN'T BE ABLE TO EXPAND THIS COURT. IN ADDITION, I'M VERY SUPPORTIVE OF HANDING ADDITIONAL PARKS, THAT GIVES US A ECONOMY OF SCALE IN OPERATION AND MAINTENANCE OF LARGER PARKS VERSUS GRATING MULTIPLE

PARKS. THAT'S A GREAT THING, GET BETTER BANG FOR OUR BUCK IN OUR PARK DOLLARS. I MAKE A MOTION TO APPROVE.

>> MAYOR REED: ALL IN FAVOR, OPPOSED, NONE OPPOSED, THAT'S APPROVED. THAT TAKES CARE OF THE CONSENT CALENDAR. ITEM 3.1, REPORT OF THE CITY MANAGER.

>> CITY MANAGER FIGONE: THANK YOU, MR. MAYOR. I WANT TO INDICATE THAT THE PUBLIC INTOXICATION TASK FORCE MEETING OF MARCH 12TH, THIS THURSDAY HAS BEEN CANCELLED. I HAD TO DISTRIBUTE A MEMO ON FRIDAY. AS YOU KNOW THE POLICE DEPARTMENT IS RELEASING A REPRESENTATIVE SAMPLE OF 200 INCIDENT REPORTS. THE DEPARTMENT HAS BEEN GOING THROUGH THE PROCESS OF NOT ONLY PULLING THE REPORTS BUT REDACTING THEM AND THEY WILL RELEASE THEM SOON. HOWEVER I DID ENSURE THAT THE TASK FORCE HAD AMPLE TIME TO REVIEW THE REPORTS BEFORE OUR NEXT MEETING. SO THE 12TH IS CANCELLED. THE 26TH, MARCH 26TH WHICH WAS A PREVIOUSLY SCHEDULED MEETING WILL REMAIN. AND WE WILL RESUME OUR WORK ON THAT EVENING. SO I WANT TO ENSURE THAT YOUR OFFICES WERE AWARE OF THIS CHANGE. THANK YOU.

>> MAYOR REED: ITEM 3.2, REPORT OF RULES AND OPEN GOVERNMENT COMMITTEE FOR FEBRUARY 11TH, 2009. WE HAVE A MOTION TO APPROVE. ALL IN FAVOR? OPPOSED? NONE OPPOSED. ITEM 3.4, ETHICS UPDATE. THIS IS ONE OF OUR PERIODIC ETHICS UPDATES. CITY ATTORNEY.

>> CITY ATTORNEY DOYLE: YES, I'M GOING TO WAIT FOR LISA HERRICK TO COME DOWN. SHE'S GOING TO BE MAKING A PRESENTATION TODAY. THE FOCUS TODAY IS ON REALLY I GUESS THE THEME IS COMMUNICATIONS. AND IN CONTEXT OF THE RALPH M. BROWN ACT, RECENT CHANGES EFFECTIVE JANUARY OF THIS YEAR, I KNOW WE'VE TALKED ABOUT IT BOTH IN THE CONTEMP OF THE SAN PEDRO URBAN MARKET, AND THE OTHER THING WE DID WANT TO TALK ABOUT GIVEN OUR SUNSHINE REFORMS HOW MEMOS NEED TO BE DONE IN A CERTAIN TIME PERIOD AND JUST REMIND COUNCILMEMBERS OF SOME OF THOSE RULES. SO LISA.

>> LISA HERRICK: EXACTLY. GOOD AFTERNOON. I WANTED TO JUST PROVIDE A BRIEF BIT OF CONTEXT FOR THE BROWN ACT GENERALLY AND THEN I WILL BRIEFLY TALK ABOUT SOME OF THE OPEN GOVERNMENT SUNSHINE REFORMS THAT THE COUNCIL PASSED IN THE PAST SEVERAL YEARS. FIRST OF ALL THE BIG PICTURE OF COURSE BEHIND THE BROWN ACT IS THAT THE WORK OF THE CITY IS THE PUBLIC'S BUSINESS, AND THE PUBLIC TRUSTS THE PROCESS THAT IT CAN SEE. THE BROWN ACT SPECIFICALLY STATES THAT SOME LANGUAGE, INTENT LANGUAGE FROM THE BROWN ACT IS THAT THE COMMISSIONS BOARDS AND COUNCILS EXIST TO AID IN THE CONDUCT OF THE PEOPLE'S BUSINESS AND IT IS THE INTENT OF THE LAW THAT THEIR ACTIONS BE TAKEN OPENLY AND THEIR DELIBERATION BE TAKEN OPENLY. TRANSPARENCY NOT ONLY SERVES TO HOLD GOVERNMENT OFFICIALS RESPONSIBLE BUT WHEN PUBLIC PARTICIPATES, YOU HAVE A BROADER LEVEL OF PARTICIPATION AN EVERYONE WINS. SO WHO IS COVERED? YOU KNOW THAT THE COUNCIL, THE BOARD OF THE REDEVELOPMENT AGENCY, ALL OF THE COUNCILS, BOARDS AND COMMISSIONS THAT ARE ESTABLISHED BY FORMAL ACTION OF THE COUNCIL ARE COVERED BY THE BROWN ACT OR ESSENTIALLY HAVE TO COMPLY WITH THE REQUIREMENTS UNDER THE BROWN ACT. SO MEETING AS I THINK RICK INTRODUCED, IS BOTH A CONGREGATION OF A MAJORITY OF MEMBERS OF THE LEGISLATIVE BODY, AS WELL AS SOME SEPARATE COMMUNICATIONS THAT ARE CONSIDERED SERIAL COMMUNICATIONS, THAT CAN BE CONSIDERED A MEETING AND THOSE SORTS OF MEETINGS ARE PROHIBITED UNDER THE BROWN ACT. THE TYPICAL KIND OF MEETING THAT WE THINK ABOUT IN TERMS OF THE CONGREGATION OF THE MAJORITY OF MEMBERS OF THE LEGISLATIVE BODY, AT THE SAME TIME AND PLACE, TO HEAR, DISCUSS, DELIBERATE OR TAKE ACTION, IS WHAT REALLY WHAT HAPPENS WHEN YOU HAVE REGULAR MEETINGS, SPECIAL MEETINGS, THE DEFINITE -- DEFINITION OF MEETING IS A LITTLE BIT BROADER. HOWEVER SOME EVENTS THAT YOU MIGHT NOT THINK OF AS A MEETING COULD ALSO BE CONSIDERED MEETING, SUCH AS RETREATS OR SITE TOURS OR ANY MEAL GATHERINGS THAT MIGHT TAKE PLACE BEFORE A MEETING. SO TO THE EXTENT THAT THAT INVOLVES A MAJORITY OF A LEGISLATIVE BODY WHERE THERE WOULD BE SOME DISCUSSION, DELIBERATION OR TAKING ACTION, THAT NEEDS TO BE NOTICED IN ACCORDANCE WITH THE BROWN ACT. THERE ARE SOME

EXCEPTIONS. AS LONG AS THERE ISN'T A CONSULTATION AMONG THE MAJORITY OF MEMBERS OF THE LEGISLATIVE BODY. WHEN THERE A MAJORITIES OF THE MEMBERS OF THE LEGISLATIVE BODY AS A CONFERENCE OR SEMINAR THAT IS OPEN TO THE PUBLIC, AND ABOUT ON THE TOPIC OF ISSUES OF GENERAL INTEREST TO PUBLIC, OR THE CITIES IN GENERAL, COMMUNITY MEETINGS, ANY NEIGHBORHOOD ASSOCIATIONS THAT HAVE A MEETING WHERE A MAJORITY OF THE COUNCIL ATTENDED, BUT DID NOT TALK ABOUT ANY MATTERS WITHIN THE SUBJECT MATTER JURISDICTION OF THE CITY, WOULD BE OKAY. ANY PUBLIC MEETINGS OF ANOTHER GOVERNMENTAL AGENCY TO THE EXTENT THAT A MAJORITY OF THE COUNCIL WANTED TO GO DOWN TO THE SANTA CLARA VALLEY WATER DISTRICT'S MEETING, OR PURELY SOCIAL OR CEREMONIAL EVENTS ARE NOT CONSIDERED MEETINGS EITHER. SO WHAT WE'RE REALLY GETTING AT HERE IS A CHANGE IN THE LAW THAT DEFINES SERIAL COMMUNICATIONS. THE BROWN ACT PROHIBITS A MAJORITY OF THE MEMBERS FROM USING A SERIES OF COMMUNICATIONS OF ANY KIND, DIRECTLY OR INDIRECTLY, TO DISCUSS, DELIBERATE, TAKE ACTION ON ANY SUBJECT WHICH IS THE SUBJECT MATTER JURISDICTION OF A LEGISLATIVE BODY. THIS MATTER IS NEW. THE PRIOR BROWN ACT LOUD FOR SERIAL COMMUNICATIONS, MAJORITY OF MEMBERS, DIDN'T NECESSITATE THAT A MAJORITY OF THE MEMBERS OF THE LEGISLATIVE BODY, THAT IS OUTSIDE OF A NOTICED MEETING WOULD BE A VIOLATION OF THE BROWN ACT. JUST WANTED TO POINT OUT A COUPLE OF THINGS ABOUT THE KINDS OF COMMUNICATIONS THAT CAN RESULT IN SOME SERIAL COMMUNICATIONS. SO FACE TO FACE COMMUNICATIONS AND OBVIOUSLY TELEPHONE CALLS ARE OBVIOUSLY. INTERMEDIARIES, COUNCIL STAFF CAN ACT AS INTERMEDIARIES. STAFF OR LOBBYISTS COULD ALSO ACT AS INTERMEDIARIES. BUT I WANTED TO POINT OUT THAT THE REEVED OR AMENDED VERSION OF THE BROWN ACT DOES SPECIFICALLY PERMIT INTERACTION BY STAFF MEMBERS WITH COUNCILMEMBERS, SO LONG AS THERE IS NOT ANY DISCUSSION ABOUT WHAT A MAJORITY OF THE MEMBERS -- WHAT THEIR OPINION IS ABOUT A PARTICULAR TOPIC, WHAT IT IS THAT THEY -- THE SPECIFIC LANGUAGE IS -- THAT THE BROWN ACT SPECIFICALLY ALLOWS BRIEFINGS BY STAFF IN ORDER TO ANSWER QUESTIONS OR PROVIDE INFORMATION REGARDING A MATTER THAT IS WITHIN THE SUBJECT MATTER JURISDICTION OF THE LOCAL AGENCY, IF THAT PERSON DOES NOT COMMUNICATE TO MEMBERS OF THE LEGISLATIVE BODY, THE COMMENTS OR POSITION OF ANY OTHER MEMBER OR MEMBER OF A LEGISLATIVE BODY. ALSO WANTED TO REMIND EVERYBODY ABOUT E-MAILS. BECAUSE THAT IS OBVIOUSLY SOMETHING THAT CAN RESULT IN SERIAL COMMUNICATION BY THE INADVERTENT OR INTENTIONAL REPLY TO ALL, OR FORWARDING TO MEMBERS OF THE LEGISLATIVE BODY. I THREW UP THERE DISCUSSION GROUPS OR BLOGS, CHAT ROOM IS AN OLD WAY OF ARTICULATING THIS TYPE OF CONCERN. BUT THE ISSUE WITH BLOGS IS WHO STARTS RESPONDING TO THE BLOG AS IT GOES ALONG AND ONCE YOU START GETTING A MAJORITY OF THE MEMBERS, THEN THAT'S SEPARATE, THOSE ARE SEPARATE DISCUSSIONS THAT CAN ADD UP TO A SERIAL MEETING. AND THEN FINALLY AS YOU KNOW, THE BROWN ACT DOES REQUIRE THAT MEETINGS BE OPEN TO THE PUBLIC AND THAT AGENDAS BE POSTED SO THAT THE PUBLIC KNOWS WHAT THE COUNCIL IS GOING TO TALK ABOUT. SO I JUST WANTED TO MAKE A COUPLE OF COMMENTS ABOUT THE OPEN GOVERNMENT SUNSHINE REFORMS. WHILE THE BROWN ACT REQUIRES AGENDAS TO BE POSTED 72 HOURS IN ADVANCE OF THE MEETING, THE COUNCIL ADOPTED DIFFERENT RULES FOR ITSELF SEVERAL YEARS AGO AND THEN MORE RECENTLY FOR THE COUNCIL COMMITTEES AND THE BOARDS AND COMMISSIONS IN THE CITY HERE. SO THE COUNCIL POSTS ITS AGENDAS 11 DAYS IN ADVANCE OF THE MEETING. THE COUNCIL COMMITTEES AND ALL THE BOARDS AND COMMISSIONS POST THEIR AGENDAS SEVEN DAYS IN ADVANCE WITH THE EXCEPTION OF THE RULES COMMITTEE WHICH IS SIX DAYS IN ADVANCE. A NEW REFORM THAT THE COUNCIL ENACTED RECENTLY IS THAT THE MEMOS NEED TO BE POSTED ALONG WITH THE AGENDAS. THAT IS STAFF MEMOS NEED TO BE POSTED ALONG WITH THE AGENDA. THE BROWN ACT DOES NOT SPEAK TO MEMOS BEING POSTED ALONG WITH THE AGENDA AT ALL. SO THE LAST POINT I JUST WANT TO REMIND THE COUNCIL ABOUT IS THE NEW SUNSHINE REFORMS, OPEN GOVERNMENT REFORMS ENACTED BY THE COUNCIL, ALSO PUT SOME LIMITATIONS ON COUNCILMEMBERS AS WELL. MEMOS SIGNED BY MORE THAN ONE COUNCILMEMBER ARE TO BE POSTED FOUR DAYS PRIOR TO A MEETING, ALTHOUGH IF THERE'S A MEMO SIGNED BY ONE COUNCILMEMBER IT CAN BE PRESENTED AT ANY TIME.

>> CITY ATTORNEY DOYLE: I JUST WANT TO REMIND THE COUNCILMEMBERS, IT IS NOT JUST GETTING THE SIX, IT IS ALSO THE COUNCIL COMMITTEES. YOU REALLY HAVE TO BE CAREFUL, THE WAY THE RULES RESOLUTION READS NOW IS THAT COMMITTEES CANNOT TAKE ACTION IF ONLY TWO OF YOU ARE AT THE COMMITTEE MEETINGS. SO TWO PEOPLE CAN TALK. BUT IF YOU GET TO A THIRD, THAT'S NOT A COMMITTEE, YOU'VE GOT A POTENTIAL BROWN ACT PROBLEM. I NEED TO CAUTION, IF IT'S SOMETHING WITHIN THE JURISDICTION OF THE SUBCOMMITTEE AS WELL AS THE CITY COUNCIL YOU HAVE TO BE CAREFUL WHO YOU'RE TALKING TO. THE SECOND ISSUE IS, AND THIS IS THE CHANGE IN THE LAW. IT ALWAYS -- SOMETIMES IT RAISES MORE QUESTIONS. BUT I THINK THE INTENT OF A LAW IS THAT ANY MEMBER OF THE COUNCIL OR THEIR STAFFS CANNOT USE A SERIES OUTSIDE A NOTICED MEETING TO DISCUSS OR TAKE ACTION IF YOU GET TO A MAJORITY. THE PARAGRAPH THAT DEALS WITH INFORMATIONAL SESSIONS, REALLY DEALS WITH STAFF, IF THE CITY MANAGER HAS REGULAR MEETINGS OR A MEMBER OF HER STAFF MAY WANT TO GO AND MEET AND GIVE YOU INFORMATION. AS LONG AS SHE'S NOT USED AS AN AGENT OR TRIES TO GIVE YOU INFORMATION AS TO WHO IS SUPPORTING WHAT, THEN THAT'S PERMITTED. AGAIN THIS IS NEW. I'M SURE THERE IS GOING TO BE SOME COURT DECISIONS ON THIS AND WE'LL SEE SOMEWHERE IN THE NEXT TEN YEARS WHERE THIS TAKES US, IT WAS REALLY DESIGNED OUT OF A CASE IN FREMONT WHERE THE COURT DECIDED THAT YOU ACTUALLY HAD TO COME TO AN AGREEMENT OR SOME CONCURRENCE AND THE LEGISLATURE EXPRESSLY REPUDIATED THAT AND SAID, NO, IT'S ANY DISCUSSION. WITH THAT I THINK WE'RE HERE TO ANSWER QUESTIONS.

>> MAYOR REED: MY FIRST QUESTION IS, WITH ALL THESE GOOD THINGS THAT COME FROM OPEN GOVERNMENT, HOW COME IT DOESN'T APPLY TO THE STATE LEGISLATURE? DON'T ANSWER THAT QUESTION. THAT'S A RHETORICAL QUESTION. MY QUESTION IS, HOW TO CURE A BROWN ACT VIOLATION. YOU DIDN'T COVER THAT. COULD YOU GO OVER WHAT HAPPENS WHEN THERE APPEARS TO BE A VIOLATION. OR WHATEVER.

>> CITY ATTORNEY DOYLE: IF IT COMES TO YOUR ATTENTION, YOU'RE GIVEN 30 DAYS TO CURE IT. REALLY THE WAY TO CURE IT IS TO REPUDIATE OR REPEAL THE PRIOR ACTION AND THEN TAKE IT UP AGAIN IN AN OPEN, NOTICED MEETING. AND I THINK THAT'S BEEN DONE BEFORE. WE'VE -- AND WE'VE SEEN THAT HERE, JUST -- NOT THAT THERE HAVE BEEN NECESSARILY THE BROWN ACT VIOLATION, I MAY USE THAT IN QUOTES BUT BECAUSE THERE'S BEEN AN APPARENT ISSUE THAT WE HAVE, JUST TO BE SAFE AND TO GIVE THE PERCEPTION THAT WE'RE FOLLOWING THE LETTER OF THE LAW, THE CURE IS REALLY TO HEAR IT AGAIN OR REPUDIATE WHAT'S HAPPENED BEFORE AND HEAR IT AGAIN.

>> MAYOR REED: WHAT IF YOU DISCOVER IT BEFORE ACTION IS TAKEN?

>> CITY ATTORNEY DOYLE: I THINK THE ISSUE THEN, IS AGAIN, TO DISCLOSE IT IN AN OPEN SESSION. AND I THINK THE CURE IS TO TAKE THE ACTION IN THE LIGHT OF DAY IN A PUBLIC SETTING, AND THAT'S REALLY THE BEST YOU CAN DO, THAT THE DISCUSSION AND THE DEBATE IS HELD IN THE OPEN AND IT'S TRANSPARENCY.

>> MAYOR REED: COUNCILMEMBER OLIVERIO.

>> COUNCILMEMBER OLIVERIO: THANK YOU, MAYOR REED. LISA, IF SOMEONE MEETS WITH YOU THAT'S DONE A VARIETY OF MEETINGS WITH OTHER COUNCILMEMBERS, AND THEN THEY TELL YOU ON THE SPECIFIC AGENDA ITEM HOW THE VOTES ARE GOING TO BE LAID OUT, WHAT ARE YOU TO DO IN THAT POSITION? ESCORT THEM OUT, TELL YOU, ET CETERA?

>> LISA HERRICK: I THINK FOLLOWING UP ON WHAT RICK SAID, IF THERE'S SOMETHING -- IF YOU FIND OUT OR YOU GET THE SENSE THAT THERE IS DISCUSSION THAT HAS GONE BEYOND OR THAT HAS REACHED A MAJORITY, I THINK THE BEST YOU CAN DO IS JUST DISCLOSE THAT, AND THEN GO FORWARD. IN TERMS OF PREVENTING THAT, ON THE FRONT END, IT SEEMS TO ME THAT BEING VERY CAREFUL ABOUT THE CONVERSATIONS THAT YOU HAVE WITH YOUR COLLEAGUES, YOUR COLLEAGUES' STAFF IN TERMS OF I DON'T WANT TO HEAR ANYTHING ABOUT WHAT ANYONE ELSE HAS TOLD YOU OR HOW THEY'RE GOING TO VOTE, I EITHER WANT TO GET INFORMATION FROM YOU OR YOU'RE GOING TO GET INFORMATION FROM ME. THAT SORT OF STRICT CONFINE IS THE BEST CAN YOU DO BEFOREHAND.

>> CITY ATTORNEY DOYLE: AND CAN I ADD THAT ALSO DEPENDS ON WHO THAT SOMEONE IS. IF IT'S A THIRD PARTY, A LOBBYIST, AS LONG AS THAT THIRD PARTY IS NOT BEING USED

AS AN AGENT. PEOPLE HAVE A CONSTITUTIONAL RIGHT TO PETITION THEIR GOVERNMENT. THEY SAY, I KNOW THIS IS HOW IT'S GOING TO GO. AS LONG AS THEY'RE NOT BEING USED AS AN AGENT TO GET WHAT THEY WANT, YOU CAN'T CONTROL THAT. BUT YOU CAN'T USE PEOPLE AS AN AGENT OR INTERMEDIARY AND YOU CAN'T HAVE THIS CONVERSATION AMONG YOURSELVES OR WITH STAFF.

>> COUNCILMEMBER OLIVERIO: IF THAT THIRD PARTY HAS MET WITH YOUR STAFF AND COMES TO YOU FOR COLLECTIVE THOUGHT?

>> CITY ATTORNEY DOYLE: I AGREE, IF HE OR SHE IS BEING USED AS AN AGENT OR INTERMEDIARY, IT IS A POTENTIAL PROBLEM. BUT IF IT'S JUST A LOBBYIST WHO HAS GONE TO 11 PEOPLE AND IS ABLE TO COUNT TO SIX, THERE'S NOT MUCH ABOUT FRANKLY THAT CAN YOU DO ABOUT IT. OTHER THAN "I DON'T WANT TO HEAR YOU." SORRY.

>> COUNCILMEMBER OLIVERIO: THANK YOU.

>> MAYOR REED: HOW DO YOU KNOW SOMEBODY IS AN AGENT IF THEY'RE NOT CARRYING A BADGE?

>> CITY ATTORNEY DOYLE: IF YOU HAVE THE SUSPICION THEY MIGHT BE YOU SHOULD DISCLOSE IT. IT IS NOT A COMMENT FOR PEOPLE, PARTICULARLY PAID LOBBYISTS TO TALK TO MORE THAN FIVE PEOPLE. SO I DON'T KNOW IF YOU CAN ALWAYS FIGURE IT OUT, QUITE HONESTLY.

>> MAYOR REED: IT'S ALSO A COMMENT FOR THEM TO SAY MORE THAN THEY ACTUALLY KNOW OR COUNT HIGHER THAN THEY CAN COUNT, ACTUALLY. IF SOMEBODY SAYS, I WANT TO TALK TO YOU ABOUT X, THAT'S OKAY, BASED ON WHAT YOU SAID. BUT YOU SAY, "I CAN'T TALK TO YOU BECAUSE I'M BROWN ACTED," THAT IS NOT A DISCUSSION ABOUT THE TOPIC, IS THAT RIGHT?

>> LISA HERRICK: THAT'S CORRECT.

>> MAYOR REED: COUNCILMEMBER CONSTANT.

>> COUNCILMEMBER CAMPOS: THESE ARE ONE OF THE THINGS THAT WE'RE HEARING, I THINK THAT'S RIGHT, I THINK YOU SHOULD BE SAYING RIGHT, BECAUSE THERE LEAVES A LOT OF GRAY WHEN YOU SAY "I THINK A POTENTIAL VIOLATION." AND RICK, THAT'S WHAT I WANTED TO ASK YOU IS THAT WHEN YOU WERE TALKING ABOUT COMMITTEE MEETINGS THAT YOU ALLUDED TO, IF YOU TALKED TO TWO AND MAYBE YOU TALKED TO A THIRD, IT COULD LEAD TO A POTENTIAL BROWN ACT VIOLATION. EITHER IT IS A BROWN ACT VIOLATION OR NOT A BROWN ACT VIOLATION. WORDING, WHEN YOU LEAVE IT ACCORDING TO THE NEW LAW THAT WAS PASSED, IT BASICALLY SAYS IT'S A VIOLATION. SO IF I'M NOT UNDERSTANDING IT CORRECTLY, I WOULD HOPE THAT YOU COULD EXPLAIN IT TO US, FROM A LEGAL PERFECT SO THAT WE CAN UNDERSTAND THIS AS WE MOVE FORWARD IN COMMITTEE MEETING.

>> CITY ATTORNEY DOYLE: AND I THINK THAT'S A GOOD POINT. I THINK LET'S JUST TAKE A TRANSPORTATION AND ENVIRONMENT COMMITTEE AND IF YOU HAVE THREE MEMBERS OF THE COMMITTEE THAT HAVE TALKED ABOUT SOMETHING, THE ONLY QUESTION I WOULD HAVE IS IF THAT ITEM IS NEVER GOING TO BE SEEING THE LIGHT OF DAY AT THE COMMITTEE, AND IT'S COMING TO THE COUNCIL, THEN REALLY IT'S A COUNCIL MEETING ISSUE AND NOT A COMMITTEE MEETING ISSUE. YOU NEED TO BE VERY CAREFUL IF YOU TALK TO SOMEONE THAT'S OFTEN THE SUBMATTER JURISDICTION OF THE COMMITTEE AND THE WAY YOU KNOW THAT IS ON YOUR WORK PLAN, THEN YOU NEED TO AVOID THE CONVERSATION WITH THE COMMITTEE MEMBERS AND BEING CONCERNED ABOUT GETTING BEYOND THE FIVE AT THE COUNCIL LEVEL.

>> COUNCILMEMBER CAMPOS: I THINK THAT'S THE KEY, THAT WHEN WE HEAR IT AT COMMITTEE AND WE KNOW THAT IT'S COMING BACK TO THE COMMITTEE. YOU SHOULDN'T TALK TO YOUR COMMITTEE MEMBERS. BUT IF IT'S GOING ON TO THE FULL COUNCIL, THEN YOU ARE ABLE TO TALK TO YOUR COMMITTEE MEMBERS.

>> CITY ATTORNEY DOYLE: ONCE IT'S GOING ON, YOU GOT TO WORRY ABOUT TALKING TO COUNCIL.

>> COUNCILMEMBER CAMPOS: THANK YOU.

>> MAYOR REED: COUNCILMEMBER LICCARDO.

>> COUNCILMEMBER LICCARDO: I JUST WANTED TO FOLLOW UP ON THE QUESTION, HOW DO WE CURE THE PROBLEM, WHEN WE KNOW THERE'S A PROBLEM IN ADVANCE AND WE TELL THE ATTORNEY. AT THE MEETING I ASSUME THE FIRST THING WE SHOULD BE SAYING IS

SOMETHING PUBLICLY, THAT IS, "I TALKED TO THIS MANY COUNCILMEMBERS," IS THAT RIGHT?

>> CITY ATTORNEY DOYLE: THE ACT DOESN'T SAY, OTHER THAN THAT YOU HAVE 30 DAYS TO CORRECT IT. THE SPIRIT OF THE BROWN ACT IS EVERYTHING IS TRANSPARENT. YOU DISCLOSE, BUT THAT'S WHY YOU'RE HERE TO HAVE A CONVERSATION, IN THE COMMITTEE LEVEL AND HEAR THE ITEM AND PASS IT ON TO COUNCIL.

>> COUNCILMEMBER LICCARDO: SO THEN YOU DON'T HAVE TO CONTINUE THE ITEM TO ANOTHER DAY?

>> CITY ATTORNEY DOYLE: THAT'S HOW I'D APPROACH IT.

>> COUNCILMEMBER LICCARDO: GREAT, THANK YOU.

>> MAYOR REED: I GATHER FROM THE CONVERSATION THAT ALL THE CASES ABOUT BROWN ACT WAS AFTER THE FACT, SOMETHING WAS DONE AND THEN THE LITIGATION FOLLOWED AS OPPOSED TO QUESTIONS WE JUST ASKED, WHICH WAS, IF YOU CAN CURE IT IN ADVANCE OF LITIGATION?

>> CITY ATTORNEY DOYLE: THAT'S RIGHT. IF IT GETS TO COURT, YOU'VE CURED IT AND IT'S MOOT. AND THE COURT SHOULD THROW IT OUT.

>> MAYOR REED: OTHER QUESTIONS OR COMMENTS ON THAT THIS, DID YOU HAVE ANY FURTHER ON YOUR PRESENTATION, LISA OR RICK?

>> LISA HERRICK: NO THANK YOU.

>> MAYOR REED: THIS IS JUST AN UPDATE, NO ACTION IS NECESSARY. WE WILL MOVE THEN TO THE NEXT ITEM ON THE AGENDA WHICH IS 3.5, REVISIONS TO THE CITY OF SAN JOSÉ CONFLICT OF INTEREST CODE.

>> LEE PRICE: THANK YOU, MR. MAYOR. LEE PRICE, CITY CLERK. I WAS OUT OF THE ROOM WHEN YOU DID ORDERS OF THE DAY. I DID APOLOGIZE BUT I DID WANT TO ASK FOR A TWO-WEEK DEFERRAL TO ITEM 3.5, AMENDMENTS TO THE CONFLICT CODE. I DO NEED TO GET BACK TO MEMBERSHIPS OF THE CITY MANAGER'S OFFICE AND LOOK AT IT ONE MORE TIME. I'D LIKE TO BRING IT BACK IN TWO WEEKS AND PUT IT ON THE CONSENT CALENDAR.

>> MAYOR REED: THIS IS BASICALLY UPDATING A LIST OF PEOPLE WHO ARE REQUIRED TO FILE FORM 700S.

>> LEE PRICE: THAT'S CORRECT. ALL FILERS HAVE BEEN NOTIFIED OF THEIR FILING REQUIREMENTS FOR APRIL 1. SO IT'S A -- A TWO-WEEK DEFERRAL WON'T DELAY THE PROCESS OF HAVING FILERS FILE ON TIME.

>> MAYOR REED: OKAY. IS THERE A MOTION FOR DEFERRAL? WE DO HAVE A MOTION TO DEFER FOR TWO WEEKS. ALL IN FAVOR? OPPOSED. NONE OPPOSED, THAT'S APPROVED. 3.6, IMPLEMENTATION OF PHASE 1 OF SUNSHINE REFORM. WE HAVE A REPORT FROM TOM MANHEIM WHO IS HERE AND COULD ANSWER QUESTIONS. DO YOU HAVE FURTHER REPORT BEYOND THE STAFF REPORT, TOM?

>> TOM MANHEIM: NO, WE DON'T HAVE ANY PRESENTATION PLANNED. I DID WANT TO CLARIFY OR UPDATE YOU ON ONE THING THAT IS IN THE MEMO. WE HAD INDICATED THAT AS WE EXPANDED THE NOTICING AND REPORTING AND POSTING REQUIREMENTS TO THE 43 BOARDS AND COMMISSIONS, THAT WE WERE ALMOST 100% THERE. I'M HAPPY TO UPDATE YOU, WE ARE NOW 100% THERE. WE HAD SOME ISSUES TO WORK OUT WITH THE TWO RETIREMENTS BOARDS, BECAUSE THEIR WEBSITE IS MANAGED BY AN OFFSITE SERVICE, AND WE HAVE SOLVED THOSE PROBLEMS, AND SO NOW ALL AGENDAS AND RELATED ITEMS ARE BEING POSTED. AND WITH THAT WE'RE HAPPY TO ANSWER ANY QUESTIONS YOU HAVE.

>> MAYOR REED: COUNCILMEMBER CONSTANT.

>> COUNCILMEMBER CONSTANT: THANKS. I JUST HAVE A QUESTION ON HOW WE ENSURE EVERYBODY IS COMPLYING, AND WHAT HAPPENS WHEN PEOPLE DON'T. FOR INSTANCE, WE KNOW THAT ON THE CALENDARING, AND THAT'S THE EXAMPLE I'LL USE, THAT IT WAS POINTED OUT, PROBABLY SIX, EIGHT MONTHS AGO BY THE MERCURY NEWS, THAT SOME PEOPLE WERE DOING IT, SOME PEOPLE WEREN'T. SINCE THEN I'VE JUST DONE SPOT-CHECKS AND SOME PEOPLE PUT ALL THE REQUIRED INFORMATION, SOME PEOPLE DON'T. SOMETIMES THEY'RE UPDATED WEEKLY OR BIWEEKLY OR SOMETIMES EVERY MONTH OR SO. WHAT MECHANISM DO WE HAVE TO ENSURE THAT WE ARE FOLLOWING THROUGH WITH OUR COMMITMENTS HERE?

>> TOM MANHEIM: COUNCILMEMBER, THERE IS NOT AN ENFORCEMENT MECHANISM. IN FACT I GO BACK TO WHAT THE SUNSHINE REFORM TASK FORCE SAID WHEN THEY IMPOSED THESE REQUIREMENTS OR RECOMMENDATIONS, WHICH WAS THAT THERE'S REALLY NO WAY OF KNOWING WHETHER THE CALENDARS ARE ACCURATE. THAT THIS IS SORT OF THE TRUST SYSTEM. WE HAVE FROM TIME TO TIME TRIED TO LOOK AT THE CALENDARS, AND I.T. DEPARTMENT HAS WORKED WITH DIFFERENT COUNCIL OFFICES, TO JUST GO THROUGH THE TRAINING PROCESS. BECAUSE FRANKLY THE PROCESS OF POSTING THE CALENDARS IS NOT QUITE AS SEAMLESS AS WE'D LIKE FROM JUST A TECHNOLOGY STANDPOINT. SO WE CONTINUE TO WORK WITH OFFICES ON THAT. IN TERMS OF THE REQUIREMENTS, AS FAR AS I KNOW, PEOPLE ARE POSTING THE REQUIREMENTS AS LAID OUT IN THE RECOMMENDATIONS, SOME PEOPLE ARE CHOOSING TO POST MORE. AND WE DON'T ASSUME THAT THERE'S ANY CEILING ON HOW MUCH INFORMATION CAN BE POSTED, ONLY A FLOOR.

>> COUNCILMEMBER CONSTANT: I JUST -- ONE OF THE CONCERNS I HAVE IS, I THINK WE'RE REQUIRED TO -- CORRECT ME IF I'M WRONG -- WHO WE MET WITH, WHAT THEIR AFFILIATION IS, WHAT THE TOPIC WAS, AND ANY OTHER ATTENDEES IN THE MEETING, OR SOMETHING SIMILAR TO THAT. I DON'T HAVE IT RIGHT IN FRONT OF ME. BUT I KNOW WHEN I GO THROUGH AND LOOK AT CALENDARS, OFTENTIMES THERE'S NONE OF THAT. IT'S MEETING WITH PETE CONSTANT. NO OTHER DETAILS. SO I'M JUST WONDERING, HOW ARE WE GOING TO, I GUESS, ENSURE THE PUBLIC THAT WE'RE GOING TO KEEP UP ON THIS? THAT'S THE BIGGEST QUESTION I HATE TO KEEP GETTING ARTICLES IN THE MERCURY YELLING AT US FOR NOT DOING THINGS RIGHT. THAT'S ONE ISSUE. AND THE OTHER ISSUE IS OBVIOUSLY THE TECHNICAL ISSUE OF GETTING THE UPLOADS DONE CORRECTLY. I KNOW YOU DON'T HAVE AN ANSWER FOR THAT. BUT I'M ASKING MORE RHETORICALLY FOR US TO THINK ABOUT, AS WE CONTINUE TO EXPAND THESE AREAS OF SUNSHINE, THEY'RE MEANINGLESS IF WE DON'T -- WE ARE EACH INDIVIDUALLY AND COLLECTIVELY DILIGENT IN MAKE SURE WE MEET THEM. AND I THINK AS WE GO FORWARD I'D LIKE TO LOOK FOR WAYS THAT WE CAN KEEP OURSELVES AND EACH OTHER ACCOUNTABLE. THANK YOU.

>> MAYOR REED: JUST LIKE TO ADD TO THAT. THERE'S ANOTHER REASON TO DO THE CALENDARS BEYOND THAT REQUIREMENT IS THAT WE'RE ALSO REQUIRED TO DISCLOSE OUR CONTACTS WITH LOBBYISTS BEFORE WE TAKE ACTION FROM THE DAIS. BUT THE CALENDAR SERVES AS A FUNCTION. THAT IS A DISCLOSURE PRIOR TO TAKING ACTION. SO THAT'S ANOTHER WAY TO GET THAT INFORMATION OUT THERE, SO YOU DON'T HAVE TO WORRY ABOUT FORGETTING ABOUT IT WHEN YOU GET TO THE DAIS, BECAUSE IT'S ALREADY BEEN DISCLOSED WITH THE DATE, TIME AND PLACE ALREADY INCLUDED. SO IT'S HELPFUL TO HAVE THAT DONE IN ADVANCE. COUNCILMEMBER CAMPOS.

>> COUNCILMEMBER CAMPOS: THANK YOU, MAYOR. I KNOW THAT WE NEED TO DISCLOSE LOBBYIST AND OTHER SPECIAL INTEREST. BUT I RECALL THAT THERE ARE SPECIAL CIRCUMSTANCES FOR COMMUNITY MEMBERS THAT MAY NOT -- MAY HAVE A PRIVATE ISSUE THAT THEY WANT TO TALK TO YOU, I GUESS YOU CAN LOG IT IN, WITH JUST THEIR NAME AND NOT PUT THE SUBJECT. BUT I REMEMBER THAT FROM A PREVIOUS, CAN YOU JUST ELABORATE ON THAT A LITTLE BIT MORE? I KNOW THAT WE HAVE TALKED EXTENSIVELY ABOUT COMMUNITY MEMBERS THAT MAY NOT -- AS LONG AS IT'S NOT AN ITEM THAT WE'RE VOTING ON.

>> TOM MANHEIM: I'LL LET LISA WEIGH IN WITH MORE DETAIL. BUT IN GENERAL, THE RESTRICTIONS ARE AROUND IF SOMEBODY IS REPORTING SORT OF WRONGDOING, A WHISTLE BLOWER, THERE IS PROTECTIONS FOR WHISTLE BLOWERS. DO YOU REMEMBER --

>> LISA HERRICK: WHISTLE BLOWER AND FEAR OF RETALIATION ARE WHAT COME TO MIND. TO THE EXTENT THAT THE PERSON DOESN'T WANT TO BE IDENTIFIED AND CAN ARTICULATE GOOD REASONS TO YOU AS TO WHY THEIR NAMES SHOULD BE PROTECTED OR THE TOPIC OF THE DISCUSSION SHOULD BE PROTECTED, THEN THAT FITS WITHIN THE REQUIREMENTS.

>> COUNCILMEMBER CAMPOS: HOW WOULD YOU LOG THAT IN? YOU KNOW THAT THE MEETING HAPPENED. SHOULD YOU PUT, "MET WITH COMMUNITY MEMBER," OR HOW WOULD YOU LOG THAT IN?

>> LISA HERRICK: IT SEEMS TO ME IF THE PERSON IS WORRIED ABOUT THEIR NAME BEING ON THE CALENDAR OR THE TOPIC, YOU COULD IDENTIFY THE PERSON'S NAME AND NOT

IDENTIFY WHAT THE MEETING WAS ABOUT. IT'S BOTH THEIR NAME AND THE TOPIC THEN I GUESS YOU WOULD SAY COMMUNITY MEMBER OR DESCRIBE THEM IN ANY OTHER GENERIC TERM THAT WOULD FIT.

>> COUNCILMEMBER CAMPOS: I HAD A COUPLE OF SITUATION LIKE THAT, I PUT COMMUNITY MEMBER BECAUSE I THINK IT WAS KIND OF WHISTLE BLOWER BECAUSE THEY WERE CONCERNED ABOUT THE TOPIC AND THEIR NAME. SO THANK YOU FOR CLARIFYING THAT.

>> MAYOR REED: ANY OTHER COMMENTS OR QUESTIONS ON THIS ITEM? WE ARE JUST TODAY TO RECEIVE THE REPORT, NO OTHER ACTION NECESSARY AT THIS TIME. JUST A STATUS REPORT. IS THERE A MOTION TO ACCEPT THE REPORT? THERE IS A MOTION BY COUNCILMEMBER PYLE TO ACCEPT THE REPORT. ALL IN FAVOR? OPPOSED? BEFORE WE DO THAT, I DO HAVE ONE CARD. YES, I DO, DAVID WALL, BEFORE WE VOTE, DAVID WALL WANTS TO SPEAK ON THIS.

>> GOOD AFTERNOON. I'D LIKE TO REGISTER MY OBJECTION TO IMPLEMENTING PHASE 1 OR PHASE 2 OF SUNSHINE REFORM TASK FORCE ON THE GROUNDS THAT THERE IS AN UNDUE AND/OR CORRUPT INFLUENCE, AS TO TWO MEMBERS OF THE GROUP. THE TWO MEMBERS REPRESENT SPECIAL INTEREST CORPORATE ENTITIES. THE FIRST ONE IS THE SAN JOSÉ MERCURY NEWS, THE SECOND IS THE METRO. AGENTS OF BOTH OF THESE ARE SPECIAL AGENCIES REPRESENTING THE CORPORATE ENTITIES. THEY UTILIZE THEIR BULLY PULPITS, THROUGHOUT THEIR NEWSPAPERS FOR THEIR OWN EXPRESS PURPOSES TO EITHER CONVEY THEIR OPINIONS OR SOLICIT ADVERTISING. NEITHER OF THESE TWO GROUPS HAVE ANYTHING TO DO WITH THE PUBLIC'S WELL-BEING. THIS CONSTITUTES A MATERIAL CONFLICT OF INTEREST TO WHICH THIS ENTIRE GROUP SHOULD BE CAST AWAY, AND RE-THOUGHT OF IN MY OPINION. THANK YOU.

>> MAYOR REED: THAT'S IT FOR THE PUBLIC TESTIMONY IN THIS ITEM. WE HAVE A MOTION TO ACCEPT THE REPORT. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THAT'S APPROVED, THANK YOU VERY MUCH. MOVE TO ITEM 4.1, REPORT OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE FROM FEBRUARY 23RD, COUNCILMEMBER PYLE IS THE CHAIR.

>> COUNCILMEMBER PYLE: MR. MAYOR, ALL OF THE INFORMATION IS IN THE PACKET AND WITH THAT I'D MOVE TO APPROVE WITH THE COMMENT THAT THIS COMMITTEE HAS BEEN WORKING REALLY HARD. WE'RE MAKE GREAT PROGRESS.

>> MAYOR REED: I DON'T KNOW IF YOU'RE GOING TO GET A SECOND FOR THAT. NO, THERE'S A SECOND FOR THAT. OKAY. EVERYBODY'S WORKING HARD. OKAY, THE MOTION IS TO APPROVE THE MINUTES. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THOSE ARE APPROVED. ITEM 4.3, AMENDMENTS TO TITLES 18 AND 20 OF THE SAN JOSÉ MUNICIPAL CODE. CLARIFY THE ABILITY TO WITHDRAW DEVELOPMENT APPLICATIONS AND TO ALLOW INACTIVE APPLICATIONS TO BE DEEMED TO BE WITHDRAWN. JOE HORWEDEL PROBABLY HAS A REPORT ON THIS.

>> JOE HORWEDEL: THANK YOU, MR. MAYOR. THE SECOND PART OF THIS ORDINANCE, THE DEEMED WITHDRAWN PROVISION PREVIOUSLY EXISTED IN OUR ZONING CODE. IT WAS INADVERTENTLY WITHDRAWN AS WE WERE REWRITING OTHER PORTION OF OUR ZONING CODE. TODAY WE HAVE NEARLY 300 APPLICATIONS ON FILE FOR MORE THAN A YEAR, DOESN'T APPEAR TO HAVE ANY ACTIVITY WITH THOSE. AS WE ARE DEALING WITH FEWER STAFF, IT BECOMES A BURDEN TO CHASE AFTER THESE PROJECTS YEAR AFTER YEAR, AND ESPECIALLY OCCASIONALLY WHEN A PROJECT COMES BACK TO LIFE TO RESTART THAT PROCESS. SO STAFF HAS LOOKED AT THE NUMBER OF APPLICATIONS ON FILE. WE ARE PROPOSING NOT TO USE THIS FOR ALL 300 OF THOSE BUT WE WOULD LIKE A TOOL TO BE ABLE TO PARSE THROUGH THOSE TO GO BACK AND COMMUNICATE WITH THE APPLICANTS, THE LAST KNOWN ADDRESS THAT WE HAVE WITH THEM, AND SEE IF THEY STILL HAVE ANY INTEREST IN MOVING FORWARD WITH THE APPLICATION. IF SO, SET A SCHEDULE FOR MOVING FORWARD, AND IF THERE IS NO APPLICANT STILL INVOLVED OR NO INTEREST, THAT WE WOULD HAVE THE ABILITY TO TAKE THEM OFF THE BOOKS WITHOUT CONDUCTING A PUBLIC HEARING.

>> MAYOR REED: COUNCILMEMBER CAMPOS.

>> COUNCILMEMBER CAMPOS: THANK YOU. JOE, MY OFFICE HAD A MOMENT TO TALK TO ONE OF YOUR STAFF PEOPLE. BUT I KNOW THE MEMO TO THE PLANNING COMMISSION, IN THE SECTION IN ONE OF THE PARAGRAPHS IT READS THAT STAFF WILL SEND A COURTESY

NOTICE TO THE LAST APPLICANT ON RECORD TO CONFIRM ONGOING WORK EFFORTS. AND WHAT I WANTED TO ASK YOU IS, WHAT IS THE TIME FRAME FOR THE APPLICANT TO RESPOND TO YOUR DEPARTMENT SO THAT THEY CAN BE IN COMMUNICATION WITH YOU?

>> JOE HORWEDEL: THERE ISN'T ANYTHING WE'RE PUTTING INTO THE ORDINANCE. MY EXPECTATION IS THAT IT'S AT LEAST 30 DAYS. WE WOULD SEND IT TO A PROPERTY OWNER, DEVELOPER, AND APPLICANT, WE WOULD SEND IT TO ALL THREE OF THESE, TO LET THEM KNOW, DO THEY HAVE INTEREST IN IT. NOT TO REALLY BRING IT BACK TO LIFE BUT TO RAISE THEIR HAND TO SAY HI, WE'RE STILL INTERESTED.

>> COUNCILMEMBER CAMPOS: WOULD THEY NEED TO SEND WRITTEN DOCUMENTATION OR IS AN E-MAIL SUFFICIENT? WHAT IS THE CRITERIA THAT YOU WOULD BE ASKING FOR THEM TO COMMUNICATE WITH YOU THAT THERE IS STILL INTEREST IN THIS PROJECT?

>> JOE HORWEDEL: TO START WITH WE WOULD LIKE SOMETHING IN WRITING. INDICATION FROM SOMEBODY ON THE MILKS WHO IS STILL ENGAGED. ONE OF THE THINGS WE TYPICALLY DO IS EVERY YEAR OR SO WE'LL GO THROUGH THE PROJECTS AND SEND OUT A LETTER AND ASK THEM, DO YOU WANT TO PROCEED WITH THE APPLICATION? WE'LL ACTUALLY ATTACH A WITHDRAWAL APPLICATION AND THEN WE GIVE THEM A DEADLINE. WOULD YOU LET US KNOW ONE WAY OR THE OTHER BUT IF YOU DON'T DO THIS, THE DATE WE'LL TREAT US AS INACTIVE. RIGHT NOW YOU WILL GO THROUGH AND SEE THE PROJECTS THAT ARE INACTIVE. THIS PIECE IS GIVING THEM ONE MORE CHANCE TO SAY YES, WE'RE STILL ACTIVE AND THEN HERE'S WHAT THEY'RE GOING TO DO TO MAKE THEMSELVES ACTIVE. THEY'RE GOING TO BRING IN INFORMATION THAT WE NEED TO MOVE FORWARD WITH THE APPLICATION.

>> COUNCILMEMBER CAMPOS: SO WHAT IF THEY'RE STILL INTERESTED BUT THE MARKET RIGHT NOW WHICH WE KNOW IS NOT FAVORABLE FOR BUILDING, AND THEY'RE HAVING TROUBLE SECURING FINANCES FROM THEIR LENDING COMPANY, WOULD THEY NEED TO -- BUT THEY'RE STILL INTERESTED, HOW WITH THAT SCENARIO PLAY OUT?

>> JOE HORWEDEL: THAT'S ONE OF THE THINGS THAT WE WILL TAKE A LOOK AT. AND I DID A QUICK RUN-THROUGH THE LIST OF YESTERDAY, OF THOSE 300 PROJECTS. I HAVE 137 OF THEM THAT PREDATE 2003. SO THESE ARE APPLICATIONS THAT WERE FILED SOMEWHERE FROM 1998 TO 2003. CLEARLY, THE ECONOMY WAS NOT THE REASON WHY THOSE PROJECTS DID NOT MOVE FORWARD. THERE'S ANOTHER 150 THAT ARE SINCE 2003. SO IT IS ONE OF THE THINGS WE'RE GOING TO TAKE A LOOK AT BUT WE'RE GOING TO START FIRST WITH THOSE THAT ARE PRE-2003. BECAUSE OUR SENSE IS, THEY'VE JUST MOVED ON WITH LIFE AND THERE REALLY ISN'T MUCH INTEREST THERE. WHEN WE START DEALING WITH PROJECTS IN 2006, 2007, I THINK WE WILL HEAR THESE TYPES OF CONCERNS AND WE WILL BE SENSITIVE TO THAT.

>> COUNCILMEMBER CAMPOS: AND I KNOW MY STAFF SPOKE WITH LAUREL PREVETTI AND I KNOW SHE WAS COMMUNICATING WITH THEM THAT YOU'RE STILL LOOKING AT CRITERIA THAT WOULD DEEM A PROJECT INACTIVE. WHEN DO YOU THINK THAT WILL BE FINALIZED?

>> JOE HORWEDEL: WE'RE STILL WORKING THROUGH THAT. WE MET THIS MORNING WITH MANAGERS TO TALK ABOUT HOW WE WOULD TRIAGE THIS. THAT WAS WHERE THE 2003 WAS ONE CRITERIA THAT I THOUGHT MADE SENSE. AND WE ARE GOING BACK TO START WITH THOSE, TO LOOK AT WHAT IS THE LAST ACTIVITY. CLEARLY WE'VE TALKED ABOUT IN THE ORDINANCE IF THERE'S BEEN NO ACTIVITY, THEY HAVEN'T GIVEN US ANYTHING IN THE LAST YEAR. IS -- THAT IS A PRETTY BRIGHT LINE IN OUR MIND. WE ARE LOOKING AT SOME THINGS, THOUGH, WE KNOW WE HAVE PROJECTS WHERE THEY'RE TIED UP IN SOME LARGER POLICY ISSUES, SO WE'VE ALREADY TAKEN THEM OUT OF THE EAST FOOTHILLS BECAUSE THE LANDSLIDE ISSUES AND THE NEED FOR REGIONAL GEOLOGIC STUDY. WE TOOK THOSE OFF THE LIST BECAUSE WE KNOW THERE IS A LARGER POLICY ISSUE THERE. WE ARE TRYING TO MAKE SURE THAT WE DON'T HAVE PROJECTS THAT, BECAUSE OF NOTHING THAT WAS OF THEIR DOING, THEY ARE STUCK. WE WANT TO MAKE SURE IT'S REALLY THOSE PROJECTS THAT THERE AREN'T ANY INTERESTS IN MOVING FORWARD.

>> COUNCILMEMBER CAMPOS: THIS IS A QUESTION FOR YOU AS PLANNING DIRECTOR YOU HAVE THE POWER TO MOVE FORWARD AND SAY A PARTICULAR APPLICATION IS INACTIVE. AND IF THE APPLICANT FEELS THAT THEY WERE UNFAIRLY TREATED, IS THERE AN APPEAL PROCESS, OR IS THERE GOING TO BE A PROCESS THAT PEOPLE WILL BE ABLE TO

TURN TO, LIKE OTHER THINGS THAT THEY'RE ABLE TO FROM THE PLANNING COMMISSION, THE COUNCIL, HOW DOES THAT WORK?

>> JOE HORWEDEL: THERE IS NOT AN APPEAL PROCESS IN THE ORDINANCE. IT IS SOMETHING THAT, WHEN WE TALK WITH OUR MANAGERS THIS MORNING, LAUREL AND I WERE VERY CLEAR THAT THIS IS SOMETHING THAT WE WERE NOT GOING TO INVOKE WITHOUT LAUREL AND I PERSONALLY APPROVING IT, MOVING FORWARD ON THOSE PROJECTS. SO WE DON'T WANT, SAY, A PLANNER MAKING THE DECISIONS TO USE THIS TOOL. WE THINK IT'S SOMETHING THAT WE NEED TO USE VERY JUDICIOUSLY, AS I SAID, THERE'S A BATCH OF THEM THAT WE THINK CLEARLY AS WE GO THROUGH IT, WE'RE NOT GOING TO FIND ANY OBJECTIONS TO. IF THERE IS STUFF THAT WE'RE COMING ACROSS AND PEOPLE FEEL THEY SHOULD NOT BE TREATED THAT WAY, AT THIS POINT WITH NEARLY 300 PROJECTS, I DON'T NEED TO LOOK FOR PROJECTS THAT HAVE GOT CONTROVERSY AROUND THEM. SO WE'RE GOING TO REALLY FOCUS ON THE ONES WHERE IT IS VERY CLEAR THAT THERE IS NO REASON FOR IT TO REMAIN. ONCE WE GO THROUGH THAT FIRST ROUND WE'LL COME BACK AND LOOK AT TO SEE FOR THOSE ONES WHERE PEOPLE RAISED CONCERNED AND WE DIDN'T GO FORWARD WITH WITHDRAWING IT, IS THERE SOMETHING MORE THAT WE NEED TO DO. AND I THINK AT THAT POINT, MAYBE LOOKING AT THE ROLE OF COMMISSION MIGHT MAKE SENSE.

>> COUNCILMEMBER CAMPOS: THOSE ARE ALL MY QUESTIONS.

>> MAYOR REED: COUNCILMEMBER CHU.

>> COUNCILMEMBER CHU: THANK YOU, MAYOR. THE LETTER OF NOTIFICATION, WOULD IT BE SENT BY REGISTERED MAIL?

>> JOE HORWEDEL: WE TALKED ABOUT THAT THIS MORNING. OUR FIRST PASS IS, JUST BECAUSE THE COST INVOLVED, LITERALLY THE DOLLARS, THIS IS AN UNBUDGETED ACTIVITY, AS WELL AS THE TIME IT TAKES TO DO THE REGISTERED MAIL, WE'RE NOT GOING TO DO THAT FIRST ROUND OUT. BUT WE WANT TO GO THROUGH AND REALLY BLANKET OUT AND SEE WHAT WE CAN GET BACK IN THE WAY OF RETURNED ADDRESSES FROM SOME THESE LOCATIONS TO CHASE IT THROUGH. BECAUSE I REALLY HAVE A CONCERN ABOUT THE COST INVOLVED WITH THE REGISTERED MAIL AND THEN YOU KNOW, IT BOUNCING BACK FROM AN ADDRESS THAT THERE'S NO ONE THERE. SO THAT'S ONE OF THE THINGS WE WANT TO LOOK AT.

>> COUNCILMEMBER CHU: WE'RE TALKING ABOUT MAYBE 3, 400 APPLICANTS?

>> JOE HORWEDEL: YES.

>> COUNCILMEMBER CHU: SO WHAT'S A COUPLE --

>> JOE HORWEDEL: IT WOULD BE A COUPLE THOUSAND DOLLARS, SO THIS IS COMING OUT OF THE DEVELOPMENT FEE PROGRAM.

>> COUNCILMEMBER CHU: ANOTHER QUESTION IS, HOW DO WE ACCUMULATE UP TO THAT 300, 400 APPLICANTS? THE PROCESS BEFORE, IF THEY WERE TO EXPIRE IN SIX MONTHS, THEN WE GO THROUGH THE PROCESS OF NOTIFYING THEM, AND YOU KNOW, MAKE IT INACTIVE. SO WITH THAT SIX-MONTH WINDOW OR EXPIRATION DATE, HOW CAN WE ACCUMULATE TO 3 OR 400 OF THEM?

>> JOE HORWEDEL: THERE IS NO EXPIRATION OF PROJECTS. WE HAD A PROCESS TO WITHDRAW PROJECTS BACK IN THE LATE '90S. BUT FOR PLANNING PERMITS THERE IS NO EXPIRATION DATE FOR A SUBMITTAL. IT IS ON THE BOOKS UNTIL IT'S RESOLVED. WE FOCUS ON THOSE PROJECTS THAT PEOPLE INTERESTED IN MOVING FORWARD AND IF THERE IS NO INTEREST IN MOVING FORWARD, WE LITERALLY PUT IT ONTO THE SHELF AND MOVE ON TO THE NEXT PROJECT. OTHERWISE, WE WOULD BE HOLDING UP PEOPLE THAT ARE READY TO GO WHILE WE'RE TRYING TO FIND PEOPLE WHO HAVE NO INTEREST IN MOVING FORWARD.

>> COUNCILMEMBER CHU: THANK YOU.

>> MAYOR REED: I HAVE NO CARDS FROM THE PUBLIC TO SPEAK ON THIS ITEM. I THINK THAT COMPLETES THE COUNCIL QUESTIONING. I DO NEED A MOTION, OR DO I? I HAVE A MOTION. COUNCILMEMBER PYLE. ALL IN FAVOR, OPPOSED, NONE OPPOSED, THAT'S APPROVED. ITEM 4.4, ADMINISTRATIVE HEARING REGARDING APPEAL TO THE PLANNING COMMISSION, APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY A MATTER OF PUBLIC CONVENIENCE OR NECESSITY. I HAVE A QUESTION FOR THE CITY ATTORNEY, I THINK WE HAVE AN OBLIGATION TO DISCLOSE CONTACTS. QUASIJUDICIAL HEARING.

>> CITY ATTORNEY DOYLE: YES, DISCLOSURE SHOULD BE MADE IN ADVANCE.

>> MAYOR REED: NOT JUST LOBBYISTS BUT ANYBODY PARTICIPATING IN THE PROCEEDINGS BECAUSE IT IS A QUASIJUDICIAL HEARING. I'LL TAKE ANY DISCLOSURES. COUNCILMEMBER CAMPOS.

>> COUNCILMEMBER CAMPOS: I'LL DISCLOSE MY THAT MY STAFF MET WITH JOSÉ MONSA HE IS I BELIEVE THE STORE MANAGER OF THE SUPERMARKET THAT WE'RE BRINGING FORWARD TODAY.

>> MAYOR REED: OKAY. IS THERE A STAFF PRESENTATION ON THIS?

>> JOE HORWEDEL: THANK YOU, MR. MAYOR. THIS IS AN APPEAL OF THE PLANNING COMMISSION DENIAL OF A PUBLIC CONVENIENCE AND NECESSITY DECISION. AS COUNCIL'S WELL AWARE, IN CERTAIN CIRCUMSTANCES THE PLANNING COMMISSION IS REQUIRED TO DENY THOSE REQUESTS, AND THAT THE APPEAL DOES COME TO THE CITY COUNCIL. PLANNING STAFF INITIALLY RECOMMENDED DENIAL OF THE CHANGE BASED ON THE COUNCIL CRITERIA. BUT AS YOU HAVE SEEN IN OTHER CASES, AT THE APPEAL HEARING WE DO PROVIDE A STAFF OPINION ON CONFORMANCE WITH THE CRITERIA. STAFF DOES BELIEVE THAT THE PROPOSED OFFSALE ALCOHOL APPLICATION IS APPROPRIATE IN THIS CASE AND THAT THE FINDINGS CAN BE MADE AS RELATES TO THIS BEING A FULL SERVICE GROCERY STORE AND THE PERCENTAGE OF FLOOR AREA DEVOTED TO OFFSALE OF ALCOHOL IS APPROPRIATE AND WOULD NOT CREATE A BURDEN AND NUISANCE IN THE COMMUNITY. THIS CONCLUDES STAFF'S REPORT.

>> MAYOR REED: THANK YOU. I DO HAVE SOME REQUESTS FROM THE PUBLIC TO SPEAK TO THIS ITEM. I THINK WE SHOULD TAKE THOSE NOW, COUNCILMEMBER CAMPOS DID YOU WANT TO SPEAK BEFORE THAT?

>> COUNCILMEMBER CAMPOS: ACTUALLY, MAYOR, IF I MAY, I THINK A LOT OF THE SPEAKERS ARE HERE IN SUPPORT OF PLANNING DEPARTMENT'S RECOMMENDATION. SO I'D LIKE TO JUST PUT A MOTION ON THE FLOOR, SO THAT THEY WILL HAVE SOMETHING TO SPEAK TO. IF THAT'S FINE.

>> MAYOR REED: OKAY.

>> COUNCILMEMBER CAMPOS: FIRST OF ALL, JOE, THANK YOU FOR YOUR COMMENTS, AND IN LAYING OUT WHY YOU HAD FIRST DENIED THIS. I THINK THAT WHEN WE TOOK THIS BIG CHALLENGE ON, ON REVAMPING WHAT THE ORDINANCE LOOKED LIKE, FOR SUPPORTING ALCOHOL LICENSES IN COMMUNITIES, THERE WERE A LOT OF -- THERE WAS A LOT OF CRITERIA THAT WENT INTO IT. AND BECAUSE THIS IS IN AN SNI AREA, THAT HAD A HUGE WEIGH-IN ON THE DECISION BEING DENIED, I DON'T TAKE THIS ISSUE LIGHTLY IN SUPPORTING ALCOHOL LICENSE, OFFSALE ALCOHOL LICENSE IN COMMUNITIES. BUT FOR ME, THIS ISSUE HAS GONE THROUGH A LOT OF DIFFERENT CHANNELS. COMMUNITY MEETINGS, WORKING CLOSE WITH THE STORE MANAGER, AND SHARING OUR CONCERNS, AS WELL AS THE COMMUNITY. BUT THEY CLEARLY HAVE DEMONSTRATED THAT THEY ARE A VALUE SUPERMARKET WITHIN THE COMMUNITY. THEY ARE A VERY CLEAN SUPERMARKET. I WENT IN AND VISITED YOUR MARKET, IT'S VERY CLEAN, I APPRECIATE THAT AND I'M SURE THE COMMUNITY APPRECIATES THAT. THEY HAVE MADE MANY, MANY IMPROVEMENTS WITHIN THIS SHOPPING AREA, IN INVESTING INTO MAKE SURE THAT IT IS A VIABLE, CLEAN, SHOPPING CENTER WITHIN THE COMMUNITY. IT IS IMPORTANT FOR THE CITY ALSO TO SUPPORT FULL SERVICE GROCERY STORES IN COMMUNITIES THAT ARE WALKABLE. AND THIS IS A COMMUNITY THAT DEFINITELY WALKS TO THEIR SUPERMARKET. SO HAVING A FULL SERVICE SUPERMARKET IN THIS AREA IS VERY ESSENTIAL. I HAVE ATTACHED A MEMO TO THE FULL COUNCIL, AND WHAT I'M ASKING HAD ATTACHED TO MY MEMO TODAY, THAT THESE CONDITIONS I'M ASKING FOR OR RECOMMENDATIONS THAT I'M ASKING FOR SHOULD BE VIEWED AS SUGGESTIONS, AND RECOMMENDATIONS TO THE ABC SO THEY CAN CONSIDER THEM. BUT IT IS NOT OUR POWER TO DEMAND THESE RECOMMENDATIONS. AND PLANNING DIRECTOR, IF YOU JUST TOUCH ON THAT THAT WOULD BE HELPFUL FOR I THINK THE VIEWERS AS WELL AS THE PEOPLE IN THE AUDIENCE TO UNDERSTAND THAT.

>> JOE HORWEDEL: THANK YOU, COUNCILMEMBER CAMPOS, I WILL START AND RICK MAY WANT TO SPEAKS A LITTLE BIT. IT IS A RECOMMENDATION TO GO TO THE ALCOHOL BEVERAGE CONTROL BOARD FOR OFFSALE LICENSE, YOU ARE ASKING THAT THE APPLICANT NOT SELL ALCOHOL DURING CERTAIN HOURS, NOT SELL SINGLE CONTAINERS, THAT

DISTRIBUTE BEER AND WINE AND DISTILLED SPIRITS. THIS ESTABLISHMENT DOES CLOSE AT 10:00 RATHER THAN MIDNIGHT. WE HAVE SHOWN THE LOCATION OF THE SALE OF BEER AND WINE AND THE LOCATION OF DISTILLED SPIRITS SO THEY ARE IN A SECURE LOCATION, SO THAT THAT IS PART OF THIS APPROVAL, AND THE FINDINGS THAT THE COUNCIL IS MAKE IN GRANTING THIS HAS TAKEN THAT INTO ACCOUNT. I THINK THE ISSUE OF THE SINGLE CONTAINERS IS SOMETHING THAT WE CAN CERTAINLY FORWARD ON TO ABC. IT IS NOT SOMETHING THAT THE CITY HAS THE ABILITY TO REGULATE, THAT PART OF THE RULE, THAT IS THE DOMAIN OF THE ALCOHOLIC BEVERAGE CONTROL BOARD.

>> COUNCILMEMBER CAMPOS: SO REALLY, MY MEMO IS ASKING THIS BE REFERRED TO ABC SO THEY CAN TAKE THAT INTO CONSIDERATION, IS THAT CORRECT?

>> JOE HORWEDEL: YES, WHEN THAT LICENSE COMES FORWARD AGAIN, WE WILL MAKE SURE THAT THE POLICE DEPARTMENT HAS THAT AVAILABLE FOR -- IN THEIR REVIEW.

>> COUNCILMEMBER CAMPOS: THANK YOU. ONE OTHER THING I WOULD JUST LIKE TO ADD INTO THE MOTION, ON THE FLOOR, IS THAT I WOULD LIKE TO REQUEST THAT COUNCIL DIRECT THE PLANNING DIRECTOR TO CONDUCT AN INSPECTION OF THIS BUSINESS AFTER 12 MONTHS AND REPORT BACK IN AN INFORMATIONAL MEMO TO MAKE SURE THEY'RE A GOOD NEIGHBOR IN THE MAYFAIR NEIGHBORHOOD. WHAT I SAY TO THE OWNERS IS I KNOW YOU'RE GOING TO DO A FANTASTIC JOB. ONE OF THE PROBLEMS IN THE COMMUNITIES THAT ARE OVER CONCENTRATED IN THE ALCOHOL LICENSES IS WE'VE HAD HIGH CRIME, WE'VE HAD OTHER ISSUES. AND WE KNOW THAT AS THE COMMUNITY HAS EXPRESSED, THAT YOU WERE A GOOD NEIGHBOR AND I HAVE A LOT OF FAITH THAT YOU WILL CONTINUE TO BE A GOOD NEIGHBOR. WITH THAT I WILL ASK MY COLLEAGUES TO SUPPORT THIS AND GRANT THEM THE OFFSALE ALCOHOL LICENSE SO THAT THEY CAN HAVE A FULL SERVICE SUPERMARKET.

>> SECOND THAT.

>> MAYOR REED: WE HAVE A MOTION BY COUNCILMEMBER CAMPOS, SECONDED BY COUNCILMEMBER CONSTANT. ON THE MOTION, COUNCILMEMBER CONSTANT.

>> COUNCILMEMBER CONSTANT: JUST A QUICK QUESTION TO JOE. I ASK THIS EVERY TIME WE DO THIS. ARE WE MAKING ANY PROGRESS TOWARDS POTENTIALLY CHANGING THE PROCESS SO PEOPLE DON'T HAVE TO GET AUTOMATICALLY DENIED AND SPEND THE TIME AND THE MONEY AND THE ENERGY GOING TO THE PLANNING COMMISSION, INSTEAD OF GETTING THEM HERE, WHERE WE'RE THE ONES IN POWER TO MAKE THE DECISION?

>> JOE HORWEDEL: WE DO HAVE THAT ORDINANCE ON OUR LIST. IT IS ONE THAT HAS FALLEN AS WE ARE WORKING ON SOME OF THE OTHER ORDINANCE PROPOSALS THAT HAVE COME THROUGH WITH THE SIGN CODE, AND A COUPLE OF OTHERS WE'RE WORKING ON.

>> COUNCILMEMBER CONSTANT: AS LONG AS IT'S STILL ON OUR LIST.

>> JOE HORWEDEL: IT'S ON ONE OF THE LIST, AS PAUL SAYS, THE 26 ORDINANCES, IT IS ONE ON THAT LIST. WE'RE ACTUALLY GOING TO DO AN INFO MEMO TO COUNCIL THAT HAS THAT LIST, OTHER POLICIES, SO CAN YOU SEE WHAT'S QUEUED UP. SO IF YOU'VE GOT OTHER IDEAS, CAN YOU SEE WHAT WE'RE WORKING ON SO YOU SHOULD SEE THAT IN THE NEXT WEEK.

>> COUNCILMEMBER CONSTANT: GREAT, THANKS. I JUST WANT TO REMIND EVERYONE. I KNOW JOE KNOWS THIS, WE ACKNOWLEDGE IT ALL THE TIME. TIME IS MONEY TO BUSINESS, ANYTHING WE CAN DO TO MAKE THEM AVOID HAVING TO JUMP THROUGH UNNECESSARY HOOPS, WE WILL DO.

>> MAYOR REED: COUNCILMEMBER LICCARDO.

>> COUNCILMEMBER LICCARDO: THANKS, JOE. I DON'T KNOW IF THIS QUESTION IS FOR JOE OR FOR RICK, BUT I GET THE FACT THAT WE CAN'T GET INVOLVED IN THE REGULATION OF ALCOHOL, THAT'S IN THE STATE DOMAIN. BUT IT SEEMS TO ME WE SEEM TO HAVE PLENARY AUTHORITY OVER ISSUING PERMITS. AND ATTACHING CONDITIONS TO THOSE PERMITS THAT ARE SOMEHOW REASONABLY RELATED TO THE USE. SO I DON'T UNDERSTAND WHY WE CAN'T JUST SAY, HEY, YOU CAN'T SERVE ALCOHOL AFTER THIS PERIOD OF TIME. WE SHOULD BE ABLE TO SAY, YOU CAN'T SERVE FRITOS AFTER THIS PERIOD OF TIME AS WELL, IF IT'S RATIONALLY RELATED TO THE USE IN SOME WAY.

>> CITY ATTORNEY DOYLE: I'LL TAKE A STAB AT THE FIRST, ANYWAY. PUBLIC CONVENIENCE AND NECESSITY AS WE'VE DISCUSSED AT THE ABC HAVE TO BE UN. UNDER STATE LAW THE ABC HAS THE EXCLUSIVE RIGHT TO REGULATE ALCOHOL. THEY ISSUE PERMITS. AND THEIR

VIEW IS THAT THEY WILL NOT PUT ANY CONDITION ON THE APPROVAL BY THE CITY COUNCIL. THEY WILL DEEM IT A DENIAL. SO WE'VE BEEN VERY CAREFUL IN, WHEN WE GO FORWARD TO -- WHEN WE MAKE THE FINDINGS THEY HAVE TO BE, YES, WE MAKE THE FINDINGS, THE COUNCIL MAKES THE FINDINGS BUT YOU CAN WORK WITH THE ABC AND ENCOURAGE STAFF TO WORK WITH THE ABC TO ADDRESS THESE ISSUES. BUT THIS GETS WITHIN THE AREA OF ALCOHOL REGULATION. NOW, TO THE EXTENT WE'RE TALKING ABOUT ANY KIND OF USE PERMIT, AND CONDITIONS ON THE USE PERMIT, THAT'S SOMETHING WE WOULD HAVE TO LOOK AT. BUT RIGHT NOW, THIS HAS BEEN TIED INTO ABC FINDINGS OF DETERMINATION OF PUBLIC CONVENIENCE WHICH THEY INSIST IS AN UN, FINDING AND YOU CAN ENCOURAGE STAFF TO WORK WITH US ON THESE OTHER ISSUES, BUT THAT GETS TO THE REGULATION OF ALCOHOL. I KNOW WHAT YOU'RE SAYING, IT IS SOMETHING WE'VE GONE BACK AND FORTH ON AND YOU KNOW IT REALLY GETS INTO THAT AREA OF IS IT DEALING WITH THE REGULATION OF ALCOHOL AND THE ABC'S VERY JEALOUS ABOUT GUARDING THAT DOMAIN.

>> COUNCILMEMBER LICCARDO: WELL, AS A PRACTICAL MATTER, THEN, IS THERE CONTACT AT ABC WHO WORKS LOCALLY WITH US THAT WE CAN REACH OUT TO AND SAY, HEY, WE REALLY APPRECIATE IT IF THESE CONDITIONS WERE INCLUDED, WOULD YOU GUYS DO IT? SO AT LEAST WE CAN GET SOME CONFIRMATION BEFORE WE GO TO A COMMUNITY AND SAY, WE'RE GOING TO VOTE TO APPROVE THIS, THAT WE CAN GET A SENSE OF WHETHER OR NOT THESE CONDITIONS ARE LIKELY TO BE IMPOSED?

>> JOE HORWEDEL: IT IS MY UNDERSTANDING THAT THERE IS AN ONGOING RELATIONSHIP WE HAVE WITH ABC THROUGH THE POLICE UNIT, I PERSONALLY HAVEN'T TALKED WITH ABC SO I DON'T KNOW THE LEVEL OF THAT RELATIONSHIP. BUT THAT'S BEEN MY UNDERSTANDING OF HOW THAT'S PROGRESSED OVER THE YEARS IS THAT WE HAVE, THROUGH THE ABC, ACTUALLY ISSUANCE OF THEIR PERMIT, THAT THE POLICE DEPARTMENT HAS BEEN ABLE TO TALK WITH THEM AND GET CERTAIN THINGS WOVEN IN. I KNOW THERE ARE LICENSES THAT DO PROHIBIT THE SINGLE-SERVING CONTAINERS IN CERTAIN NEIGHBORHOODS, WHERE THAT -- WE'VE BEEN ABLE TO TALK ABOUT THE ISSUES OF CRIME AND SOME OF THE OTHER CHALLENGES, THAT THAT HAS BEEN WOVEN IN. BUT ABC IS GENERALLY VERY PROTECTIVE OF THE REGULATION OF ALCOHOL SALES. SO IT'S ONE THAT WE'VE REALLY -- DEAL WITH IT FROM THE OTHER SIDE OF THE HOURS OR AREAS DEVOTED TO IT BUT NOT THE ACTUAL, YOU KNOW, BRANDS OR THINGS LIKE THAT THAT ARE GOING ON WITH THE SALES. BECAUSE IT'S PART OF THE CONCERN THAT THE COMMUNITY MAY HAVE WITH FORTIFIED WINES AND THINGS LIKE THAT THAT WE DON'T HAVE THE ABILITY TO GET INVOLVED IN THIS.

>> CITY ATTORNEY DOYLE: WE CAN PROBABLY GET YOU SOME INFORMATION OF HOW WE INTERACT WITH THE ABC. IT IS A POLICE DEPARTMENT FUNCTION.

>> COUNCILMEMBER LICCARDO: I'LL FOLLOW UP WITH THE PD. I APPRECIATE YOU LETTING ME KNOW THAT AND WE'LL CERTAINLY -- I SEE EDDY ABOUT TO RUN DOWN. THAT'S OKAY, WE'LL TALK AFTER THE MEETING, THANKS EDDY.

>> MAYOR REED: WE HAVE SOME REQUESTS BY THE PUBLIC TO SPEAK TO THIS ITEM. WE HAVE A MOTION ON THE FLOOR. I'LL CALL SEVERAL NAMES AT A TIME. PLEASE COME DOWN CLOSE TO THE FRONT. MARGARITA MONZO, ALLEJANDRO MONZA. WE'LL ALLOW TWO MINUTES FOR EACH SPEAKER.

>> GOOD AFTERNOON, MR. MAYOR, MY NAME IS JOSÉ LUIS MONZA. I'VE BEEN A STORE DIRECTOR FOR GROCERY STORES FOR 17 YEARS. AND LIKE COUNCILMEMBER CONSTANT SAID, TIME IS MONEY IN BUSINESSES. WE'RE SO IN THE HOLE RIGHT NOW BECAUSE IT TOOK US NINE MONTHS TO COX TO THIS MEETING. I DON'T KNOW HOW I'M GOING TO BE ABLE TO PAY YOU KNOW FOR NEXT WEEK'S PAYROLL. I'VE GOT ALL MY EMPLOYEES HERE IN SUPPORT OF THIS LICENSE. AND I'LL TOUCH A LITTLE BIT ON THE CONDITIONS. I JUST WANTED TO GET TREATED FAIRLY. THAT'S ALL I'M ASKING. IF YOU GUYS, THE FIRST ONE IS A SOME I CANNOT SELL ALCOHOL FROM THE HOURS OF 10:00 A.M. TO 6:00 P.M. BLACK FRIDAY, YOU KNOW, STORES OPEN REALLY EARLY IN THE MORNING TO CREATE SOME SALES. GROCERY STORES DURING THE HOLIDAYS WE TRY TO OPEN UNTIL MIDNIGHT, YOU KNOW, AGAIN, TO TAKE ADVANTAGE OF THE SALES. THIS WILL, YOU KNOW, PREVENT ME FROM CLOSING AT MIDNIGHT DURING THE HOLIDAYS. THE SECOND ONE WAS, THE CONTAINERS. I CAN LIVE WITH THAT. I DON'T WANT TO SELL SINGLE SERVING CONTAINERS. THE THIRD ONE WAS, THE

APPLICANT WILL CONTAIN ACCESS CABINETS. ALBERTSON'S AND OTHER PLACES, YOU'RE GOING TO SEE DISPLAYS OUTSIDE THE CABINETS. THE APPLICANT WILL MAINTAIN REFRIGERATORS LOCATED IN THE REAR OF THE STORE. TODAY I WENT THROUGH TEN GROCERY STORES, THE ONE NEXT DOOR, IF YOU WALK THERE'S GOING TO BE A BIG DISPLAY OF BEER. ESPECIALLY WITH THE MEAT DEPARTMENT. BEER WILL GO IN THE MEAT DEPARTMENT. THIS WILL NOT ALLOW ME TO DO BEER IN OTHER LOCATIONS. I HAVE BEEN DOING BUSINESS FOR FIVE YEARS IN ANOTHER STORE AND I'VE A REALLY GOOD REPUTATION. I HAVEN'T SOLD TO MINORS, I GIVE A LOT OF TRAINING TO MY CHECKERS, AND ALL I WANT TO DO IS WORK AND COMPETE FAIRLY WITH THE REST OF THE SUPERMARKETS. I WANT TO BE TREATED FAIRLY. THAT'S ALL I'M ASKING HERE TONIGHT, TODAY. SO THAT'S ALL I HAVE TO SAY, AND I REQUEST ANSWER ANY QUESTIONS REGARDING OPERATION. I MEAN, AND LIKE I SAID, I'VE BEEN A STORE DIRECTOR FOR ALBERTSON'S SAFEWAY FOR 17 YEARS AND NONE OF THEM HAVE THOSE RESTRICTIONS. ONLY THE SINGLE SERVINGS BECAUSE THEY'RE CLOSE TO A STORE. AND THE SUPERMARKET THAT'S NEXT TO US THEY DO SELL THE SINGLE SERVINGS AND THE ELEMENTARY SCHOOL THAT'S RIGHT IN FRONT OF THEM. THAT'S ALL I HAVE TO SAY. THANK YOU VERY MUCH.

>> MAYOR REED: THAT INCLUDES THE APPLICANT'S PART OF THE TESTIMONY. MARGARITA MONZA.

>> GOOD AFTERNOON, MY NAME IS ALLEJANDRO MONZA, I AM CO-OWNER WITH MY BROTHER AND HIS WIFE WHO IS NOT HERE. I'M A REGISTERED CIVIL ENGINEER AND A GRADUATE OF SAN JOSE STATE. I WANT TO THANK ED SHRINER AND THE PLANNING COMMISSION, WHO UNDERSTOOD OUR DESPERATION AND EXPEDITED THE HEARINGS. WE HAVE MANY PEOPLE THAT REMEMBER THE OR THE FROM THE EARLY 1960S, AND HOUSEWIVES THAT TELL US HOW FAR THEY WOULD WALK WITH THEIR CHILDREN WHEN THE STORE CLOSED TEMPORARILY, RISKING THEIR LIVES IN CROSSING INTERSECTIONS. THIS IS WHY I WANT TO EMPHASIZE HOW NECESSARY THIS IS FOR THE VIABILITY OF OUR STORE IN THE NEIGHBORHOOD. IN 2008, THE NUMBER OF SHOPPERS WAS INCREASING AS EXPECTED BUT NOT HAVING THE LIQUOR LICENSE HAS FORCED US TO REDUCE OUR WORKFORCE AND PUT A BIG FINANCIAL BURDEN ON US. THE LIQUOR LICENSE IS OUR ONLY HOPE TO TURN AROUND OUR BUSINESS AND ALL WE ASK IS THAT WE GET TREATED EQUALLY, AND BE GIVEN THE OPPORTUNITY AS OTHER SIMILAR BUSINESS. IF YOU HAD A CHANCE TO VISIT OUR STORE YOU WILL BE ABLE TO SEE WE TAKE GREAT PRIDE IN WHAT WE DO AND WHAT WE OFFER AND WE OFFER A CLEAN SAFE SHOPPING EXPERIENCE. TOGETHER WITH MR. HARAMIS WE HAVE IMPROVED NOT ONLY THE CERTIFIED OF THE STORE BUT THE OUTSIDE OF THE CENTER, WHICH GIVES THE SHOPPING CENTER A NEW REFRESHING IMAGE. I HOPE YOU CAN APPROVE OUR APPLICATION, TO INCREASE THE BOTTOM LINE, GENERATE MORE EMPLOYMENT FOR SAN JOSÉ RESIDENTS AND GIVE THE CITY ADDITIONAL REVENUE, DURING THIS RECESSION NO ONE SEEMS TO BE EXEMPT, THANK YOU.

>> MAYOR REED: MARGARITA MONZA.

>> GOOD AFTERNOON MAYOR REED AND COUNCILMEMBERS, MY NAME IS MARGARITA MONZA, CO-OTHER THAN OF THE MARKET. I HAVE AN ECONOMICS DEGREE AND AN EDUCATION DEGREE. JUST IN CASE YOU HAVE ANY DOUBTS FOR APPROVING OUR PCN APPLICATION TODAY, WHAT BUSINESS HAD TO CLOSE DOWN, HOW OUR UNEMPLOYMENT AND FOOD STAMP LINES ARE GROWING AND YOU FEEL HELPLESS BECAUSE AS HARD AS YOU WORK AND TRY TO MOVE AHEAD SOME BUREAUCRACY IS ALWAYS THERE TO STOP OR DERAILED US. FOR FOUR MONTHS NOW WE HAVE EXPERIENCED HOW DIFFICULT IT HAS BEEN FOR A SMALL FAMILY-OWNED BUSINESS TO STRUGGLE DUE TO THIS BUREAUCRACY. EVEN THE PLANNING COMMISSIONERS ACKNOWLEDGED THEY WERE THE RED TAPE. THEY DID NOT HAVE -- THEY DID NOT HAVE THE LEGAL AUTHORITY TO APPROVE THE PCN SO WITH MUCH HESITATION, HAD TO DENY OUR PCN REQUEST. THEY UNDERSTOOD OUR PLEA AND HELPED US BY EXPEDITING THIS HEARING. THEY ALSO ASKED THAT THE POLICIES BE CHANGED SO THAT NO OTHER BUSINESS WOULD HAVE TO FACE THE SAME OBSTACLES WE ARE GOING THROUGH. THEY UNDERSTOOD THAT WE ARE NOT JUST ANOTHER NUMBER FROM THIS GREAT NATION AS SPOKEN ON THE NEWS BUT RATHER REAL FAMILIES THAT ARE AT RISK OF LOSING THEIR JOBS AND THEIR LIVELIHOOD AND ARE HANGING ON TO WHAT LITTLE WORK HOURS THEY ARE HAVING NOW. THROUGHOUT THIS ORDEAL WE HAVE EXPERIENCED

FIRSTHAND HOW GOVERNMENT WITH ITS POLICIES GETS IN THE WAY AND STIFLES OUR PROGRESS. BUT I WOULD LIKE TO REMIND YOU THAT GOVERNMENT SHOULD BE HERE TO HELP ESPECIALLY NOW THAT WE FACE THIS TERRIBLE ECONOMIC CRISIS. MAYOR REED, JUST AS YOU WENT TO WASHINGTON TO ASK FOR HELP, I AM ASKING YOU AND THE COUNCILMEMBERS FOR HELP. WE ARE NOT ASKING FOR MONEY. ALL WE ARE ASKING FOR IS WHAT WE RIGHTFULLY DESERVE, AND WHAT OUR CUSTOMERS DEMAND, THE LIQUOR LICENSE. SO PLEASE CONSIDER ALL THE FACTS PRESENTED TO YOU TODAY AND APPROVE THE PCN, OTHERWISE YOU WILL FORCE US INTO BANKRUPTCY AND ALL THE FAMILIES WORKING FOR US WILL BECOME ANOTHER STATISTIC FOR THE U.S, STATE AND THE CITY OF SAN JOSÉ. THANK YOU.

>> MAYOR REED: HERMINE SAUCEDO.

>> MY NAME IS HERMINE SAUCEDO A RESIDENT OF THE EAST SIDE COMMUNITY AND A CUSTOMER OF THE MARKET. I WANT TO ASK EVERYBODY HERE THAT'S IN THIS ROOM, EVERYBODY WHERE THEY LOCALLY SHOP, THEIR GROCERIES, DO THEY HAVE A LIQUOR LICENSE, DO THEY HAVE WINE AND SPIRITS? MORE THAN LIKELY THE ANSWER WOULD BE YES AND THAT'S WHAT I'M ASKING HERE, IS FOR THE WINES AND SPIRITS TO BE AS A REGULAR SUPERMARKET AND THOSE THAT ARE CAUSING THE TROUBLES, THAT ARE CAUSING CRIME ARE USUALLY THE ONES THAT GO TO A NIGHT CLUB, A BAR, OR EVEN A LIQUOR STORE. BUT THE CUSTOMER BASE ARE THE PEOPLE THAT WANT TO HAVE WINE WITH THEIR FOOT, WANT TO HAVE BEER, WHY THEY WATCH A FOOTBALL GAME AT HOME. FOR THIS REASON I THINK IT'S IMPERATIVE THAT WE GRANT THE WINE AND IS SPIRITS LICENSE. THANK YOU.

>> MAYOR REED: JOSÉ CASTANEDA.

>> THANK YOU MAYOR REED AND COUNCILMEMBERS. MY NAME IS JESSE CASTANEDA. I'M FORMER VICE PRESIDENT OF THE GREAT OAKS RESIDENT ASSOCIATION, FORMER CHAIR OF THE CITY OF SAN JOSÉ PROJECT DIVERSITY SCREENING COMMITTEE FOR ALL BOARDS AND COMMISSIONS. I RESIDE IN DISTRICT 2 AND I DON'T DRINK ALCOHOL. YOU WOULDN'T WHY SOMEONE FROM DISTRICT 2 BE INVOLVED WITH A LOCATION OF DISTRICT 5. LAST YEAR DUE TO THE ECONOMY, MY FEDERAL SPONSOR IN THE SHOPPING CENTER WHERE I HAVE HELD THE EVENT DROPPED OUT THREE DAYS BEFORE THE EVENT. I TOOK A CHANCE AND I CONTACTED JOSÉ LUIS MONZA TO SEE IF WE COULD HOLD THE EVENT IN THEIR PARKING LOT. TO MY AMAZEMENT HE AGREED AND THE EVENT WAS A GREAT SUCCESS. OVER 500 RESIDENTS ATTENDED THE EVENT. I CANNOT THANK HIM MORE. IN A TIME WHEN THE ECONOMY NEEDS JOBS, WHY DO WE MAKE IT SO HARD FOR SMALL BUSINESS OWNERS TO SURVIVE? SMALL BUSINESSES ARE THE BACKBONE OF OUR COUNTRY. I'VE DONE SOME RESEARCH AND THIS BUSINESS IN LOS BANOS HAS NEVER BEEN CITED FOR ANY VIOLATIONS. LESS THAN 50% OF THE TOTAL SQUARE FOOTAGE OF THE TOTAL STORE IS ALCOHOL. JOSÉ HAS BEEN COMMITTED TO THE COMMUNITY. PROVIDING FOR NATIONAL NIGHT OUT, ATTENDING NAC MEETINGS AND PROVIDING SNACKS. I PLEASE REQUEST YOU GRANT A LIQUOR LINES TO THE SUPERMARKET. THANK YOU.

>> MAYOR REED: ROJELIO LOPEZ.

>> HELLO, MY NAME IS ROJELIO LOPEZ, CURRENTLY STORE MANAGER. I WANT TO LET YOU KNOW A LITTLE BIT WHAT I SEEN EVERY DAY IN THE STORE. THERE IS A LOT OF CUSTOMERS. THEY KEEPING ASKING FOR FULL SERVICE. AND WE CANNOT ABLE TO GIVEN THEM WHAT THEY ASKING FOR, BECAUSE THAT LICENSE, AND IT'S REALLY HARD TO SEE THE CUSTOMER JUST WALKING AWAY AND WALK OUT WITH EMPTY HANDS. FOR ME AS A STORE MANAGER THAT'S REAL HARD TO SEE, BECAUSE EVERYBODY MAKE A VOTE OVER PETITION FOR THEIR JOB. AND MY JOB IS TO SEE IN ANY WAYS TO SEE THE INCREASE THE BUSINESS, BUT WITHOUT THE PERMIT IT'S REAL HARD. IT'S NOT JUST THAT, IT'S A LOT OF NEIGHBORS THAT CAN BE HIRE PEOPLE THERE, WHO ARE WORKING. SAME AS THE STORE, BUT SO THAT'S ALL I HAVE TO SAY.

>> MAYOR REED: SALVADOR HEREDIA.

>> MY NAME IS SALVADOR AND MY FATHER AND BROTHER AND I OWN A RETAIL WESTERN WEAR STORE ON THE STRIP. WE HAVE ALREADY HAD ANOTHER NEIGHBOR SHUT THEIR DOORS, WHEN THIS SHOPPING CENTER HAS BEEN SO ALIVE AND SO BUSY EVER SINCE 1963 WHEN IT FIRST OPENED, AS A RANCHERO WESTERN WEAR REPRESENTATIVE HERE, I REALLY

ASK YOU TO PLEASE GRANT THE LIQUOR LICENSE TO LA REGION SUPERMARKET, SO WE DON'T JEOPARDY OUR BUSINESS, CONTINUE TO DO BUSINESS AND HAVE WELL-BEING FOR MY FAMILY AND MY FATHERS AND EVERYBODY WHO WORKS AT THE WESTERN WEAR STORE. THAT'S ALL I HAVE TO SAY. THANK YOU.

>> MAYOR REED: LORENO BERNAL. VIDAL.

>> MY NAME IS ELEANA, I'M THE DAUGHTER OF MIKE GONZALES. WE OWN EXTREME CAR AUDIO. I HOPE YOU APPROVE THIS LICENSE, THIS CAN HELP MY STORE AND MY FUTURE IN GOING TO COLLEGE. I'M GOING TO START COLLEGE IN A FEW MONTHS AND IF THINGS DON'T GET BETTER, I'M NOT SURE I CAN FINISH COLLEGE WITHOUT MY PARENTS AND THE BUSINESS HELP. THANK YOU.

>> MAYOR REED: MARIA.

>> MY NAME IS MARIA GONZALES AND I'M HERE ON BEHALF OF EXTREME WEAR AND CAR AUDIO. WE'RE FAMILY BUSINESS OWNED FOR ABOUT 20 YEARS IN THAT SHOPPING CENTER, THIS IS A VERY -- I'M NERVOUS, SORRY GUYS. ALL RIGHT. THIS LICENSE IS VERY CRITICAL TO OUR SHOPPING CENTER. FOR THE -- WITHIN THE LAST 90 DAYS, WE HAD SOMEBODY GO OUT OF BUSINESS, AND IN THE NEXT COUPLE OF DAYS, ANOTHER TENANT IS GOING TO GO OUT OF BUSINESS ALSO. SORRY. ANYWAY, WHAT I'M HERE FOR IS BECAUSE OF THIS LICENSE, THAT YOU GUYS ARE NOT ALLOWING, IT'S TAKING A LOT OF BUSINESS AWAY FROM THE SHOPPING CENTER. WE HAVE CUSTOMERS THAT COME INTO OUR SHOP, AND THEY'RE COMING FROM ANOTHER SHOP, AND YOU KNOW, WITH LIKE CARTS OF BAGS OF FOOD, YOU KNOW. AND WE ASK THEM, WHY, NOW, WHAT'S THE PROBLEM, WHY DON'T YOU GUYS GO TO THIS SHOPPING CENTER, IT'S VERY NICE, THE MERCADO THERE, THEY SAY BECAUSE WE HAVE TO GO OVER THERE BECAUSE THERE'S NO LIQUOR, WE HAVE TO BUY BEER, AND WE HAVE GOT TO BUY THIS AND EVERYTHING IS NOT IN THERE, THAT THEY WANT AND STUFF. SO WHAT I'M JUST TRYING TO SAY TODAY IS IT'S VERY CRUCIAL FOR ALL THE OTHER SHOPPING CENTERS BECAUSE THAT SHOPPING CENTER, THAT MERCADO IS AN ANCHOR FOR ALL OF OUR OTHER SMALL BUSINESSES THERE, AND THAT'S IT, THANK YOU, SORRY.

>> MAYOR REED: THANK YOU. I BELIEVE THAT CONCLUDES THE PUBLIC TESTIMONY. THAT'S ALL THE CARDS I HAVE. BRING THIS BACK FOR COUNCIL DISCUSSION. COUNCILMEMBER CHU.

>> COUNCILMEMBER CHU: THANK YOU, MAYOR. CAN I ASK THE STORE OWNER TO COME DOWN? I JUST HAVE A QUESTION ON YOUR BUSINESS HOURS.

>> YES, WHAT WAS YOUR QUESTION?

>> COUNCILMEMBER CHU: YOUR BUSINESS HOURS.

>> MY BUSINESS HOURS ARE FROM 6:00 A.M. TO 10:00 P.M. LIKE I SAID DURING THE HOLIDAYS BEFORE THANKSGIVING, ALL THE STORES AROUND THE AREA THEY CLOSE AT MIDNIGHT. LIKE BLACK FRIDAY, THEY OPEN EARLY TO TAKE ADVANTAGE OF THE SALES.

>> COUNCILMEMBER CHU: SO IT'S ONLY A FEW DAYS IN THE YEAR THAT YOU WILL EXTEND YOUR BUSINESS HOURS?

>> YEAH, YEAH. IT'S MAINLY DURING THE HOLIDAYS, YOU KNOW, AND IT'S NOT THE DAVID HOLIDAY, IT'S BEFORE THE HOLIDAY. WE TRY TO STAY CLOSED AT 11 -- USUALLY MOMS ARE COOKING DINNER FOR THANKSGIVING, TWO DAYS BEFORE OR A NIGHT BEFORE. SO YOU KNOW AT 11:00 P.M. MY MOM SHE'S STILL COOKING DINNER AT 11:00 P.M. SHE IS TRYING TO GO TO THE STORE AND IT'S THE END -- THE ACCOMMODATIONS, THE CONDITIONS, I WILL NOT BE ALLOWED TO SELL ALCOHOL. THERE ARE A LOT OF GROCERY STORES, I'VE BEEN STORE DIRECTOR FOR LUCKY'S AND ALBERTSON'S AND THEY CLOSE AT MIDNIGHT. I WAS A STORE DIRECTOR AT ALBERTSON'S WHEN THEY CLOSE AT MIDNIGHT AND THIS IS A PRETTY ROUGH NEIGHBORHOOD.

>> COUNCILMEMBER CHU: TO THE MAKER OF THE MOTION, COUNCILMEMBER CAMPOS, WOULD YOU CONSIDER A FRIENDLY AMENDMENT TO MOVE THE RESTRICTION 2A?

>> COUNCILMEMBER CAMPOS: CAN YOU STATE THAT AGAIN? I DIDN'T HEAR YOU CORRECTLY.

>> COUNCILMEMBER CHU: THE 2A WHICH IS TO LIMIT THE BUSINESS HOURS FROM 10:00 P.M. TO 6:00 A.M.

>> MAYOR REED: LET ME ASK THE CITY ATTORNEY TO CLARIFY THIS, I BELIEVE THE MOTION DOES NOT PLACE RESTRICTION. THESE ARE SUGGESTIONS FOR THE ABC TO CONSIDER.

>> COUNCILMEMBER CAMPOS: THESE ARE SUGGESTIONS FOR THE ABC TO TAKE INTO CONSIDERATION. I CANNOT MANDATE THESE. SO THEY GO TO THE STATE, THEY WILL LOOK AT THESE, THEY WILL DETERMINE WHETHER IT IS FEASIBLE, THEY KNOW, THEY LIKEN THIS TO MY MEMO. THIS IS REALLY A RECOMMENDATION TO THE ABC.

>> COUNCILMEMBER CHU: YOU'D RATHER LEAVE IT ON THERE?

>> COUNCILMEMBER CAMPOS: I WOULD LIKE TO LEAVE THESE ON THERE. NOW IF WE WANT TO SEND A SUPPLEMENTAL LETTER TO CONSIDER THESE DAYS THAT HE'S TALKING ABOUT, AROUND THE HOLIDAYS, I'M MORE THAN HAPPY TO DO THAT. BUT AT THIS POINT I'D LIKE THE MEMO TO MOVE FORWARD AS IT IS. THANK YOU.

>> COUNCILMEMBER CHU: THANK YOU.

>> MAYOR REED: IS THAT IT COUNCILMEMBER CHU IN TERMS OF QUESTIONS? THANK YOU, SIR, I BELIEVE THOSE ARE ALL THE QUESTIONS WE HAVE. COUNCILMEMBER KALRA.

>> COUNCILMEMBER KALRA: THANK YOU MAYOR. LIKE JESSE CASTANEDA I'M ALSO A DISTRICT 2 RESIDENT BUT I'M SUPPORTIVE OF THIS APPLICATION IN DISTRICT 5. I CAN APPRECIATE WHAT THE APPLICANT HAD TO GO THROUGH, AS A RECENT PLANNING COMMISSION MEMBER. NOT ONLY DOES THIS REALLY IMPACT SOME OF THESE BUSINESSES, BUT IT CERTAINLY PUTS PLANNING COMMISSIONER IN AN AWKWARD AND EVEN SILLY POSITION TO HAVE TO DENY A LICENSE ONLY TO URGE THE COUNCIL TO OVERTURN THEM. AND AT THE SAME TIME, YOU KNOW, HAVING BEEN ON THE COMMISSION, I KNOW THAT THEY TAKE A VERY CLOSE CASE-BY-CASE LOOK AT EACH OF THESE. THEY DON'T JUST BLANKET APPROVE THEM OR WANT TO APPROVE THEM. I KNOW THE TIME I WAS THERE WE CERTAINLY DENIED QUITE A FEW OF THEM. AND IN LOOKING AT THE MEMO, AND NOW THE MOTION THAT'S ON THE FLOOR FOR COUNCILMEMBER CAMPOS AND SOME OF THE ITEMS THAT ARE BEING REFERRED TO ABC AGAIN, AS WE REITERATED, IT IS NOT MANDATED, ABC IS GOING TO DO WHAT ABC IS GOING TO DO. FRANKLY, THERE ARE THINGS THAT THEY WILL NOT GOING TO DO AND THEY ARE NOT LEGALLY ABLE DO SOME OF THEM. BUT THE UNDERLYING MESSAGE THAT'S BEING SENT HERE, IT'S IMPORTANT TO SEND AN UNDERLYING MESSAGE TO THE ABC AND ALSO TO THE OWNER OF THE MARKET. IF YOU GET THIS APPROVED TODAY AND ABC APPROVED IT, THE UNDERLYING MESSAGE, FIRST OF ALL, IF YOU GO TO THE DETAILS, NO LATE-NIGHT, NO SINGLE SERVING, MAKING SURE THAT THE LOCATION OF THE ALCOHOL IS AN APPROPRIATE LOCATION, THE CONCERN HAS TO DO WITH, WITH ME IT WAS A CONCERN THAT CAME UP WITH ME AGAIN AND AGAIN WHEN I WAS IN THE PLANNING COMMISSION, AND I SEE IT HERE AS WELL, WE DON'T WANT SOME OF THE NEIGHBORHOOD ISSUES THAT CAN SOMETIMES COME FROM THE ESTABLISHMENT WITH ALCOHOL CAN COME UP. I DON'T SEE IT WITH THIS MARKET BECAUSE IT'S NOT A STAND-ALONE MARKET, IT'S A GREAT CONCERN WHEN IT'S A STAND-ALONE LIQUOR STORE, WHEN IT COMES TO PEOPLE HANG OUT OUTSIDE, OR INSIDE THE MARKETS. THE OTHER ITEMS COMPLEMENTS AND CERTAINLY HELPS THE BUSINESS. WITH THAT IN MIND, I HOPE THE OWNERS TAKE TO HEART THE UNDERLYING MESSAGE I THINK OF WHAT COUNCILMEMBER CAMPOS HAS INDICATED THROUGH HER MOTION. WE WANT YOUR BUSINESS TO SUCCEED, FROM MY PERSPECTIVE IT LOOKS LIKE IT'S AN APPROPRIATE ADDITION TO THE FULL SERVICE MARKETS YOU HAVE, JUST BE A GOOD NEIGHBOR. AT THE END OF THE DAY, IT MAKES YOUR BUSINESS BETTER AND MORE SUCCESSFUL ANYWAY. THANK YOU.

>> MAYOR REED: CITY ATTORNEY.

>> CITY ATTORNEY DOYLE: I JUST WANT TO CLARIFY SO THERE'S NO CONFUSION OFTEN THE MOTION FROM COUNCILMEMBER CAMPOS. NUMBER 1, THE APPROVAL OF THE REQUIRED DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY, AND THE FINDINGS THAT YOU NEED TO MAKE IN ORDER TO SUBSTANTIAL THE SIGNIFICANT OVERRIDING PUBLIC BENEFIT, THAT IS CONTAINED IN THE BODY OF HER MEMO UNDER FINDING A AND FINDING D, AND THOSE FINDINGS ARE PART OF THE MOTION. AND THEN THE OTHER ITEM, ITEM 2, A, B, C AND D, IS MERELY TELLING STAFF IN THEIR INTERACTION WITH ABC STAFF TO MAKE THE FOLLOWING SUGGESTIONS, KNOWING IT'S THE ABC'S CALL ONE WAY OR THE OTHER.

>> COUNCILMEMBER CAMPOS: THANK YOU, RICK.

>> MAYOR REED: THERE WAS A THIRD ELEMENT, TO DO AN INSPECTION AFTER 12 MONTHS AND REPORT BACK.

>> COUNCILMEMBER CAMPOS: HOWEVER THE DEPARTMENT WOULD CHOSE.

>> JOE HORWEDEL: WE WILL DO AN INFO MEMO TO THE COUNCIL ONCE WE DO THE REVIEW WITH THE ALCOHOL PERMIT CITYWIDE.

>> MAYOR REED: WE HAVE A MOTION TO APPROVE THE DETERMINATION OF PUBLIC DETERMINATION OF NECESSITY ON THE FINDINGS, AND REPORT AND INSPECT BACK AT OUTLINED BY COUNCILMEMBER CAMPOS IN HER MOTION. ALL IN FAVOR, OPPOSED, NONE OPPOSED, THAT'S APPROVED. THAT CONCLUDES THAT ITEM. ITEM 4.4 IS DONE. WE WILL NOW TAKE UP THE REDEVELOPMENT AGENCY AGENDA. WE'LL FIRST DO OPEN FORUM FOR CITY AND REDEVELOPMENT AGENCY MATTERS. AS THE STAFF CHANGES WE WILL HEAR FROM DAVID WALL AND ROSS SIGNORINO DURING OPEN FORUM.

>> ARE YOU READY? YESTERDAY AT THE GREEN VISION MEETING, I WAS A LITTLE EXASPERATED AT THE LACK LUSTER PERFORMANCE AT THE OFFICE OF ECONOMIC DEVELOPMENT AND THE ENVIRONMENTAL SERVICES DEPARTMENT. COY NOT BELIEVE THAT THEIR REPORTS TO YOU WERE AT SUCH A LEVEL THAT WAS SUBSTANDARD IN MY OPINION, BECAUSE YOU DESERVE THE VERY, VERY BEST. TODAY I WAS BEFORE THE SANTA CLARA VALLEY WATER DISTRICT, AND GAVE TESTIMONY ON A NUMBER OF MATTERS. AS REFERENCE TO RECLAIMED WATER, YOU MIGHT MAKE OFFICIAL INQUIRY WHAT DECADE HE HAS IN MIND FOR STREAM FLOW AUGMENTATION. IT WILL NOT BE THIS DECADE, MORE THAN LIKELY NOT NECK DECADE. THIS SHOULD BE VERY DISTURBING TO YOU. ANOTHER THING THAT SHOULD BE VERY DISTURBING TO YOU IS THE VERY LIKELIHOOD OF THE \$44 MILLION JOINT VENTURE WITH THE WATER DISTRICT IS IN JEOPARDY FOR ADVANCED WATER FILTRATION. THIS IS IN REGARDS TO SOMETHING THAT WAS RAISED SEVERAL YEARS AGO. MORE YEARS AGO THAN STREAM FLOW AUGMENTATION WHICH IN MY BELIEF WAS ABOUT 15 YEARS AGO WHEN IT WAS SHOT DOWN INITIALLY. AND THAT IS A COMPLETE REGIONAL BAN OF WATER SOFTENERS. THE REST OF WHICH YOU'LL HAVE TO JUST READ ON THE PUBLIC RECORD, BECAUSE IT'S TOO MUCH OF A COMPLEX PROGRAM FOR ME TO DISCUSS IT PUBLICLY. THERE'S TOO MANY NUANCES AND FOR THE BENEFIT OF ALL OF US, WITH THE EXCEPTION OF OUR HONORABLE CITY ATTORNEY, I WAS THERE BEFORE ESD BECAME ESD, AND BEFORE THE WATER PROJECT EVER EXISTED. AND WARNED THAT IT WAS THE GREATEST WHITE ALBATROSS THE CITY EVER INVESTED IN. AND CONTINUES TO WASTE THE CITY MONEY TODAY. MR. MAYOR, THERE ARE DOCUMENTS THAT I WILL PUT ON THE RECORD THAT THE WATER DISTRICT ASKED ME TO PRODUCE. THERE IS CERTAIN THINGS ABOUT MY KNOWLEDGE OF RECLAIMED WATER WILL NOT BE MADE PUBLIC.

>> MAYOR REED: SORRY YOUR TIME IS UP. ROSS SIGNORINO.

>> ROSS SIGNORINO: THANK YOU, MR. MAYOR, MEMBERS OF THE COUNCIL. I REGRET VERY MUCH THIS AFTERNOON THAT THE CHIEF OF POLICE IS NOT HERE, THAT IS CHIEF DAVIS, BECAUSE I WANTED TO CONGRATULATE HIM, AND ALL THE LAW ENFORCEMENT AGENCIES THAT TOOK PART IN THAT RAID, IN BREAKING UP THAT GANG, THE TALIBAN GANG UP AND DOWN THE PENINSULA. IT WAS A VERY DANGEROUS GANG AND I ADMIRERED THE WAY THEIR INVESTIGATION WENT ON FOR A YEAR AND A HALF AND BROKE IT UP. IT WAS GOOD NEWS TO READ THAT IN THE NEWSPAPER. IT'S JUST HARD TO SAY, JUST HOW TO CONGRATULATE ALL THESE LAW ENFORCEMENT AGENCIES FOR THEIR ACTIVITY AND THE WORK THEY MUST HAVE DONE JUST LEADING UP TO THOSE RAIDS. SO AGAIN, TO THE POLICE FORCE, AGENCY AND ALL THOSE THAT TOOK PART IN IT, FEDERAL, STATE AND LOCAL, CONGRATULATIONS. LAST NIGHT I WAS WATCHING THE JIM LEHRER REPORT, AND THEY HAD A SEGMENT IN THERE ON THE PUBLIC TRANSPORTATION. YOU KNOW, I GO TO A LOT, YOU AS YOU KNOW, TO A LOT OF VTA MEETINGS AND WORKSHOPS AND SO ON. AND I TELL YOU, WATCHING THAT THING LAST NIGHT SCARED THE HELL OUT OF ME, WHAT'S HAPPENING TO THE PUBLIC TRANSPORTATION SYSTEM, HOW MUCH IT'S GOING BROKE, NOT ONLY HERE BUT THROUGHOUT THE COUNTRY. IN ONE SEGMENT I THINK A FARE WAS ABOUT \$1.60 FOR ONE FARE AND IT COST THE AGENCY \$6 JUST FOR THAT ONE PASSENGER TO GET WHERE THAT PERSON WAS GOING. I HOPE I GOT THOSE NUMBERS RIGHT. I COULD BE MISTAKEN BUT IT WAS AN EXORBITANT AMOUNT. AND I ASK YOU IF YOU CAN RETRIEVE THAT ON YOUR COMPUTERS, HOWEVER THAT CAN BE DONE, THAT PARTICULAR SEGMENT ON THE -- ON PUBLIC TRANSPORTATION, I THINK YOU SHOULD DO IT. BECAUSE THOSE OF YOU, I KNOW A LOT OF YOU WILL HIT SIGNATURE HERE THIS AFTERNOON DO SIT ON THE VTA AGENCY. SO I THINK IT WOULD BE GOOD FOR YOU.

>> MAYOR REED: SORRY YOUR TIME IS UP.

>> ROSS SIGNORINO: THANK YOU VERY MUCH ALL OF YOU.

>> MAYOR REED: THAT COMPLETES THE OPEN FORUM, NOW MOVE TO THE REDEVELOPMENT CONSENT CALENDAR. ARE THERE ITEMS ON THAT CALENDAR YOU WISH TO PULL OFF FOR DISCUSSION? WE HAVE A MOTION TO APPROVE THE CONSENT CALENDAR. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THAT'S APPROVED. ITEM 8.1 IS AN AGREEMENT WITH ST. ELIZABETH DAY HOME FOR THE CREATION OF A SMART START CENTER AT 950 ST. ELIZABETH DRIVE. WE HAVE A MOTION TO APPROVE THIS. I DON'T THINK THERE'S A STAFF REPORT, AND I HAVE NO CARDS FROM THE PUBLIC. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THAT'S APPROVED. ITEM 8.2 IS A PUBLIC HEARING, ACTUALLY I'M SORRY, IT'S TO SET A PUBLIC HEARING ON MAY 5TH, 2009 AT 1:30 P.M. TO CONSIDER PROPOSED PLAN AMENDMENT TO ALLOW TAX COLLECTION INCREMENT FROM THE DIRIDON ARENA AREA. MOTION TO APPROVE THE SETTING OF THAT HEARING, ALL IN FAVOR, OPPOSED, NONE OPPOSED, THAT'S APPROVED. I BELIEVE THAT CONCLUDES OUR AGENDA FOR TODAY. WE ARE ADJOURNED.