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>> Mayor Reed: Good morning we now have a quorum so let's get this meeting started. This is the opening session for San José city council April 12th, start with labor update and then we'll adjourn into closed session. Alex.

>> Alex Gurza: Good morning, Mr. Mayor, members of the city council, Alex Gurza, Director of Employee Relations. And again, as we do every week just a brief reminder, to anybody who may be watching on line, that all the proposals made by the city or by the bargaining units are posted, on the City's Website, and are available and we try to post them on the day that they are presented, either that we present it to the bargaining unit or vice versa. And including those that are going to be discussing today, so as we've been doing it every week the focus is on proposals that we've received from the bargaining units since last Tuesday. You have a packet in front of you. With those proposals, and again, the proposals are posted online. So as you know, we have reached agreements with several bargaining units including the firefighters, engineers and architects, CAMP, AMFP on the 10% total compensation reduction and we are still in negotiations with all the bargaining units that are listed there. We have received proposals from all bargaining units with the reception of the Police Officers Association. And although many of the bargaining units have made significant concession proposals, there are still gaps and far apart, we are significantly far apart on certain items and one of the items that we are far apart on with many of the bargaining units that are listed there is on the language to continue to negotiate retirement reform. As you may know with the firefighters and several other bargaining units we had language to continue to meet and confer over retirement reform and we are now having difficulty reaching an agreement on the wording of that agreement to continue to negotiate. So that is the end of our presentation. You see on the slide there, when our next meeting is with each of the bargaining units. And we'd be happy to answer any questions you may have. Thank you.

>> Mayor Reed: I don't have any cards requesting time to speak. So we're going to adjourn into closed session, thank you Alex, we'll be back here at 1:30 for the rest of the open session. [adjourned]

>> Mayor Reed: [gavel] Good afternoon. Call the meeting of April 12, 2011 to order. Piedmont middle school -- sorry, my daughter is Piedmont, my son is Sierramont Middle School. Councilmember Chu. This is Sierramont.

>> Councilmember Chu: Thank you, Mayor. Today I'm pleased to introduce the Sierramont middle school choir to do the invocation. The Sierramont Middle School has been serving the residents of District 4 since 1975. Sierramont middle school is currently a California distinguished school receiving various awards of distinguishment for its curriculum. I wish to proudly inform you that the Sierramont choir members provided entertainment at this year's District 4 appreciation event in January. When I honored distinguished residents for their contribution in making District 4 a better neighborhood. The group was a treat to have and it's an honor to have the students here again for invocations. Today the choir will be led by Nicole Kellersberger. And they will be performing color of the mind. Join me in welcoming the Sierramont middle school choir. [applause] [∂ Singing ∂] [applause]

>> Mayor Reed: Thank you, Sierramont. If you can just stay in place we're going to do the pledge of allegiance. We're joined today from troop 290. Who is going to help us with the pledge of allegiance. [pledge of allegiance]

>> Mayor Reed: Okay, we'll take a minute and let the Sierramont choir get off the stage. Got a little bit of business to carry on. We'll go ahead and do that. Orders of the day would be next, are there changes to the printed agenda? That we need to make? We have a motion to approve the orders of the day. All in favor? Opposed, none opposed, that's approved. this meeting will be adjourned in memory of Douglas Adams McNea, a soft spoken yet tenacious citizen advocate whose work on behalf of San José's taxpayers and property owners will gratefully remembered. And long remembered. Councilmember Constant has some additional comments.

>> Councilmember Constant: Thank you, mayor. Doug McNea passed away suddenly on March 19th, of this year. Just a few short days after turning 64 years old. I was fortunate in the fact that I was with him just moments before he passed away and had the good fortunate to know how much fun he was having that evening. He was a

great guy who really lived a full life in the short time he was here with us. Doug was born and raised in San Diego and was an avid long board surfer. And attended San Diego state university where he had his degree in engineering from there he went into the U.S. navy and worked quite a number of things but primarily worked in the submarine service and served aboard the U.S.S. Coral Sea during the Vietnam conflict and from 1971 on he was in -- aboard the first nuclear fast-attack submarine, the U.S.S. Grenard. Doug was a nuclear energy engineer and consultant and he worked at San José based NWT Corporation for the last several years. Doug was a person of great integrity. As the mayor said he was thoughtful and quiet yet he was a very passionate advocate for taxpayers, vigorously promoting private property rights, steadfastly ensuring government accountability and civic transparency and also the importance of education. Doug served on a large number of bond oversight committees, ran successful campaigns against tax measures and stood with the owners and merchant of the Tropicana center during the eminent domain battles of a few years ago. Doug was not only active at the local and regional level but at the state level as well. He was the author and primary promoter of the California eminent domain limitation act and his activism led him to run for public office. Doug was the president of the Silicon Valley Taxpayers Association for five terms including overseeing the association when they had their large victory over the Santa Clara open space district. In the California Supreme Court case recently that resulted in a settlement that returned millions of dollars to taxpayers in our county. Doug will be remembered for his quiet resolve and his skill at bringing people together, especially people at differing views to serve a common purpose and that's the taxpayers of San José. I chose today as a day with a little bit of symbolism being that yesterday our property taxes were due and this Friday our federal income taxes are due and I know that Doug will be smiling at us as we're reading about his taxpayers fight in the two times we pay taxes. Doug was preceded in death by his wife Donna, who he was married to for 34 years. He is survived by his brother, Chris, his children, Tom, Chad, Ellie and Lisa, and a bunch of grandchildren and great grandchildren, Laura, Justin, Shane, Kayla, Jason, Jody, Jacob, Mariah, Tristan, Justin, André and Aden. Thank you very much, mayor.

>> Mayor Reed: Thank you, Councilmember Constant. Next item is the closed session report.

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

>> Mayor Reed: I'll begin with the ceremonial items. I'd like to start by inviting Councilmember Kalra, Councilmember Campos, Mia and R.J. Castro and the Arthritis Foundation to join me at the podium.

>> Councilmember Kalra: Thank you, mayor. I'm pleased to be joined by the mayor and Councilmember Campos to recognize, to recognize not just an amazing young lady you'll hear about in a moment but also arthritis awareness month. Arthritis is the leading cause of disability in the United States with nearly 50 million Americans currently suffering with the disease, and the number expected to be 57 million by 2030, and \$120 billion is lost annually due to medical cost and lost earnings due to arthritis. And what many people don't know that it also affects many children, approximately 300,000 children under 18 are affected by arthritis, which is about one in every 250 children, making it one of the most common childhood diseases in the United States. And for over 60 years the Arthritis Foundation has worked tirelessly to combat arthritis by funding research, pursuing public policy and legislation and raising awareness. On April 30th at Crissy field in San Francisco the Northern California chapter of the Arthritis Foundation will be holding its 9th annual arthritis walk to raise funds and awareness. We're joined by R.J. Castro, Tamera Jones of the Northern California Chapter of the Arthritis Foundation, and Mia Castro. The youth honoree for this year's arthritis foundation arthritis walk is Mia Castro, a very brave 9-year-old girl who lives in District 2 in San José. Mia was diagnosed with juvenile rheumatoid arthritis when she was just 18 months old. Since then Mia has done amazing work to raise awareness locally and nationally. This is her second time being an honoree for the arthritis walk. The first time in 2006. In March the arthritis foundation flew Mia and her father R.J. to Washington, D.C, where she met with members of congress and spoke of the 2011 arthritis advocacy summit. So in short she's clearly a very impressive young lady. And I believe Councilmember Campos also has a few words on this item.

>> Councilmember Campos: Thank you. I'll be brief. As an advocate for the arthritis foundation, I support research that drives scientific innovation, develops new and better diagnostic forms prevention strategies, and creates more effective treatments. As Councilmember Kalra mentioned, juvenile arthritis is a serious consequence that can limit a young person's ability to grow properly, learn in school, and be a productive member of our community. It is vital for us to strongly support advocates like R.J. Castro Tamera Jones and of course mia Castro. Mia is truly an inspiration to us all and I will continue to strongly support her fight.

>> Councilmember Kalra: Mayor, would I ask you please present the proclamation, proclaiming April to be arthritis month in the City of San José. [applause]

>> Thank you, San José city council for your efforts in support and proclaiming arthritis awareness month. My name is mia Castro and I'm nine years old and in the fourth grade. The first time I had pain in my joints I don't know. I can't remember at all. My mom tells me that at 18 months old I was diagnosed with JRA. JRA is short for juvenile rheumatoid arthritis. My pain affects me day and night and affects what I can do, and I have to take medicines twice a day to control my pain and inflammation from arthritis. I am here today to raise awareness about the number 1 form of disability in the United States, and to tell you that kids get arthritis, too. This March, my father and I went to Washington, D.C. and I spoke with congresswoman Zoe Lofgren and congresswoman Lee Katz. I asked them to make arthritis a number one priority for my country along with any other illness that my country makes priorities. We ask our members of Congress to join the arthritis caucus, and continue funding for our research to find a cure. Please, for me and the other 300,000 kids who have arthritis pain put more effort, research, treatment, and budgetary needs towards funding a cure. My family and I are walking in the San Francisco arthritis walk 2011 to raise money to help find a cure and raise awareness of arthritis. Please support our miles for mia team online at AW2011ssss.org and join us in telling the world arthritis is unacceptable. [applause]

>> Mayor Reed: I'd like to invite Kim Walesh and Joe Flynn, Lavante founder and CEO, to join me at the podium. Joe, you can bring your family down with you, might as well. Family company. Lavante is a company that's located where else but in council District 2. Councilmember Kalra has some additional words to say about the company. We're happy to have them in San José.

>> Councilmember Kalra: Thank you, mayor. Lavante is a company founded in 2001. So for ten years LaVante has been a leading provider of on demand recovery, auditing and supplier management solutions, and it is located in Edenvale technology district in District 2. And most recently Lavante received an innovative groundbreaking patent award for statement audit cost through technology and software application. They truly are

groundbreaking and leading the world in this technology. And so it's really a great honor to have the opportunity to recognize them. As can you see we have with us Joe Flynn who brought his family up with him which is certainly appropriate. This is a company started by a San José family with Joe and his brother Tom who couldn't make it today, Joe and Tom Flynn starting this company and really growing it into a global leader. And so I think that not only Joe and Tom and Lavante represent what Silicon Valley innovation means, the diligence it takes to build something they also represent the best of San José. I recently had the opportunity to visit Joe and his team at Lavante and learn firsthand how Lavante helps their clients advance their bottom lines by impacting efficiency and cash flow and is creating a great value for the clients. As a matter of fact Lavante has demonstrated this repeatedly by helping their fortune 1000 customers maintain and improve their financial health. And Lavante has grown in San José from four employees when they were founded to 75 employees today. And I certainly applaud Lavante for their innovative technology patent that keeps them in San José on top, and would ask that the mayor, along with Kim Walesh present the commendation to Mr. Flynn and Lavante corporation. [applause]

>> Well, first let me thank you all for giving us this wonderful award. Mayor Reed, Ash, I appreciate this and on behalf of my brother and our company, I want you to know that I really respect and honor all the help we got from the city along the way. Both from the Office of Economic Development in times when you need help, as well as from Jeff Ruster in Work2Future in terms of our workforce development, I think that much is often talked about how hard it is to establish a small business, and build a company in California, in these trying times in San José. And I just thought I'd take this opportunity to thank all the people at City of San José for helping us. We're a product we started at the entrepreneurial center downtown. We worked a lot of city organizations and I hope our hard work continues to pay off and I'm just very appreciative and last but not least the person that's probably the single most responsible for my growth if we could I just want to recognize my wife behind me Jacqueline and my kids. You can't build a company and spend as much time as we do at work unless you have a wonderful home life with people that love you and take care of you. Thank you very much, guys.

>> Mayor Reed: I'd like to invite San José city college associated students to join me at the podium, along with Councilmember Kalra. Commending hands across America, in recognition of their efforts to raise awareness about the importance and accessibility of California community colleges locally and throughout the state.

>> Councilmember Kalra: Thank you, mayor, this is my last one of the afternoon. I want to welcome Mike Costa, San José city College, Dr. Maria Burns, as well as Jennifer Neil and Vashon Huff. California community colleges are the one system of higher education in the state open to all who seek it, and they're responsible for educating and training near 3 million students a year making them the largest provider of workforce training in the state and in the nation. However, cuts have put our systems of higher education at great risk and in crisis, with nearly 90% of full-time students in need of financial aid. In short, the cost of education continues to climb for those that can least afford it. As someone who personally went to Community College out of high school and benefited greatly from it, I certainly understand the importance that community college has in developing young minds as well as preparing our workforce to handle the needs of the 21st century. Currently, we've seen that thousands of students have been turned away from the CSU system and universities have been more challenging to enter into. So more so than ever the community colleges are the gateway to higher learning for our residents. Hands across California is a once in a generation event organized for the purpose of bringing California together in support of community colleges and their students. On Sunday, April 17th, hands across California will literally join almost all the 112 California community colleges including San José city college in a statewide human line involving more than 1 million people stretching from San Diego to Sacramento. The landmark event will raise funds to benefit the California community colleges scholarship endowment and will raise awareness of the value of our colleges to their communities. And I know that I've personally seen Mike Costa do a tremendous amount of work over the past few weeks on trying to get this effort going at the San José Community College. And I know it's going to be a very successful event, so with that, Mayor I would ask if you could present the commendation to Mr. Costa and the representatives here of San José city college. [applause]

>> Good evening, everyone, my name is Mike Costa from San José city council. First and foremost I want to thank the mayor and the city council members. I also want to present this shirt from the foundation of California community colleges to the mayor of City of San José. As he has mentioned I've been work vigorously hard to try to get the community involved to come out and join us on April 17th. The event starts at 2:00 and goes to 2:30. We're going to be joining hands from San José city college to De Anza College going up through Winchester, down Stevens Creek and all the way up to De Anza College and if the mayor can get to Foothill

College. For those of you that would like to join us, I've got some fliers that I can hand out, outside the city council chambers. Thank you. [applause]

>> Good afternoon, my name is Chuck Stevens, I'm commissioner of elections, San José City College, and Region 4 communications for the student center for California community colleges. I just wanted to say what an honor and a privilege, what amazes me is that people can get together in the community and students can get together in the community for a higher purpose. This higher purpose being hands across California. So I want to invite all of you out April 17th, join me and my partner here, Mike Costa, and the rest of our committee and just join us at Bascom and Moorpark when we get together. Thank you.

>> Mayor Reed: Thank you. Now I'd like to invite Councilmember Pyle and the early care and education commission members who are with us today to join me at the podium as we recognize April 2011 as month of the young child in San José.

>> Councilmember Pyle: Thank you, mayor. With us we have commissioners Keith Morales and Kasha Jagalar with their children and also, Dawn Perry from the San José library. Yes, we have some upcoming students with us. While they're getting assembled, I heard Judy Chirco say, we never stand so tall when we stoop to help a child. As you know, each April the month of the young child is celebrated nationally, as well as here, to raise awareness of the social, emotional and educational needs of young children and to show appreciation for parents, early childhood professionals, and others involved in their education and care. Research shows that 90% of a child's brain develops during the first five years of a child's life. That's right, first five years. Quality early learning opportunities are crucial to this development and to young children's future economic and life success. All young children and their families across the country and in San José deserve access to high quality early care and education. The 2011 San José children's fair on April 16th with the theme of play together, learn together, growing with giggles and grins, focuses on supporting the parent, as their child's primary teacher and their critical influence on brain development. The event provides fun activities for parent-child participation and valuable information for families. And so therefore, I do hereby proclaim April 2011 as the month of the young child, and encourage all citizens to recognize and support the people, programs and policies that to lead high quality early childhood

education, because investing in young children of San José will help to build a better future for all the residents of San José. And mayor may I please ask you to hand the proclamation to Keith? Commissioner Keith? That would be great. And did you wish to say a few words?

>> Thank you, Mr. Mayor.

>> So on behalf of the early care and education commission staff and over 100,000 young children in San José I'd like to say thank you to mayor Chuck Reed and city council for your ongoing focus on our youngest citizens in the continuum of education. We want to take this time to acknowledge your ongoing support of the people, programs, and policies that lead to high quality early childhood experience for all children in San José. Throughout the year we see many of you supporting the work that so many of us care so passionately about and that's what makes San José such a great place to live. We also wanted to welcome you and invite you to join us this Saturday, April 16th, for the annual children's fair at discovery meadows and come and see our staff and commissioners and our children at the event as well. And also, vital you to join us on April 19th for the outstanding contributors to childcare. The awards ceremony or reception will be here at City Hall at 6:00 p.m., and we hope that you can all join us and help us recognize those that contribute so much to our young folks. [applause]

>> Mayor Reed: Like to invite our communications manager, Cameron Smith and our assistant communications director Julie McDonald to join me at the podium. We have some folks that are involved in communications to join me as well because we're recognizing national dispatchers week here in San José. National dispatchers week was established in 1992 to honor police dispatchers nationwide to provide vital emergency services in their communities. Our public safety dispatchers are critical communications links between residents and front line emergency service personnel who must respond quickly to save lives and reduce injury and damage. Our public safety dispatchers announce their skills, knowledge and leadership through training and professional development to provide and approve public service and strengthen emergency response capabilities. They're also a very important link to the men and women in the field at the other end of the communications, our officers of the

San José police department, and we really appreciate the men and women who serve as Public Safety dispatchers and recognize the critical role they play in the protection of our residents, and I've got a proclamation.

>> Thank you, Mr. Mayor and members of the council for this proclamation. The City of San José has been in the communications business at least for 20 years, back in 1990 we opened our new communications center with 170 some odd brand-new employees. And since then we have taken great pride in the level of service that we provide to the citizen, the police officers and the firefighters, within the San José city. So thank you very much for all your support over the years. We have a lot of dedicated people who work very hard weekends, nights, to make sure that when you call 911 you get the best possible service you possibly can. Thank you again.

>> Mayor Reed: Next item is the consent calendar. Are there items that we have requests from the public to speak on? On the consent calendar? We do? Mr. Wall come on down.

>> David Wall: Before we get going I would like to welcome Councilmember Pyle back to us. Whenever a councilmember is gone our city is diminished but it's even more accentuated when you weren't with us. Welcome back. This is in reference to item 2.3, approval of committee reports with specific emphasis on the CED or the Community and Economic Development report. The minutes contain the fact that I was critical of Planning, Building, and Code Enforcement, that is not correct. I was critical to the mayor and council of this city for putting on this burdensome and oppressive work plan on PBCE without the necessary funding or staffing. This is in reference to the medical marijuana issue which would not be discussed during this time period. But I want the minutes to reflect that I supported PBCE and I was critical of the mayor and the council. Also, Mr. Mayor, just dawned on me. From the rules report, you know, various -- they're not posting them anymore. But I've mentioned the treatment plant advisory committee several times at Rules. This actually should show up on these council committees because there's three councilmembers on that, you being the chairman, Vice Mayor being there, Kansen just got appointed. We have Jamie Matthews from code enforcement who is the mayor of Santa Clara, okay. And Mr. Mayor, last Thursday you were not there. This meeting was a disaster. It was a disaster, because of what I've complained about at Rules, is the fact the City Clerk does not run or record that meeting. Environmental services department runs the meeting at which hundreds of millions of dollars flow

through at any point in time. With that \$2.2 billion plant rebuild citizens should have the ability to see where their money's going and only the City Clerk can provide that service plus it would allow them access to that restricted use fund to remove pressure from the General Fund. We'll talk about this later. Other than that, welcome back Councilmember Pyle.

>> Mayor Reed: Any matters the council would like to pull for discussion? Item 2.5 is the travel report I have a request for that, any others? We have a motion but Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. 2.8.

>> Mayor Reed: 2.8 and 2.5. Any others, we have a motion to approve the others, we do, all in favor, opposed, none opposed, that's approved, item 2.5 travel report Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I just wanted to report that last week the national league of cities had their -- I'm sorry the California league of cities had their meetings of their committees in Ontario California, I attended as part of that committee to talk about the league's platform for legislative action in the next year or this current year. At that time I also reported on behalf of the national league of cities in my capacity as the vice chair of the crime prevention and Public Safety committee, giving the state committee an update on everything the national committee has been doing. And I make a motion for approval.

>> Mayor Reed: Motion is to approve the trip report. All in favor? Opposed, none opposed, that's approved. Item 2.8, Councilmember Liccardo, the residential permit parking.

>> Councilmember Liccardo: Thank you, mayor. Hans Larsen and I have had a conversation about this issue, and I just wanted to raise this in hopes we might be able to revisit this in June. There's concern around the administrative fee to process a cancellation of a parking citation. And the feedback from the Department of Transportation was, essentially, that folks who had concerns for the most part had simply failed to place the parking permit in a visibility location. I think similar to issue that rose with disability parking permit as well. Is and

that for the most part when folks had these issues resolved at a lesser fee would be \$25 it was fine. I've since gone back to my council staff they'd expressed there have been several complaints that in fact people felt as though they had properly displayed permits, and they were still being required to pay \$25 even though they were improperly being assessed a ticket. What I was hoping was, I know we will revisit this in June at the time of fees and charges. I was hoping that DOT could pay attention to complaints that are coming in. We'll do the same and perhaps we can compare notes before the June vote, to discuss sort of the public feedback to this. I'm concerned about the notion that charging \$25 to somebody who frankly didn't deserve to get the ticket to begin with. And I hope we can reduce that at council.

>> Hans Larsen: Mr. Mayor, members of council, Hans Larsen, director of transportation. Councilmember Liccardo, we'd be happy to look at that further. Just a couple of points on the issue. This is a program that the city council approved as part of the fees and charges report last year, as part of the budget process. And the feedback that we've received thus far has been positive in terms of providing an opportunity for residents that are in permit parking zones, that get tickets that have permits but haven't properly displayed them. One of the things that we do as part of our standard issues, that our offices actually take photographs of the vehicle to provide evidence of the permit, not being where it's supposed to be. And there's a couple of options where it would be placed. So we do have evidence in terms of the violation. If somebody forgot their hang tag or didn't place it in the proper location we do have an opportunity to have the ticket dismissed for a \$25 administration fee just to provide a additional degree of customer service. We'd are happy to work with Councilmember Liccardo and if appropriate and wanted to take this forward we'd be happy to revisit it in June.

>> Councilmember Liccardo: Great, thanks Hans. Move to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve item 2.8, all in favor, opposed, none opposed, that's approved. That concludes the consent calendar. Item 3.1 is the report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor. I do have one report, and we do have some photos for you today. If you'd like to follow along with the story, and the good news is I would like to take the opportunity to report some very good news about family camp. As you will recall the Department of Public Works has been working on a project to fix the dining hall building at family camp and I'm happy to report that the construction project is on sometime and on budget which means that family camp will open on schedule this summer. This project was complex for a number of reasons. First the construction plans require the approval of several outside agencies including the U.S. Forest Service, Tuolumne County Building Division, and Tuolumne band of Miwok nation. The Forest Service also required a separate permit under the federal archeological resources protection act of 1979, and I'm happy to report that all these agencies worked together to keep within the City's very tight time line for project completion. To add to the challenge, because the site location is 150 miles from San José, construction, inspection and oversight was difficult. To ensure that we were able to provide the contractor with timely answers to questions, the city team reviewed working -- reviewed work using e-mail photos and the same approach was used to ensure code compliance and quality control. The structural design work for family camp's dining hall was done by in-house engineering staff so when you look at the photographs you can see that the structural fix blends well with the character of the existing building. So I want to thank the Department of Public Works and the Parks, Recreation, and Neighborhood Services team for a job well done and on behalf of the mayor, city council and staff wish all family camp participants a wonderful camping season and that concludes my report.

>> Mayor Reed: Thank you, City Manager. Our next item is item 4.1, actions related to convention center facilities district project fund. Motion and second is to approve. Is Scott Johnson here, Scott you still have the money? Okay, \$120 million. The bonds were sold, completed yesterday now it's time to do some appropriations and that's why this is on the agenda, we have a motion to approve, to bring to the ends of a long long long preliminary phase stretching out over a decade, start a very short construction phase we hope to get a new facility expanded and renewed facility in two years. On the motion, just a minute, I lost track of a -- Councilmember Liccardo.

>> Councilmember Liccardo: No, that was prior.

>> Mayor Reed: Okay, sorry. On the motion, all in favor, opposed, none opposed, that's approved. Congratulations. Look forward to seeing the construction start pretty soon. Item 5.1, actions related to the happy hollow park and zoo renovation project. We have a motion to approve. All in favor, opposed, none opposed, That's approved. We're now going to take up the Redevelopment Agency agendas then the joint city Redevelopment Agency agenda then we will return to item 3.3, actions related to medical marijuana which we've noticed to be last on the agenda. So we'll take a minute to switch staff to Redevelopment Agency staff. First item is the consent calendar. Any items on the consent calendar that anybody wants to speak on? I have no cards from the public. Anybody wish to pull any for discussion? Motion is to approve the consent calendar. All in favor? Opposed? None opposed, that's approved. Item 3.1 report of the executive director.

>> Harry Mavrogenes: Mr. Mayor, members of the board I would like to just defer this and go right into 3.2 to speak about the finances.

>> Mayor Reed: All right, item 3.2 is the agency's financial progress report.

>> Harry Mavrogenes: Thank you, Mr. Mayor, members of the board. In your packet today we have several items, and one you just acted on which was the March 17th finance committee report on the agency's finances from February. Consistent with the Mayor's Budget Message, we are providing you these other supplemental monthly reports on our finances. And again, this month, we highlight the expenses made through the month of February. In addition to that, we point out that as of April 1st checking with the county assessor the agency's real property assessed value had declined a total of 4.42% since July 1st. This doesn't include personal property which is about 25% of the assessed valuation. We will not really have a formal final number of course until July but we are tracking this monthly and our projections are based on an overall 5% decline at this point. So we also have not received any supplemental assessments, payments through February, and we will continue monitoring that as well. In addition, we sent you by separate cover a report the City Manager and I had prepared regarding the agency's bond rating for standard and poor. The ratings were dropped just a notch down to the BBB plus. Reflecting the decline in assessed value and where we are with that on our coverage. We do not have the one rating agency that has not done the rating yet is Moody's and we expect that probably today or tomorrow. I

will give you a report as soon as we get that, as well. That basically concludes my report. If you have any questions, be happy to answer them.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Harry what do we expect the impact to be, the down grade on any interest we might be paying?

>> Harry Mavrogenes: We stated on the report I sent you separately, that on the J.P. Morgan obligation, the LLC fee increases from 1.9% to 2.10%, a slight increase effective March 31st. The payment then becomes \$12,200 a month. It is not a massive increase, but it is a slight increase.

>> Councilmember Liccardo: Okay, great, thank you.

>> Mayor Reed: Any other questions? We need a motion to accept the report.

>> Motion to accept.

>> Councilmember Liccardo: Second.

>> Mayor Reed: We have a motion to accept. All in favor? Opposed? None opposed, that's approved. We'll now take up the joint city Redevelopment Agency item which is 8.1 regarding a settlement agreement and release with the Almaden recreation club.

>> Harry Mavrogenes: We are -- this item was taken up at closed session earlier. This is a payment to the homeowners socks relative to the two parcels we had acquired for the potential community center project there. In exchange for releasing the properties from continual payment of a homeowners fee as these were four plexes

subject to we have settled with the HOA for a payment of \$50,000. We would recommend that you accept this and approve this payment.

>> Mayor Reed: We have a motion to approve. All in favor? Opposed, none opposed, that's approved. That concludes Redevelopment items, the joint items, and takes us back to item 3.3 on the city council agenda, actions related to medical marijuana. We will have a staff presentation on this, and we'll let everybody get in place. Before we get started on this let me just describe how we'll proceed through this afternoon. This is the last item on the agenda. But of course, there's some significant amount of public interest in it so it's going to take a while to work our way through it. We will have a staff presentation. We'll take public testimony. And I intend to limit the public testimony as necessary to allow us sufficient time to get through our decision making process because there are many, many pieces of this that we need to deal with. And I anticipate pulling out individual items in order to have the council take action on individual items, rather than an omnibus resolution because we'll never get done with an omnibus resolution I think as we make decisions along the way that will be the most efficient way for us to debate and vote on some of the elements, and staff in their presentation will identify those items that need specific council consideration. Plus if there are any others that councilmembers see that they want to pull out separately for consideration, we can do that as well. So with that, I would like to start with our staff presentation, City Manager, you can have that done by Deanna.

>> City Manager Figone: Deanna will begin thank you.

>> Mayor Reed: Deanna Santana.

>> Deanna Santana: Thank you, Deanna Santana, Deputy City Manager. Today will present the key components of a medical marijuana regulatory program. This presentation marks the third time that staff has presented a complete regulatory program to the city council. So our plan today is to review the complete PowerPoint very quickly so that the city council can move on to its discussion and decision making process. The goal today is to present in a manner that allows for the city council to make decisions on areas that require council direction, so that we can complete the draft ordinances and present revised ordinances in time for your second

reading consideration on either April 26th or May 3rd. In large part as we stated on March 9th at the Rules Committee meeting and on March 17th at that time Public Safety committee meeting our recommendations generally the same as the June and September 2010 report. With a few minor changes that we will highlight today as part of our presentation. We have also responded to councilmember inquiries and questions that came up at the public safety meeting, and those are including in your staff report. So for today's presentation, we will cover three areas that require your action. First, we'll review title 20 which covers the land use portion of regulations, second we'll review title 6 which parts 1 through 3 which covers registrations, and last we'll cover title 6 parts 4 through 9 which covers operating requirements. As we evaluate these categories we can look at them as setting rules that guide where these collectives can be located, which is the land use ordinance who can operate these collectives, which is the registration section, and how these collectives should operate, which is the title 6 parts 4 through 9. I hope that this detail helps sort through the volume of information and requirements before you today. Additionally, in response to the Rules Committee meeting, there was direction to develop a policy approach that allows for the city council to approve any or all portion of the ordinance and that's what we've done. We've developed two policy approaches. The first is where the city council can consider incremental policy action which would result in approval of the where and the who part by initiating land use actions as well as approving the registration requirements. Or the city council can also consider the full regulatory program, which is reflected as our staff recommendation today on the council agenda and result in land use registration and regulation direction. So with that context I'll pass it over to Laurel to walk us through the land use portion.

>> Laurel Prevetti: Thank you, Deanna. Laurel Prevetti, assistant director of Planning, Building, and Code Enforcement. I'd like to review with you some of the key issues relating to the land use regulation of medicinal cannabis collectives. First, which are the appropriate zoning designations, second, what are the sensitive uses that we might want to be cognizant of, how should we handle cultivation, what should be the land use approval mechanism, and finally, what maximum number of collectives is appropriate for our city. First of all, we've got several different types of zoning districts within the City of San José. Nonresidential zoning districts in particular that we think would be most appropriate for the collectives. In our staff recommendation we are recommending our commercial general, this is generally where we see shopping centers, large shopping centers, places where we have good access to transit. Our downtown primary commercial, otherwise known as the D.C. district. Again,

the place of good transit and location of a lot of business activity. The third is our combined industrial commercial district, where we have a combination of light industrial as well as commercial activities. And then fourth, we are looking at the possibility of industrial park. And this was in direct response to the committee's discussion last month, in terms of looking at light industrial. Staff did take a look at that, and given the key role that light industrial lands play in our local economy, in preserving a diverse economic business base, we are not recommending light industrial, but if the council is interested in considering one of our industrial zoning districts, the industrial park would be staff's preference in terms of that issue. The second issue is how do we treat sensitive uses? State law has essentially helped us with that. With the passage of assembly bill 2650, by state law, no collective can be located closer than 600 feet to a private or public school. So that issue is essentially taken care of. Back in June of 2010 we identified several other sensitive uses that the city council may also want to put a buffer around. Those include residential uses, recreation or community centers, child daycare centers, churches that also have daycare components, substance abuse rehab centers, libraries, parks, trails, et cetera. So there's a wide variety of uses that you may want to include in our zoning regulations to make sure there's appropriate buffers. There are some options for you. One is that we could at a minimum just comply with state laws and respect boundaries between private and public schools. Second, you may choose to do the school buffer plus one or more of the additional sensitive uses that are listed on the slide or you could change the distance requirement. For example, the residential use requirement because so much of San José is residential use, by reducing the amount of distance between a residential use, you may open up some additional opportunities for collectives. The next issue is cultivation. And staff is recommending onsite cultivation only. This issue is linked very strongly with the title 6 parameters that you'll be hearing shortly about. We're very concerned and we want to make sure that we're able to really regulate cultivation in an appropriate way. This is an issue that many other cities throughout the state are grappling with and we would recommend that onsite cultivation be the most prudent way to handle this so that way we have control and understand where supply is coming from. There may be an option that you might want to pursue, in terms of looking at cultivation and other zoning districts. If you do want to pursue it, staff would be happy to do that analysis. But just be aware that then it becomes more than just a zoning code issue. It also affects the operational proposal that we'll be talking about under title 6. The question of what kind of land use approval is another decision point for you this afternoon. We've considered the option of doing a very simple zoning verification. This way, we have clear criteria in terms of whether or not knits a particular zoning

district, whether or not it's within the appropriate buffer, or one or more sensitive uses, either it is or it isn't, it's black or white. Staff essentially noticed and checked the box and say yes, it does comply, and then they would -- the collective proposal would then work with our police department in terms of the operational requirements. This approach does not run with the land. And what that means is that it would not be transferable from one collective operator to another. Additionally, again, it's very black and white. There are some policy options for you on this one, as well. We could do the zoning verification as I just described, with a courtesy notice to adjacent property owners or neighbors so that way they would know that at least an application is coming forward. Alternatively, the city council may wish to use our conditional use permit process, which would mean a public hearing before our Planning Commission, they would be the approval body. If they deny a permit and it gets appealed then you would be the decision maker as our city council. Conditional use permits run with the land. So your ability, the City's ability to control good operators versus not would be very limited in that operation. The next has to do with maximum number. We are proposing 10. This aligns very closely with the title 6 recommendations as it pertains to operations. Again it's important that whatever requirements we place on collectives, that there be alignment between our zoning code title 20 and the operational requirements of title 6. So 10 is really what we are recommending. We believe that would give San José an ability to assess the performance of the collective. Of course you have options in this regard, as well. You could decrease the number or you could increase the number, recognizing again there would be a resource implication and some other constraints that we would describe with the title 6. So in summary you've got several issues to discuss this afternoon, as it pertains to land use. Where, in other words, which specific zoning districts would you like to see collectives? How do we protect various sensitive uses? What are the appropriate buffer areas? How do we handle cultivation onsite? What is the appropriate land use mechanism? And finally what's the maximum number of collectives that you would like to see. At this time I would like to pass this back to Deanna Santana. Thank you.

>> Deanna Santana: Okay so let's move on to registration requirements. The registration component of title 6 sets the foundation on who can qualify to operate a collective in San José. To set registration regulations, council would need to take actions on parts 1 through 3 of title 6. The parts 1 through 3 of the ordinance lay out the purpose, intention, definitions and the registration process. To finalize this set of regulations we need direction from the city council on the lottery concept, the registration requirements, the term of registration, the application

processing fee and structure, and confirmation that this process offers no vested rights. Since we presented in December we have made several minor changes to the -- several changes to the registration process. First at the police department's suggestion we have moved our transferred the oversight of the lottery and registration process to the City Manager's office. In addition to keeping the processing fee down this change allows for higher level of coordination and oversight with the various city departments required to confirm and validate information in the registration application. Based on the March 9th rules committee discussion we have also changed the application process to allow for all collectives to participate in the lottery. Before we had a two-step qualification process where a application first neat needed to qualify for the lottery and then move on to pass the registration process. We streamlined that a little bit and now allow for all collectives provided the front end due diligence is completed. This means that before submitting an application an applicant must obtain all the verifications listed in the staff report such as the land use verification and proof of payment of the required city's business taxes along with other requirements that are noted in the report. The applicant is also required to submit the application processing fee, so that we can cover the cost incurred to administer the lottery and registration process. We have also added an additional hourly investigation fee in the event that applications cannot be completed in the time allotment assigned with the application processing fee, and that's outlined as an hourly investigation fee at \$167 per hour. Both of these fees are separate from the annual operating fee which covers the cost to enforce and uphold regulations. Okay, so let's very quickly review the summary of registration that was presented in June and December, as parts 1 through 3 in your draft ordinance. As I've already stated we've already -- we've moved from a minor qualification lottery process to open up for autopsy collectives to apply, provided that they complete the due diligence on the front end. This new design allows for staff to review applications, essentially on a pass-fail basis and it also requires that applications contain several sets of information that allow for us to almost do a check mark or check box review. So the first requirement would be, submittal of all requested information of the application form, zoning certification from the Planning Department, proof of payment of the marijuana business tax and the city's operational business tax, submittal of an application processing form and an affidavit of compliance with future regulations which dictates how collectives are to operate as well as the annual operating fee if the council today decides not to approve operating regulations. If an applicant passes each of these requirements then the application form will move on to the police department for additional backgrounding and review. If more investigation is needed, as I've already stated, the applicant will receive a cost estimate of the

additional work needed to complete the applications review and determine whether there's a pass-fail on that portion of the application. So let's talk about the lottery concept. As completed applications are submitted to the City Manager's office a lottery number will be assigned to each of the applications and provided to the applicant. Staff is proposing that a public lottery then be held to determine the priority order in which the city will consider these applications, and open up the sealed applications from the collectives. The lottery will only establish an order or sequence for us to process the applications so that the order of how we review them is transparent and publicly known. It does not constitute approval or selection to operate. The City Manager's office will also publish the date time and place for the drawing as well as the results of the drawing. So just a couple of additional facts related to registration contained in parts 1 through 3. The term of the registration is proposed for one year at which time the collective will be required to submit an annual operating fee if regulations are approved. As well as any -- there are some allowances for additional information for us to continue to monitor the collectives. The separate application processing fee of \$4975 allows for 30 hours of staff time and reflects our time and cost to administer a lottery and an application review process. To the extent that council deviates from that process we'll want to reconsider our fee to make sure we recover our cost. We've talked about the medical marijuana hourly investigation fee, I won't go over that as well as the no vested rights. The completed registration form I just want to reinforce, does not constitute any vested right to operate in the City of San José. So the last area where we need council direction that will establish the how part of the regulations for operating requirements is contained in parts 4 through 9 of title 6. We've put forward the minimum set of operating regulations that we think should accompany the lands use requirements as well as the registration requirements. So in this area we would need council direction on four categories. Cultivation, collective operations, owner, manager and membership requirements as well as packaging of medical marijuana. Since our June and November reports we've made a couple changes to the proposed operating regulations. I'll just review them quickly. First we deleted the requirement for residential address due to privacy concerns. Second we deleted the requirement for onsite security and we've left that option up to the collective to determine whether to have private security or not. Thirds, we added a provision that prohibits possessing firearms without first being authorized by the appropriate agency and also providing that authorization, providing a copy of that authorization to the Chief of Police, and last we added a provision that requires that packaging information must accompany the medical marijuana and will be placed on the bottle's label and contained in a leafless in Spanish, English and Vietnamese. In addition to those

regulations our operating regulations contain four general areas. The first is cultivation requirements. In addition to Laurel's comments, we require onsite cultivation without any visibility from public or private property. We also require a secured area devoted to cultivation. And if there's outdoor cultivation we are requiring that it be had immediately adjacent to the structure where the collective meets. For a collective operating hours we propose hours of 9:00 a.m. to 8:00 p.m., and we propose a prohibition of medical marijuana and alcohol beverage consumption onsite. And with respect to owner manager membership requirements, we offer some qualifications for owners, managers and members in the ordinance as well as we set an age limit of 21 for anyone to directly or indirectly engage in managerial functions. For packaging based on previous council discussion, our proposed packaging requirements require the collective abide by standards for Public Safety, quality control and health and safety notifications short of any state Public Health standards that are absent. We're also recommending that medical marijuana collectives limit their dispensing to one members to one timing per day. So with that, that concludes our council presentation. I just want to note that our action today, if staff's recommendation is approved, is to begin initiating the land use portion so that we can complete the CEQA and advance to the Planning Commission and then return in late May or June for a draft ordinance and then go through the ordinance process. So there's no approval of an ordinance. We would just be requesting initiation of the land use process. So we'll be glad to take questions on that.

>> Mayor Reed: Before we begin, I'd like to take the public testimony. We have a lot of people who want to speak. This is the third time it's been in front of the council, and other times it's been in front of committees. I think we've heard a lot of public testimony already. I want to give everybody a chance to speak, so I'm going to limit testimony to one minute. And we will cut off the testimony an hour from now, which would be at 3:40. I think everybody will get a chance to speak but we have a lot of work that council needs to do. So please, come on down so you're close to the microphone when I call your name. There's plenty of seats up front. Richard Serena, James Oliver, John Vasconcellos. I'm going to take senator John Vasconcellos, since he's close to the microphone. Senator, welcome.

>> Mayor Reed, members of the council, most of I know. Most of you know I served 38 years representing this district of San José in the state legislature and six years retired, but not fully retired. I come today because I'm the

author of a legislation that creates this program. I know you have a one-minute limit, Mayor Reed, but I've got some things I think you've not been told by your staff. First is that when the people passed prop 215, November of '96, it included language directing the legislature to create the distribution program. So it was not done by us light heartedly. We were told to do it by the legislature, 50 people California. Secondly, Bill Lockyer doesn't create a task force of all the parties, the growers, the users, the patients, the agent, the narcotics agents everybody, that includes two chairs, George Kennedy Kennedy and myself a Democrat. We chaired like 15 meetings over the course of two years, everyone present, everyone listened to, and the plan was adopted by the legislature, which I authored adopted by the government that came out of that task force. It was endorsed by the D.A.'s association, endorsed by the sheriffs association, the medical association, lots of -- not just another bureaucratic creation, this was the people ordered it, the AG directed it, the legislature passed it and the governor signed it. First set of facts that I want to be sure you're aware of. And it was done by the people because they wanted people who are qualified under prop 215 to be able to get marijuana for medical purposes without be in jeopardy. Being able to grow it, to provide it to sell it without having to get risk of going to jail or otherwise harassed by people in law enforcement otherwise. So that is why this was all done. So the law was passed, operating across the state. And let me add one more thing, that when the law was passed by the people of California, then attorney general Dan Lungren, a very conservative Republican by his own description, said first have more research. I said you're right Dan let's have some. And his staff and my staff, the top members, met for five weeks, and every word in the legislation was arbitrated and set off by Dan Lungren and myself to create the (inaudible) research institution, medical, two different medical benefits research. (inaudible) \$9 million of state money which was approved by 2/3 vote of both houses of the legislature. It was the first serious objective study and research about medical marijuana in the history of humankind. That was done with the D.A. approval, the FDA approval, everyone approved the process, in Washington especially. The marijuana came from the research from the Federal marijuana farm in Mississippi. The point I make is, this was serious stuff that was done perfectly carefully to be created to be responsive to the people's dictate but also absolutely above reproach. That report was released in February of last year. I'm amazed that your staff didn't bother to tell you about it. That report found that all the six or seven studies all of them, unanimously, marijuana is thought to have therapeutic value. And no one, to my knowledge anywhere in the state or country or world, has challenged that finding. That's the science. Think have before you the law of the people have been enacted, the program that's the law. Creates distribution. And the

science that says, it's therapeutically valuable. And I urge you, I put down I'm opposed, I'm more neutral but concerned you know what you're dealing with, in ways for people who have not been on the ropes. I lived it for five, six years. The science is really valuable. When you say won't have it here or there, what else you have limit in San José that you can't get medicine but industrial -- I mean where else do you treat, you've got a really serious drug, alcohol that's lethal addictive and kills both those who use it and those who are -- in cars around them. This is a drug that's legal from the service aspect of the state, scientifically proven to be valuable therapeutically so I would urge you to proceed very thoughtfully and carefully before you limit the people of San José and their rights under the law that they passed to obtain a drug that is therapeutically valuable.

>> Mayor Reed: Senator, I'm going to have to cut you off, I'm sorry, I don't think there's any other senators in the audience. I gave you more time so everybody else don't expect the same.

>> I understand. Let me just add in my full disclosure that I'm a beneficiary of this law. My doctor has provided me a letter, I have gotten a card, I use marijuana for my own health conditions that are legitimate. So I'm here both because I want you to know what you're dealing with both in terms of the law the people and the science I'm personally concerned about people of San José. This passed prop 217, by 65%. Thank you.

>> Mayor Reed: Thank you, senator, interesting background. [applause]

>> Mayor Reed: Richard Serena, Steven Oliver -- if anybody else is a former senator, let me know when you speak. I'll give you a little extra time.

>> Good afternoon, Mr. Mayor, council, city staff. My name is Stephen Oliver. I have my business 2176 the Alameda San José. My offices have been here for 33 years. I'm here to speak in favor of the ordinance because the marijuana dispensary next door at at 2170 the Alameda, Amsterdam gardens, is a nuisance. It is a nuisance because I'm tired of stoners waiting in my parking lot while their buddies are outside. I have go out there and tell high school students to get out of our parking lot. Their customers come to our parking lot and come there and take up spaces for our clients. I'm tired of the loitering, I'm tired of seeing people roll joints in our parking lot. I'm

tired of seeing people inspect their merchandise in our park lot. I'm tired of telling them to move their cars out of our parking lot. I'm tired of seeing two cars go in, do a deal, and then someone go inside and get their weed. I'm tired of seeing all of this. I'm tired of telling the cars to get out of our lot every day. Finally I'm going to say this to city council I'm going to say this to staff. Don't let this city down.

>> Mayor Reed: Next speaker is Richard Serena followed by Robert Shants and Michael Gamino. Joe Carol -- if you don't come down I'm just going to pass by because I'm calling your names for a reason. Joe Carol, Richard Serena, Robert Shants, last chance, Michael Gamino, Joe Carol.

>> Hi, I'm Joe Carol. Thank you council. I happen to be the owner of the 2176 building. Mr. Oliver spoke about some of the things that we've been seeing and I really urge you to pass this ordinance. It's been the wild West out there. There's 1 ten of these places opened up. They're not legal. I have no problem with medical marijuana. I have problems people rolling joints in our parking lot that bid Building is not set up for any sort of the park that's needed for this type use. So number one the parking, the loitering, it's 40 feet away from a residence. If you just do this ordinance, these people can come out of the shadows and we can have legal marijuana. My mother died of brain cancer. She -- we went out and scored for her and got some marijuana. It was wonderful for her. We need this. But we captain have it around every corner. These people have seven tenants in their building and they have eight parking stalls.

>> Mayor Reed: Sorry your time is up.

>> Please get it done, thanks. [applause]

>> Michael gamino. I'm here as a proud member of the Americans for safe access. Silicon Valley chapter. I'm also a patient, I've spoken to you several times. Last time I spoke with you I told you how I sense confusion, and I was really worried what was going to happen because I figured it felt like you were up against the wall your back and you were going to rush through this. I put together all the knowledge I could possibly find on DVDs, I handed them to the clerk, there are copies for each of you to look at. Everything the senator just said before me is on these

DVDs. All the greatest research in the world the most current. I urge you to watch these, please. L become more knowledgeable, that knowledge will give you the power to make proper decision. I agree with these other people, that these are nuisances and they are located in sensitive areas. They should not be there. Okay? We're compassionate people. We do not want to step on anyone's toes.

>> Mayor Reed: Sorry your time is up.

>> Please watch those DVDs. Thank you. [applause]

>> Good afternoon, councilmembers. My name is Robert Shontz, I'm a land use attorney. I'm here on behalf of elixir on Stevens Creek boulevard. I want to make two quick points. The first is, the plan the staff has put before you is going to lead to the following, ten exceedingly large facilities that have to accommodate both space to service patients and space to grow the cannabis that the patients group into ten locations, there will be serious space implications parking implications, traffic implication and there will be more gentlemen like the gentleman that proceeded me that's unhappy to be located next to one. More reasonable proper approaches to have more of these dispensaries in more areas of the city that are smaller, that can service a smaller number of people, and the impacts to the surrounding areas, will be far less. Specifically --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Matt Lucero. Sadie kind and then dead wood 63.

>> Mayor and councilmembers, I was not planning to speak today but I can't ask to clear the lies of the previous gentleman that came up here. Complained about 2170. Because on March 22nd, he attacked a medical cannabis patient and I was a witness. There was a San José police report that was filed and a pending restraining order. Do not believe the lies that he is talking about. He pushed and punched a disabled person. This was

recorded by our cameras as well. So what he's saying about drug dealing in the parking lot, do you really believe that people would do that in the open? I mean smoking joints? Those are all made up. He has no merit. Thank you.

>> Mayor Reed: Matt Lucero, followed by Sadie Kine. Dead wood 63, Douglas Klopek.

>> Good afternoon, Matt Lucero take the lesson from Oakland. You guys may even be federally indicted by this. 70 million industry this year in San José alone. If you guys really want to maximize revenue opportunity here then my suggestion is, 30 clubs with annual license fees of not more than \$20,000 each. Here is why. If you guys make it too inconvenient, if you make it too expensive for the consumers they're going to go underground. Guys, you are partially responsible for creating this insatiable demand that is now in San José. If you think that harbor side is the model to work with you're wrong. First off, those folks suffer 45 minutes of indignation waiting online you are the oasis. 50 miles radius this is the only place to get medical cannabis. The East Bay and the peninsula are.

>> Mayor Reed: Your time is up.

>> Thank you sir.

>> Mayor Reed: Sadie cine, followed.

>> Good day, members of the council, I'd like to bring up a couple of issues that I have questions with. One are the number 10. For the 10th largest city in the nation, basically, 1 million people, 10 amount to, one dispensary per 100,000 residents. I honestly think the numbers should be increased somewhat. Two, I urge all members of the council to seriously consider the issue of compassion as a first and foremost in deciding which dispensary should stay open, and which shouldn't. It's not a matter of who has the money, who has the money to buy a license. It's a matter of providing a professional, compassionate service to the members of the city.

>> Mayor Reed: Sorry your time is up.

>> Thank you. [applause]

>> Mayor Reed: Dead wood 63, Douglas Klopeck, Jenny Rutherford.

>> I'm actually Jay Kine, I think we got out of turn there. This well intentioned attempt to provide medical cannabis is out bad faith attempt to close down all the cannabis cooperatives. Furthermore this traj fiscally flawed aware this rubber is going to meet the road. The most obvious example to me is the preposterous recommendation of all cooperatives to grow all medicine in former greenhouse manager for the medical cannabis industry, I'm massive scale. Between 2002 and 2004 I managed the propagation of more than a million and a half new cannabis plants. The company I worked for had three large scale offered. As stated this previous at city council meetings, nothing's changed. I see the same recommendation is happening now. It's just not feasible, not logistically possible. Imaginary.

>> Mayor Reed: Sorry your time is up Jenny Rutherford. Then Dan Rush.

>> Hello, councilmembers my name is Doug Klopeck, one of the directors of med mark healing center. I hope you've had the channels to review the material I sent to you in the past few weeks. One of the problems I see what's proposed is the lack of light industrial being included. I understand that there are certain zoning issues however, many of the established cooperatives in this city that are the best practicing clubs that were the second club to pay the city tax and the third and the fifth club to pay the city tax, those are all zoned in light industrial areas. Those are the ones in light industrial that have the space available to cultivate onsite. May not have none space to cultivate all but they have space to cultivate onsite. Secondly, California 600 feet radius that is mandated. Nobody wants anything closer than 600 feet of a radius. However please do not make the rules and regulations so extensive by including parks and homes and things of that nature. You don't want a house right next to a dispensary, I agree. However, take direct vehicular access --

>> Mayor Reed: Sorry your time is up.

>> Not linear, linear will close everything down.

>> Mayor Reed: (saying names) then Carlos Pazolla.

>> Good afternoon, mayor and city council. I'm here on behalf of citizens for safe access, Silicon Valley chapter science behind the medicine. I'd also like to request that you include the light industrial zoning for consideration. As this says again, one of the areas that would be able to accommodate both the dispensary and the onsite cut vacation that you are asking for. The collectives that are operating and going to be paying their taxes by the end of this month is probably what you should look at as far as who's complying, who's working with the community in trying to create a better community for all San José residents. I know I would love that to fix some of my potholes in my neighborhood and some of the things that have gone unmaned of maintained because the City's budget. Please look at this revenue particularly as one that has not caused any problems thank you.

>> Mayor Reed: Dan Rush. Glps thank you, I'll try to make this quick. My name' Dan Rush. I'm the special operations director for United commercial food workers district coalition which is not your typical coalition. We're a coalition of faith, labor, business, law enforcement, Public Safety and health, science and medicine. So we're not just cannabis clubs that are coming to talk about how we want to do business. We are also representative of the community. By the way, we also have community organizations. We're representative of the community and what we want to do is pragmatically help you find a way to enable this industry to be an industry that creates jobs. And maximizes tax revenues. And again we work pragmatically and we're not here to insist on anything. We would recommend that you abandon setting limits today, and find a formula to get to those limits. We want to suggest that the council appoint a task force that's representative of those --

>> Mayor Reed: Sorry your time is up.

>> Of those communities.

>> Mayor Reed: Next up is Carlos Pozzola Laura Blair and Stephen Hazelton. Pes.

>> When we passed the first collective legislation there in Oakland. Like to have you consider light industrial as a zone for the collectives principally because if you are considering zone secondary if you are looking at creating jobs and revenue these really are the areas where you are going to create what municipalities have learned throughout the state of California if you are trying to create cultivation opportunities then you have to consider light industrial given the electrical loads et cetera. I'd encourage you to consider right to know agreements where we light industrial signs a right to know that they are an industrial area and also to give the zoning director discretion in these areas that if it's near an incompatible use that they not be allowed to receive a permit. Additionally I'd like you to consider raising the number to 30, to serve the broad diverse population of San José --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Laura Blair, followed by Stephen Hazel and José Arrego.

>> proposed amendments to the zoning ordinance that would allow the planning department director flexibility in their zoning verification. If they're able to make a finding that the proposed site is compatible with the surrounding uses within 500 feet. Second we're asking for consistent regulations the operating agreements -- excuse me the operating regulations proposed by staff prohibit sales of medical marijuana while at the same time requiring that the collectives pay sales tax. Further the dints office is circulating a draft prosecution guidelines in which they clearly state that medical cannabis among its members. consistent so that they can have clear direction from you on how to operate. Finally we would like to propose a cost effective process for closing the currently operating collectives by requiring any collectives that -- requiring collectives to agree as a condition to their permit application --

>> Mayor Reed: Sorry your time is up.

>> That they agree to close as a part of their permit application. Thank you very much.

>> Mayor Reed: Hazel, José Abnego followed by Steve Luce.

>> God's words from my mouth to your ears. I put medical marijuana here for a purpose. That little girl I could save her from getting those painful injections, that's one exception. 10 the thousands of patients not only here, Santa Clara County and other ya's, and the products always there. Where they going to go, Long's Walgreen's, rite aid? it would be however of hover around 162, around there. The number is the square footage. I'm trying to protect the mom and pop collectives from the big box marijuana superstores. That's where they have to be protected, okay? The number, no number. And of course home delivery should be exempt from the sensitive uses. Now remember, as a creator, I'm also a patient. Thank you. [applause]

>> Mayor Reed: José Abnego, Stephen Lu, Tony Alexander, jam Anthony, David Thompson. Come on down. This is the time. Burning daylight as we say because we've got a lot of work still to do.

>> My name is David Thompson. I'm an attorney here on behalf of cannabis healing association, nonprochtd charitable organization dedicated to promoting the growth of the marijuana industry many have made reference to what this city has to lose. I'm here to tell you that you really do have a significant amount of lose on the table. My organization is in talks with neighboring communities that are hoping you limit the number of store fronts to 10. Because they want to take those store fronts from you. And we're talking about hundreds of millions of dollars in tax revenues for your communities. With health benefits patients that need access to medication. You're dismissing the fact that this is not a gateway drug. It's actually an exit drug off of more potent and addictive medications. And if you can't believe in science, and you can't believe in economics, what can you believe in? Thank you. [applause]

>> I want to applaud the council staff and especially the police department for visibly addressing or raising consideration of visible cultivation regulation. Very few cities have done this and fewer yet successfully. You run into a catch 22 problem with the federal enforcement policies. If you are going to look at cultivation you have to do it comprehensively. You have to develop what is provide guidelines and limitations for that. You need to look at efficient scale cultivation both onsite, in tan chem with the distribution location and offsite, separate with the distribution location and outside of San José. You need to look at the Mendocino county sheriff's outdoor cultivation regulated process which is the only regulated cultivation in the state at this time . You have to look at how is this going to be workable. Finally chapter 6:.88 is not ready for prime time. Salaries are not overhead, no sales, no tax on. How can there be no sales? Wait for the District Attorney's guidance on this. Wait MP 3, if you need that please let me know, the thank you so much.

>> Mayor Reed: Sorry your time is up. Tony Alexander followed by Nicole Bach and Gregory Bach.

>> Good afternoon Mr. Mayor councilmembers. One of the things USCW 5 is what we call at it again. We are out there supporting collectives and collectives of different groups that are out there. We're part of the Silicon Valley cannabis coalition. What we're trying to do is bring people together so what we can do in our city is have a good way of just going out there and be able to regulate. So what we're asking you to do is work with us on that. One of the things that we are supporting, we are supporting AB 2650, as far as the regulation, as far as that part. We also support further review of the zoning process, because I think that we have to go out there and take a look a little bit more regarding zoning and how we're going to go out there and look at that. And then we are continuing to support and getting ourselves involved with outreach to the community and to the industry. You heard Dan rush who is our guy that's going to go out there and really push and work on that.

>> Mayor Reed: Sorry your time is up.

>> Thank you and we'll continue to work with you on that.

>> Mayor Reed: Nicole Bach Gary Bach and Jerry Strangis.

>> My name is Nicole Bach. Thank you for having this meeting. Collectives serve patients around the Bay Area. We need to set ordinances immediately. Please, set ordinances, close the ones that do not comply, and then do an application process. Collectives need to be safe and accessible. We want them to be the best. What if it was your loved one or somebody you cared about? You want them to go to the best, safest areas they can. Please set the ordinances. Thank you. [applause]

>> Mayor Reed: Gregory Bach, Jerry Stranges, Michael Hoveland.

>> Mayor, council, awesome job. We are one of the first that opened up. The city did a fantastic job. We filed an ordinance 25378 and the city has got a tremendous amount of time and energy in this and we appreciate the time and energy and we are close to getting something but putting a limit on a number, the main goal is we got involved because of family members. The idea is safe and affordable access. If we put ten, I think one gentleman mentioned big box, I think that's going to create a number of problems. If we get to a situation where the ordinance is already set out I think we'll clear out the ones that are serious and the ones that are in it for profit. Thank you so much for your time.

>> Mayor Reed: Comm representing MC 3 versus disclosure everything discussed today will probably be used for this year's Monday night life. Want to talk about land use. Want to keep it simple. You have a process, PD zoning process, planned development rezoning process we think is the best way to vet the appropriateness of these locations. Let the community around the collective decide if it's appropriate. If it's in the right zoning. If there's any sensitive receptors. We can get through that process it would have full discretion of staff to be able to oversee, it's a special zone that allows flexibility to the applicant and to the city. If we want to reduce the number of collectives, that's one way of doing it. We can get the number down and then decide which ones will work. The system's not broke. You don't have to fix it, your PD zoning is the way to get the number down. Thank you for your time. [applause]

>> Mayor Reed: Glor Schup. Michael Hoveland, Michael Hoveday.

>> My name is Gloria Schupp. I want to talk about myself for a minute. I'm 77 years old, suffer from a variety of ailments. suffer from physical side effects or while relieving my pain I was not able to function because of the haze of the painkillers. I used to be against marijuana, that's when I thought it was just smoking a joint and getting stoned. Then at the recommendation of two therapists, I wanted to learn more about medical marijuana. I went to SV care in San José the owner Gary spent over an hour with me. We discussed what pain relief I was looking for and what products were best tailored for that goal. I now use oils, lotions and salves, I don't smoke anything. I don't get high. I do get relief from pain and am able to lead a more productive life and keep my independence. So please, Mayor Reed and councilmembers, please allow the businesses of medical -- medicinal marijuana to continue in San José. Thank you very much. [applause]

>> Good afternoon. My name is Michael Hove land, Bellarmine college preparatory I went on to the University of California. 12 years ago I tore the ligaments in both of my knees and on the age of 34 have the okay set of highly addictive pharmaceutical drug Vicodin. I work 12 to 14 hours a day and have two young daughters that I'm raising. After allowed me to be more energetic to during collective and have the choice of medicine to fit my ailment so I find this appalling that council's language in the proposed ordinance to allow city officials and or police access to my personal medical information upon request. As a professional why would I take the risk of going into a collective and being exposed? I'd rather stick to a local illegal dealer and doesn't charge me sales tax and city fees.

>> Mayor Reed: Sorry your time is up. Nell Asagi. Wait just a minute. Mr. Asagi after you speak we'll have Steve de Angelo and Keith Liggins.

>> Good afternoon, my name is Mel Asagi, we represent a coalition of collectives in San José. We think the council has done a good job of looking at this issue but we think it requires more study. We think that there's a better approach than limiting collectives, by regulating them as they've done in Sacramento. We recommend that you take a look at their approach and their process and what they came up with. We also think it's important that you consider these collectives have benefits to the community both the patients and the communities that they

serve and that by putting them out of business you create blight, you create problems you don't need to have. If you're trying to focus on a way Tao to make this all work in San José, so we applaud your efforts so far, urge you to reconsider this motion and act at a later time. Thank you. [applause]

>> Mayor Reed: Steve Dee Angelo, followed by Keith Liggins, Paul Stewart and test Crosini.

>> Thank you councilmembers for hearing us once more on this topic. I urge you and staff to keep working on this topic. There are a number of issues that require more work. The one I'd like to zero in on is the issue of the lottery. High parallel illegal market exists. The potential for mischief there is huge. It is also a medicine for seriously ill people. In both cases I would think that we want the highest standards of both integrity and professionalism handling the substance. This is not something that lends it Stovall a process of chance. It should be a process of rigorous merit and I would urge council to instruct staff to develop a merit based system of selection. Thanks very much for taking this up again. It must feel like groundhog day. Thank you for being here.

>> Mayor Reed: Paul Stewart. Followed by test Crosini and Leanna Hill.

>> Sorry, that applause nearly drives me deaf. Mr. Mayor, members of council, number one I would recommend that you adopt the registers contained in the April 8th memo from Councilmember Oliverio and Rocha. Failing that number 1 please consider including light industrial not all industrial zones simply light industrial on a restricted use much is being proposed with some of the commercial zones being added in relative to the siting of collectives. Not interfere with the City's economic policy and a mid to average size collective will add approximately 20 every time it opposite up. In addition, will that add additional lands to the every commercial that's cropped out based on the distances that you apply to sensitive uses the same thing will occur with the light industrial. There may be other initial parcels that may be crossed off based on planning review and also on sensitive uses. Number 2 I am also concerned about the release of confidential sensitive patient information.

>> Mayor Reed: Sorry your time is up. Test Crosini, LeAnna vice Mayor Nguyen districts and I also live there. I'm in reCouncilmember Oliverio and Rocha. I'm in favor ever the light industrial as a site option and application of I'm also very much against the release of confidential patient information because that's breaking the hipaa law.

>> Lee Anna hims followed by jeer only handsle yfntion.

>> Fact that this onsite cultivation is unrealistic. It would just require too many square feet. I also think that the idea of this lottery is just ludicrous. I cannot stress how much you really need to come up with a merit based system and the fact that you're disallowing sales is really disconcerting. I really feel that you need to instruct council to take more time and that the council is not ready to pass any ordinances today, thank you.

>> Mayor Reed: Jerome handley followed by Corrine Reyes.

>> Mayor and staff I want to thank everybody for the work they've done on this ordinance. I'm an attorney here who does cannabis business law. I have make sure that by the time we finish today that we have some type of clarity or by the time we finish this process we have clarity as to whether my clients can continue to operating, while this process continues on, how they continue to pay their sales taxes and to develop a merit based system rather than a lottery system for those who are operating in the city currently as legitimate good operations can continue operating and can continue their time and investments that they've put in their operations. Thank you very much.

>> Mayor Reed: Carina Reyes, lauren.

>> We are open in 20 ten to serve the needs of low income and at risk communities in San José. We think the health department drafting it's propped odor. We are classes designed to help the indigent people improve the situation. If the health department closed GSCC my patients would not have legal and safe access to needed medicine to treat and manage pain and other symptoms. In addition to be affordable we are eventual conveniently located to ooms.

>> Access medicine. Shortened it. Such an ordinance ideally should allow collectives such as mine allowing reliable access to medical marijuana for its patients. I have to consider health and safety in drafting an ordinance and not to choose dispensaries random lie by lottery safely.

>> Mayor Reed: Sorry your time is up. Gamas Prieto. Loren Vasquez, Dave Hodges.

>> Gaining control of my life my life was out of control. I was heavily hooked to meth my whole life. My whole outlook on life is not what it is today. Today I can say I have my life back. Ooms GSEC also has helped me obtain my original doctor's letter of recommendation with that now I'm able to buy my policing without having to purchase my medication on the street. Thank you.

>> Mayor Reed: Loren Vasquez Dave Hodges Helen Gascon.

>> Hello council, Loren Vasquez, former director of Silicon Valley citizens for safe access. I'm e-mail, I would like to actually see some progress done today. The ordinance as presented have a lot of flaws and a lot of problems but do I think we can get three things done today. I'd like to see a cap set, like to see that cap at 50, like to see the districts, zoning districts approved today. Like to see light industrial added to that and also I would like to see you vote on the sensitive uses which should include residential uses, substance abuse and medical cannabis exclude those. So I hope we can vote on thee issues today so next time we see each other we can progress even further, thank you.

>> Mayor Reed: Dave Hodges. Helen Gascon, Margaret Bennett.

>> Hello, councilmembers. I'm part of the Silicon Valley cannabis coalition. I urge the council to take our suggestion of a task force to go through the title 6 and title 20 proposed ordinances, to come up with something that's more pal atable for the community. I feel that as is in we wore to pass the title 6 or title 20 that it would do basically what the not passing the moratorium in '09 did. A situation much worse, something that is not legally

enforceable. Closing all the collectives we'll shut down potentially 100 collectives in the City of San José while they apply for this putting thousands of people in San José out of work making a huge burden of the city to have to defend those actions. I really urge you to continue to work on this and work with us. Thank you.

>> Mayor Reed: Helen Gascon, Larry Bennett, Gary Sal Virginia dore.

>> My name is Helen Gascon, thank you, mayor and city council members. I'm a medicinal marijuana user, a former member of the U.S. army, I'm a drug dependent, a recovering alcoholic. Medical marijuana is the only thing to literally help. Please do not shut down our dispensary. Help us, that's all we're asking. We need our medications, and people that know the type of medications that we need. Thank you.

>> Mayor Reed: Margaret Bennett, followed by Gary Salvador and Aisha Alexander.

>> Mr. Mayor, and councilmembers, my name is Margaret Bennett. I'm employed by the nonprofit medical marijuana collective emerald crossing. We provide medical cannabis to nearly 4,000 patients. So there is a need for collectives in light industrial. The actions you take will disrupt employment, create vacancies where vibrant nonprofit businesses are thriving and deprive property owners of rent. You wouldn't limit the number of pharmacies to ten, service stations to ten, even car dealerships to ten. Our collective is filled with very ill patients. To be honest with you the first time that I even heard about medical cannabis when my mom was dying of stomach cancer. When I started using it I had my own bout with cancer. My nine-year-old son is battling brain cancer. There's a lot of ill patients. I just urge you guys to do an extensive analysis of where the need is how --

>> Mayor Reed: Sorry your time is up. Gary Salvador Aisha Alexander and Rena burns.

>> Good afternoon, city council, my name is Gary Salvador I'm the other than of SV care. I read all the memoranda it is still confusing to me. There's good in all of them, you Pierluigi and as well as staff's. A final resolution is not there just yet and would ask that you take the time to finish it up. The biggest thing for me is that this is a medical use. We see you talking about putting things in industrial. I'm not against anything being in

industrial but we're in a medical use building. We thought that was the best approach because it's medical marijuana. I want to thank you for taking the time.

>> Mayor Reed: Aisha Alexander, Reina burns Jack Noop.

>> Good afternoon. My issue is that you guys are talking about making it ten clubs. As a cancer treatment I just had treatment Thursday, my bones are killing me. I can't stand in line somewhere 30, 45 minutes. And at these big superstores, I might have a personal symptom, I don't want the next person to hear. I might want to just discuss it with my bud-tender whoever is here to help me, my personal symptom. I can't do that at a superstore. I just want to point out that the national cancer institute which is a division of the federal government just recognized that medical marijuana is beneficial to cancer patients. Just one thing, I move every day and continuing my life, because I'm on medical marijuana. If I was on oxycontin or methadone, I couldn't do it. I need safe access to medical marijuana. I don't want to stand in line to wait for it.

>> Mayor Reed: Sorry your time is up.

>> Thank you. [applause]

>> Good afternoon, Mayor Reed. My name is Reyna burns and I'm a patient of medical marijuana. I also work at the holistic pain management institute. We sent you a disk and a disk with 600 love letters, saying safe access is available at PMI. We want to be on on that list. Otherwise, a broader number than ten is acceptable. I suffer from insomnia and medical marijuana is the safe way to get to sleep. I know there are pharmacies that doctors provide out there I'm a law abiding citizen, so are members out there render unto Caesar what is Caesar's but thank you for your time.

>> Mayor Reed: Jack Koop or Noop I can't remember and Rigoberto Zuniga.

>> My family and I have lived here since 1973. There was never a need for me to be in front of you but now there is. And the reason is my wife. She is 67 years old, we are married for 62 years. She has a heavy duty of coma and high blood pressure situation. Standard traditional medicine has no options anymore. The cannabis is the only one that is keeping her alive, the edible kind. We are very much concerned, fear locate those dispensaries and who will run them. Two centers downtown is not a good idea. Neither centers in the industrial area. Where we are walking victims of dimly-lit and desolate areas. So if you will take that in consideration. We would be very grateful.

>> Mayor Reed: Sorry your time is up. Rigoberto Zunigi followed by Matt Sena and path Noop.

>> Good afternoon, mayor and councilmembers. I'm served four years in the United States marine corps as a field including initial invasion in 2003. As a result of my service I was exposed to multiple blasts from IEDs our own weapon as well as rocket attack from enemy fire. I am currently disabled constant anxiety attacks lots of sleep depression loss of appetite, the list goes on. bunch of pills that from any side effects, I didn't even recognize my children sometimes. Medical marijuana allows me to live my life in peace and kind of gives me hope again. Without it they put me back on pills that just have all these side effects including constant emotional roller coasters, loss of -- loss of interest in the things I once did. Drowsiness that lasts all day, wake up with incredible Thursday and constant --

>> Mayor Reed: Sorry your time is up. Matt Sena.

>> Hello city council good afternoon, couple of things I just want to touch on. Cam at 10 is just too small having ten Costco sites cannabis sites in the city. Yes we would love that as a big patient advocacy group we would like to have a lot of patients have access to their medicine but that would pull law enforcement from their jobs to police these areas. Medical things out there for the government to see is going to risk a lot of people especially within sthawl. I can tell you sitting in this panel right here at least two of you that come to a medical cannabis collective. getting their own medicine. Twail right in the cul-de-sac where Councilmember Constant lives I'm right across the

street from him there is a guy that was selling cannabis for over ten years. I guarantee you, if we are to limit this to ten he will doing the police help us remember we're here we're sick get over it we're not going anywhere.

>> Mayor Reed: Sorry your time is up. Pat Noop followed by Scott Kendall and Danielle Ayala.

>> I've been to every meeting since October of '09 and now that we're actually close to putting an ordinance together I just hope you don't rush into drafting something that is unworkable. While I understand that staff is already overworked please don't take the easy way out with a lottery or eBay. In the long run you'll cause yourself for work from enforcement actions because somebody got lucky and won a permit or organized crime was able to buy one on eBay. The planned development seems to be the way to go and also, please defer action on requiring onsite cultivation until a later date until staff and council can fully understand the ramifications of requiring onsite incumbent vacation. I hope you guys can cultivation. I hope you mayor's memo and Councilmember Oliverio and Rocha's memo. And I just hope we can all work together and craft an ordinance that works for all of San José. Thank you.

>> Mayor Reed: Scott Kendall followed by Daniel Ayala and Daniel cantrell.

>> I'm an attorney in the area and I have only one suggestion. Instead of focusing on the number of collectives that you want to permit it would probably make more sense to focus on the ideal collective that you would like to admit in the city. What do you want those qualities to be? Because I think everybody would agree, that a well run collective is a benefit to the city. The poorly run ones are bad for the city. So we say what do we need for a well run collective, let that be the standard and then let that determine how much. How many can meet that standard? You are not the first city to go through this, Sacramento, San Francisco and Los Angeles all large cities in California have gone through this happen. Sacramento and San Francisco chose one route, they have no lawsuits. Los Angeles have tried to limit the number, they've had lawsuits for two years millions of dollars and no closer to resolving this. Thank you very much.

>> Mayor Reed: Daniel Ayala, Albert Catrel, Gabriel Antolovich.

>> Good afternoon, mayor and council. I guess nobody is looking at me. My theme is love. I guess that's funny to come up and say that. Cannabis is love, love of money or love of humanity. Love of money, I can't stress enough labor, labor, labor, labor law in these collectives is atrocious. It's atrocious. That's it. I mean what else can I say? But again to you, I love cannabis and I love my dad. I don't want him to die so I'm giving his cannabis. He don't me in the morning, every night anymore, I can sleep. He can sleep. But I appreciate you giving me the time, it's my love of humanity, the reason I'm here. I graduated college 97, I worked in Alum Rock for three years, it really was a blessing.

>> Mayor Reed: Sorry your time is up. Albert Catrel followed by Gabriel Antolovich.

>> Good afternoon, mayor, stoibs, City Manager, City Attorney. I work in Mr. Liccardo's district and we've been working closely with Mr. Busso and try to work with you guys, have going on with the cannabis community right here. Basically one of the key points I wanted to touch on is, if you shut down these places where do you suggest the hundreds and hundreds of jobs, where do you suggest for these people to go? You know a lot of the people that work with us are family, are the single income earner families that have kids and you know that's what they're doing right now. In this economy, if you shut these places down, where do these people have in turn? Are you guys having, you know, we'll shut you down, some type of alternative as far as employment? And then secondly, just about the number. And where you're trying to put these places. Let the neighborhoods decide.

>> Mayor Reed: Sorry your time is up. Gabriel antolovich.

>> I'm Gabriel andolovich, I represent the urban coalition looking at the downtown entertainment zone. And we oppose having any marijuana dispensaries in the downtown area for a number of reasons. One is that's where there's many open-air and family friendly events and it would be awful to have these things serve as role models to youngsters. Also, city council has worked very hard for years to develop downtown as a more diversely appealing place, especially for young people. And that means, alcohol-free events, and we want young people to -- we don't want young people to perceive marijuana as a recreational drug because downtown is a recreational

area. Also, San José State University is a huge part of downtown San José and they do hang out downtown. And students need to have a consistent environment, because the university takes a no tolerance for use and possession of marijuana because they get federal funding so they adhere to the federal laws.

>> Mayor Reed: Sorry your time is up.

>> So we don't want double standards for them.

>> Mayor Reed: Christopher Montcal.

>> Well, I came over to say that closing down the subs, bringing back the weed to the streets and you guys don't really want that. I mean I don't want that on my street and my neighborhood, when my families grows up you know what I'm saying? I'd rather have it a business so you guys could profit off it more rather than having it down the street from my house, bringing other people through that we don't know, we don't know what they have on them. So it's like, I don't know, just brings the whole new different type of violence to the street. I just came up here, I don't know, I wanted to voice my opinion on that because it's my home, I want it to remain my home. Really -- this is terrible. It's awful. That's all I got to say. Thank you.

>> Mayor Reed: That concludes the public hearing. Now, time for the council to spend some time trying to sort this out. Make a few decisions. I want to see if the staff had anything to add to their presentation following the public testimony or anything else they needed to add then we'll come and see if the council has any questions about the presentation and then we'll take up the items that need to be voted on. You.

>> Deanna Santana: I have nothing further to add. We are prepared to take you back to the zoning if the council wants to discuss and make decisions around zoning, we'll start with that slide.

>> Mayor Reed: I have some requests from councilmembers to speak on this item. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. First of all I just want to thank the communities for coming forward and for all of the testimony appreciate senator Vasconleos ooms for coming forward for us. The decision we make today are not about the therapeutic value of marijuana. That's not something we are deciding so sure. It is legal for people who have a need for medical marijuana to have that so that is not something we are debating today. What we really need to look at is how do we regulate this. And I've heard from a majorities of people who spoke today an agreement that we need to do that. And there are some us here that feel we need to move more quickly and we need to do something sooner. We've heard people talk about that a certain number of collectives and I'm going to use the word collective because that is the entities that is legal and that is where we want to have whatever number gets decided we want those to be collectives, certainly other cities and we look at other cities, that is one of the things we can do is look at how other cities are handling this and some of these have been brought up and many of them do have limitations. Stockton has three, Oakland has four looking to go to eight. I understand Sacramento has 39 is trying to reduce that number. Eureka has 6. Napa has 1. Sebastopol has two and we have heard L.A. has a lot of them and I've been told over and over again don't go the way of L.A. They are struggling with it. So the idea that you shouldn't put a cap on it, other cities are doing that and we shouldn't be doing that I think the easiest way to work through this is to look at staff's recommendation which I really want to say I appreciate the work and this has been ongoing all the work that staff has. I also want to acknowledge my councilmember colleagues. Councilmember pearled Oliverio, has put the most work into this, Councilmember Liccardo has been very involved in this and also the memo brought forward by Councilmember Rocha and Councilmember Oliverio. The latest memo. That they brought forward. This came up again, I want to also again acknowledge that staff responded to the memo that myself, Vice Mayor Nguyen, Councilmember Liccardo, Councilmember Constant brought forward. To rules. And that memo called for a limitation, a cap on marijuana collectives and a cessation of other December pens rise and have a reasonable period of time to have those change over or be eliminated. And so that is what happened as we've gotten some very good work from staff on some recommendations. And I think what I'd like to do first, if folks will support this is I'd like to move approval of item A to initiate the zoning ordinance that's the changes to title 20 and included in this motion I'd like to include the mayor's recommendation from his April 11th memo.

>> Second.

>> Mayor Reed: We have a motion on the floor. Let me just make sure we're all on the same item number
A. And that is --

>> Councilmember Herrera: Adoption land use regulations pertaining to medical marijuana collectives and to establish a zoning certificate process to the Planning Commission, for which report and recommendation and to set a public hearing date on these proposed amendments to title 20 before the city council.

>> Mayor Reed: So we're on agenda item 3.3 and this is the first of several items we have to take up. Item 3A.

>> Councilmember Herrera: Can I speak to --

>> Mayor Reed: Just a minute make sure I understand the motion. The staff recommendation as fold by my memo on the zoning districts.

>> Councilmember Herrera: I also think D and E are probably some that we also could move on and then I think B and C we can take up.

>> Mayor Reed: Okay so we have a motion on the floor for one little piece of today's work. On this particular item, Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I want to thank our professional staff for the work they've put in on this topic. I do acknowledge there is a learning curve, this is clearly not in the city charter or not Public Works but it's related and it's government policy. I want to thank state senator John Vasconcellos, clearly there's history in federal and state and that's why we're here and we have to deal with the situation and thank you Councilmember Herrera for acknowledging that I brought this back up in October of twiern and the whole think I've just wamentded is a limited number limited quantity regulated and I think it is imperative that we as a city are stuck at the end of a whip and having talked to a member on Saturday they said you know what we're really

thinking about doing something because we don't want every city to do their own thing. So great, when do you think that's going to happen? Oh not this year. That leeches me get somewhere there. I do want special thank to chief Hober. I did ask you at the Rules Committee to visit some of these facilities and I think you did and that gave you a different perspective, whatever perspective, police department's proactive investigation ever that problem so with that said, I thank you very much. With the motion put forward I do want to offer the memo that I and councilmember Donald Rocha had signed. We agree that something needs to be done, we certainly agree that we need regulation in a limited number but it goes about it in a different process. We basically are accepting of the staff recommendation, A 600 feet between schools as well as the 600 feet to other uses and we can define what those other uses would be but clearly it is residential. We believe the deferral on the lottery. So the except on the participant, but what it does is it doesn't necessarily reward who could possibly be the best. And instead it just meets a reward of someone who makes a minimum cut. I think that process is not as ideal as it could be and an RFP process is better much like what was just done in Stockton and shared with us at the Rules Committee so they had a process there. I know there's the -- actually I'll speak to that later. Definitely delay the lottery and delay the number 10. Then when it comes to the idea of onsite cultivation, clearly no city requires onsite. And I said, we said in the memo it says defer but what we really mean is, you have the option of onsite. So what we'd like to see instead is the continual collective method which is the collective members growing for the collective, but they need to go through the same background checks as the collective directors. It's only fair that we relieve the fear of any nefarious activities that people making money to do things that we don't want. So a criminal element. So a background check would do the same way. This would be done card clubs, if you go employees of the card club you apply to the city you pay for your background police and you are okayed by police. What we're really looking for is a felony conviction of drug dealing. That would be that ideas. And then certainly the rest of the memo's fine so the on site cultivation I've answered that because it was a little ambiguous. The on side cultivation is fine, you could go wherever you would to be relaxing. And then portion B of the smooam pretty definitive. And then would I say this, I know we're infatuated, that a number would resolve things. I get that, it sounds clean, it's a good ideas. We've talk about a number multiple times, I've talked about 95, I've talked about ten and as late as December I've talked about 30. What I'd rather maim is an offer of up to, if we want to do up to 20, understanding 20 may not qualify because 20 may not get through the RFP process of the city. It may be 11, it may be 17. I don't think anyone and I wouldn't bet my kidney would know which one of these collectives are the ones that are going

to be truly qualified in following state law. So I think I would be willing to amend the motion with the acceptance of when I do make a motion, that we would do up to 20. But I also want to incorporate the thoughts of the mayor in substituting in his line item B that we would push in for the land use requirements. We have nearly 1300 places you can buy alcohol in this city and certainly those coincide and coexist within our city today and the mayor's asking for that we just treat them the same way we do liquor, makes sense. On the other side of the fence on the additional zoning I'm supportive of item A so it could clearly support commercial industrial and combined industrial et cetera in the mayor's memo but I do have concerns about too many concentration. I think we have concentration and we can look at the maps that were applied by Planning and that you know you'll have basically two areas in the city where you would have these items. These facilities. So I have a concern on the concentration. But I also share the concern of the mayor in protecting our job base and protecting land that's for jobs. So what would I like to see if possible is that we allow industrial use or light industrial or industrial park, with some type of C.U.P. process, Planning, PD, et cetera, we zone things all the time up here that aren't what they were intended for. I sit up here at times and we zone industrial to housing, we do change things. I would like to see somewhere where the Planning and could take note is this the right location for any number of reasons and then make that decision if it's appropriate. I certainly don't want to have all of them be in these areas but certainly some amount. From the one speaker that discussed parking we know when they are in these areas they do have adequate parking and don't cause disruption to the neighborhoods or the adjacent businesses so I think that's something I'd like to see. So my motion to clarify would be to put forward the memo I authored with Donald Rocha as well as accepting the Mayor Reed's memo, with the stipulation that we would include some type of process to allow someone to apply for the right to be in industrial or -- light industrial or industrial park and then finally, allow that the cap be up to 20, and then we would make that decision as we get there. But that would be the motion I would make if there's a second.

>> Councilmember Rocha: Second.

>> Mayor Reed: I'm going to ask that the question be divided as we started out here, with individual items. We have a motion on the floor for one piece of this. As we discussed at the Rules Committee it's better to take them

through sequence by sequence. I can't support the substitute motion anyway and I think we're better to work our way through this.

>> Councilmember Oliverio: I understand, mayor, I'd prefer an up or down motion, it's an all encompass being motion granted but if it's not the will of the council we'll vote on each one individually.

>> Councilmember Liccardo: Point of order, mayor --

>> Mayor Reed: City Attorney? Yes, on the bifurcation.

>> City Attorney Doyle: It's something that as the chair you can ask for bifurcation or the council can decide amongst itself if it wants to bifurcate the vote. The motion is on the table. The council can decide whether it wants to split it or proceed forward.

>> Mayor Reed: We have a substitute motion which would cover everything. I presume if that's voted in favor then we don't have to worry about bifurcation. So if we take the substitute motion and vote it down which I brief it will be, then we'll go back to the bifurcation taking them individually. But further comments. Let me just clarify a couple of things. There were comments about my memo before we get to the voting. First I want to make clear that my recommendation on the distance requirements from other sensitive use in the city is just based on a specific section out of the municipal code dealing with liquor stores and it's chapter 6.84, 0.3B 3. The findings basically identifying that the use wouldn't be located within 500 feet of a school daycare center public park, social services agency or 150 feet from a residence. That's what we do for liquor. Although we have the overlay of AB 2650 that makes it wider distance for schools, that's that preference. Secondly, in the last 24 hours I've asked my staff to survey some of our companies who are doing business in industrial parks and industrial areas and see what they think. I want to share that with the council because I'm very concerned about interfering with the ability of people to do business in our industrial areas. So Cisco, ultratech Novellus, it doesn't seem appropriate to located marijuana collectives in R&D manufacturing strult environment, it would seem to be more appropriate in a geographic area that is in a limitations I've recommended are reasonable. Property owner's, dworption, brokers,

mission West Sobrato, Cornish and Carey, and there's also a negative perception associated with the dispensary. In location where the city wants to foster economic growth for now this type of use should be limited. They agree with my recommendations and would go further and require these locations to be in the medical zoning only. Not preferred by large campus tenants looking to move to a new area and would not go over well for a high tech group company of size. And then I just wanted to add my concerns, be a little more specific about what happens. We've talked about the sensitive receptors. We're trying to keep the marijuana collectives away from the residences and schools and things like that but there's another reason another set of sensitive receptors. The people who are sick who go to marijuana collectives are themselves sensitive receptors, many of them are very ill and once you have a place where they cog gre gate in an area you have hazardous materials being used, that places an additional burden on the companies that might be using hazardous materials. Cluck things like diesel generators, do happen to have in our industrial zones and plus there's tons and tons literally tons and tons of hazardous materials that would be out there if we will in these industrial areas and so that's why I'm just advocating that we just don't do that. And I appreciate the America of both of the motions for including my memo in that regard. Councilmember Liccardo.

>> Councilmember Liccardo: I think my question was clarified by Rick's statement. I just want to try to understand are we now proceeding on the substitute motion?

>> Mayor Reed: Well, let -- why don't we see if we could just take up the question of whether or not to bifurcate the issue. We've had a request to bifurcate the issue, just vote on that, City Attorney could we vote on that and set aside the motion?

>> City Attorney Doyle: Yes.

>> Councilmember Liccardo: I appreciate that. Is it now Rose's motion on the floor?

>> Mayor Reed: We should vote on whether or not to bifurcate the issue, then we can discuss the relative merits of the situation.

>> Councilmember Liccardo: I'd request to speak I know on substantive issues but just on the issue of bifurcation Councilmember Herrera.

>> Councilmember Herrera: I just think it's important that we can move on these items individually that we can all agree on because there's probably a few different ideas on how to handle those that are contentious. It's much simpler to vote on the things we agree on first.

>> Mayor Reed: Motion to bifurcate. Anybody want to speak on those things? Councilmember Kalra.

>> Councilmember Kalra: The motion very simply, is item A in the staff memorandum?

>> Mayor Reed: Councilmember Herrera's motion is item A.

>> Councilmember Kalra: I want to understand dashes.

>> Councilmember Herrera: .

>> Mayor Reed: Bifurcation would have us go through A B C and D and have us vote on each individual item rather than an omnibus resolution.

>> Councilmember Liccardo: Mayor, since there's motion on the floor. I understand staff also set up a method for going through the issue which is somewhat in variance with what's in the memo. I'm happy to go either way but we should be clear which way we're going. I'll be happy to follow what's been laid out in the presentation on the PowerPoint, the issues that need council clarification. Five items plus any other items we want to add to that list.

>> Mayor Reed: You're the America of the motion?

>> Councilmember Liccardo: Yes.

>> Mayor Reed: Is it okay with you?

>> Councilmember Liccardo: That's probably how it makes more sense.

>> Mayor Reed: Staph.

>> Deanna Santana: I do want to offer some additional comments on the memo from staff's perspective, just want to put that out there.

>> Mayor Reed: The motion we're going to vote on first is the buy fir case motion. Anybody else want to speak?

>> Councilmember Rocha: If we do do that, how do we address the substitute motion that directs adoption of the entire --

>> Mayor Reed: If we approve the bifurcation motion the substitute motion will be out of order.

>> Councilmember Rocha: We won't be voting on it at all then?

>> Mayor Reed: No.

>> City Attorney Doyle: Not in its entirety. It would come piecemeal.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: On the motion to bifurcate this on all issues? All in favor? Opposed? One opposed, two opposed, three opposed, four opposed, that was Kalra, Oliverio, Rocha and Chu. That passes on a seven-four

vote. The chair will truly motion out of order, by Councilmember Oliverio. Since it's an omnibus motion. We'll go back to the motion made first by Councilmember Herrera, which is the motion on the screen. Councilmember Herrera.

>> Councilmember Herrera: Yes and I would be happy to reference the slides so staff wants to make sure we're both following the memo, which I think we should follow the written recommendations, I suppose those don't conflict with the presentation that was given. If you want to reference the slides, I hope the council looks forward to adopting A with again the mayor's memo, including his.

>> Mayor Reed: Okay open this particular issue, the zoning issue, I have other requests to speak and right now we're just talking about the zoning issue. We'll have plenty of time here to speak. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor. So in regards to the zoning districts or the zoning issue I'm very supportive of the memo on the floor and obviously, the mayor's memo. But I have the same concern as Councilmember Oliverio in regards to not including the light industrial zoning for this -- for the collectives. And the reason (inaudible).

>> Mayor Reed: Are we still alive? Hope nobody had heart failure there as a result of that. I think we're planning to work on the sound system over the break. I think I saw a memo on that. Councilmember Nguyen do you want to try it again.

>> Councilmember Nguyen: Okay let's try it again. So the reason for it, I like for us to consider including the light industrial zoning for these collectives, in my council district we have approximately about ten to 12 not exactly sure the number. But I visit a few of these and to be quite honest we haven't had any issues from a lot -- from residents or from the corporations and businesses surrounding some of these collectives. And the reasons being is that a lot of these collectives are really small in size. So we're talking about wanting to preive some of this land for potential corporations or businesses to come in and I'm very, very supportive of that but a lot of these collectives are very small in size. They use approximately 500 or maybe a thousand square footage in space. For

us to not consider that I think we're doing ourselves a disservice because obviously these people will pay taxes and they're contributing to the general revenue and they're not really posing any problem. And in terms of having access, we haven't had any issues. I represent that council district. If there are issues I'm sure these complaints will come to my office. And we haven't received any. And the other reasons why I think that we should include this is because they are away from the sensitive usage. A lot of these collectives that are located in the light industrial zone currently, they're really, they're away from the 500 feet of sensitive usage that staff is proposing. And so for these reasons and the fact that we haven't really received complaints from either the surrounding businesses, the corporations, residents, people owning -- people you running community centers or childcare facilities, I think it's important that we take into consideration and a lot of these collectives they are following guidelines. All they're following what we want to follow. And I think for those reasons I'm going to propose -- I'd like to ask for a friendly amendment that if the maker of the motion is willing to also include light industrial zone as part of the motion.

>> Councilmember Herrera: Well I really appreciate your thoughts, Vice Mayor. I think that we have to look at this as it relates to the entire city. And it -- where it might work out in a specific place, in a specific district, I think that overall, that I have to go with the staff's recommendation not to include light industrial. Because I think we have to look at all of the potential employers, job producing elements. And as we have already heard some of our larger companies have already weighed in on this and I think it's a wrong time in this very beginning of an economic recovery for us to do anything that's going to signal to job creators that we don't want them to locate here or to expand their businesses. Also I think that the mayor's point about the actual folks that come to -- that are going to be coming to the collectives need to be in an environment where it is not near industrial kinds of situations where they would also be harmed. So for those reasons, I appreciate it, but I decline to add that right now, thank you.

>> Mayor Reed: Just add an explanation to that. I think the reason you haven't gotten any complaints from the businesses Vice Mayor Nguyen is that these operators are illegal, under our zoning code. So they don't really exist from a permitting standpoint. But as soon as they're legally permitted in the industrial zone, the air quality district and other entities that deal with hazardous materials will start requiring the companies to consider them in their applications for air permits or hazardous materials management plans. And once they're there legally and

lawfully then they have to be accommodate and that might mean having to install best available control technologies or modifying permits and those are when the issues will come up because right now essentially they don't exist because we don't even know they're there officially. And so that's why you haven't heard anything from the are businesses that have yet to be inconvenienced. But the air quality district requires lead agencies to establish zoning influence around each new receptor of a thousand feet so it can have a pretty broad impact on companies that are looking to either move in or continue with their operations. So that's why I think we just have to say that's not a place for them. I think the motion on the floor will establish a lot of places they can go, in the city, certainly enough to handle the demand.

>> Councilmember Nguyen: That's all I have for now.

>> Mayor Reed: Councilmember Pyle. Okay, Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I'm looking at this map here I'm saying to myself gosh we're changing the definition of the innovation triangle, where I'm really proud to represent, to the capital of marijuana. I see a heavy concentration right here in District 4. That is not the only reason I'll be opposing any ordinance to allow marijuana in City of San José. I do have a question for the staff. Where the North San José, you know, in the next ten, 15 years, will be a lot of new schools, library, lot of probably childcare, parks coming online. So if we do accept this ordinance, and we allow them to establish their business in this red zone, and later on, will we be able to allow the school to be built in the 600 feet neighborhood, or we will have to ask the -- this dispenser to move to another location?

>> Laurel Prevetti: Thank you, councilmember. State law would prevail in terms of the 600 foot distance from all schools, private, or public. The question of who comes first clearly all existing public and private schools would be the lead source. So clearly, no news collective could locate within that distance. However if a school were to locate that would be something we would need to work with that school district to determine whether or not that would be an appropriate location for them. It depends, really, on how the rest of the regulatory package works out. If there's a time limit for collectives, if there's a reinstatement or a reregistration that would give the city an

opportunity to decide whether or not that collective should stay, so there's a lot of different avenues for answering that question. But I suspect that school districts would be very mindful of where the collectives would locate. And I just, from my experience of working with superintendents, I would guess that they would choose not to locate within 600 feet if there's a known collective.

>> Councilmember Chu: Right but during the North San José task force meeting we were having very, very difficult time to identify the proper location for the future school, the parks, and a library there. So this is -- would further narrow down the choices for the school district to come in, to build a school in North San José. I just wanted to caution that and bring that to the attention of our -- my colleagues here, the leaders of the city. And again, the reason for me to opposing any -- the ordinance is because, I think any substance that is used for the medical purpose regulated by the FDA should be regulated by the federal. We do have a government that's there pretty much they have much more resources to help us regulate this marijuana or whatever. And with their regulation, then a lot of our discussion here can be eliminated. You know, you can go to the CVS or the Walgreen's to buy your daily allowance of the medicine. And I appreciate the hard work from the staff I guess and also thanks for the public comment. What makes this very, very difficult is we're trying to make an exception for this particular substance, that has the million benefit to many, many of the patients, and some of them are sitting in the audience here. Making the exception, that's hard, that's what create exceptional difficulty for the staff to come up with an ordinance that make all the 11 people here on the podium happy. And that's also make -- make it very, very difficult for me to support any ordinance that we're just giving an exception to one substance, to allow a legal dispensary. That's the same reason I voted no on past in this proposal. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Just to the zoning issue, I'll just comment that I agree with concerns of the mayor but I think the Vice Mayor raised some good points. I think that this showings and we'll get to this in a moment the pitfalls in the lottery system where you don't have a nuanced approach as to where these facilities are going to be located, you have the danger when you go beyond the scope of it. If you are worried of it going into areas where we have our driving industries, and you have a lottery system it can restrict your ability to

prevent them from going there. But if you have a more nuanced approach in regards to the permitting system through the whole process I think there could be some examples of where light industrial could potentially work. And so I won't support -- I won't support the motion on the floor.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. On the motion, I did have some questions for staff. One of them, I didn't hear the motion include us recommending to you what approval mechanism we should use, whether it should be the conditional use permit, or I know there was a speaker here, Mr. Stranjess talked about the planned development rezoning process. Could you talk more about that process? I would tell my colleagues be very cognizant of what we're voting on, particularly the conditional use permit, the C.U.P. will go with the land and it will basically be there forever. If you could elaborate a little bit more on that.

>> Laurel Prevetti: Certainly. The choices are the zoning verification, up or down, zoning district distance to any sensitive uses, et cetera that's one approach. It would be operator-based so essentially on a case-by-case basis each collective would need to come up with their information and then staff would either say yes, that meets the minimum criteria or no, it doesn't. The other option is a conditional use permit which is a discretionary permit. Again, the decision maker is our Planning Commission. It would essentially go through a similar analysis of, are the criteria being satisfied? The commission would be able to hear public testimony and could perhaps put other factors into the record. They would have to make certain findings before they could approve a conditional use permit, and then the permit itself would have a variety of conditions, essentially regulating the way that would operate. We typically no longer put time conditions on conditional use permit, so they do run with the land in perpetuity. We do have an opportunity, though, if a collective or any other business with a C.U.P. is not operating per their permit we could do an order to show cause or revoke their permit. So there is that possibility. But it is a process, and we would need to have evidence, Planning Commission would need to hold that hearing, et cetera. It does run with the land, so one collective could convey that to another collective, if a lease changes hands. The proposal to do a planned development zoning as the mechanism is another approach. Staff would not recommend that to you. The planned development zoning essentially is a tailored zoning for each piece of

land. So it's essentially an individual's ordinance for a particular piece of property. We would be debating and discussing appropriate setbacks, appropriate uses, heights of buildings, landscaping, et cetera. And to do that for each and every collective just does not seem to be a reasonable approach. Zoning works, having a site-specific zoning works when we're dealing with something very unusual, like a mixed use development with retail on the ground floor, office on the second floor, hotel on the third, and then residential above. Something that doesn't happen very often. Here we're looking at the possibility of allowing collectives in numerous locations, presumably we would want to have some certainty about what those look like, and for our council you would be the ultimate decision maker on each and every planned development zoning for you to be going through all -- each of those zonings independently and determining are those the right setbacks, is that the right use, would really not be our recommendation as a way to go.

>> Councilmember Campos: Okay. So the maker of the motion, I didn't hear you specify if you wanted -- if there was a preference. Was there a preference on the direction that we want to give on this -- on your motion? .

>> Just a clarification. What I heard the motion was, was to move initiation of the staff recommendation as modified by the mayor's memorandum. That verification would be the zoning certification and that would not present the concerns you have raised.

>> Councilmember Campos: Okay, got that out of the way. So the next question or clarification, getting back to Councilmember Chu's concern about you know, we've gone through this process of planning for North San José. Schools have been designated, that if we're going to put 30,000 housing units over the next 20 to 25 years out there obviously schools are going to have to be considered. So and given that where we have some very -- very thought-out, 30,000 foot plans for that area, there are areas that have been designated for schools. So as it doesn't look like we're going to have a whole lot of housing go out there in the next ten or five to ten years, so more than likely if approved today, we could see collectives getting approval to open up in that part of town. Now, if --

>> Mayor Reed: Let me just check there. I don't think the motion would allow that, I just want to verify that. The motion does not include industrial park as permitted zoning.

>> Councilmember Campos: Oh, I thought it was.

>> Mayor Reed: And North San José is mostly industrial park.

>> That is correct, that's how I understand the motion.

>> Councilmember Herrera: Does not include that.

>> Councilmember Campos: Then that answers my question. Then the last thing that I wanted to -- actually I think I have my questions answered on this. Just that I-I mean I'm glad that we bifurcated the motion, because this might be the only item that I might be able to really support with what we're dealing with today I understand that there's a medical need for collectives. I still have very serious concerns with the potential impacts the ordinance may have on the safety and well-being of our residents. We've already seen the impacts of drug related crimes in our city, when both -- you know with robberies, and violence at some -- with some cannabis club owner. Even though we're trying to establish some preventative measures against the cultivation of marijuana it makes it extremely difficult to regulate and to protect. Whenever we see the -- whenever we screen the applicants, or regulate the amount of the applications issued, there's always a chance a permit can be issued to an operator with the intentions of distributing marijuana other than for medical uses. When we are discussing the potential reduction in city staff, well actually, the reduction in city staff, potential reduction in our police department, I just don't think this is the right time to consider this. We are already stretched. I believe that we should not address this issue until really our federal government decides to step up, and really take hold of this issue. Councilmember Chu mentioned that yes, I don't think there's any argument that there are medical benefits for the use of marijuana. I don't think that we're discussing that today. However, if the FDA can take this on, and make determining factors that yes, this is something that the Feds will approve to be able to use, and for medical purposes, then, you know, that in itself creates regulation and prevents some of the negative aspects that we've

seen. You know, I've heard a number of speakers talk about the benefits and about places that you go to, and I don't dispute that. I'm sure that they're effective for you. However, you know, I think that it was very easy for the Feds to punt this to local jurisdictions. And I just can't support that right now. So I will be opposing portions of the memo today. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. Thank you to Councilmember Oliverio for presenting the memo initially at the beginning of the meeting. Let me speak to you, ask a few questions but let me first ask to why I had submitted this. For me it was a matter of order in terms of how we're addressing the issue. I don't even have a sense and forgive me, in terms of time on the council, of some of these impacts and what they mean. I know you have staff has done quite a bit of analysis and I thank you all for the amount of work but for me, on the number and the amount of issues, I feel more comfortable discussing them as they are interrelated, because for me a number of them are. Whether it's a application process they're all interrelated. I understand in terms of process and moving forward given what's happened that you had suggested this, because it's been so difficult an issue so I completely get that. But if we had established all these regulations and allowed for the applications to be submitted we could have come out with a number and got a sense of how many collectives may have been operating in conformance with our regulation without picking a number or deciding whether there's onsite cultivation or not and then come back and address the overcrangs issues. To me i'm concerned about impact I'm concerned about public safety which is why I think we do need to move forward. The zoning issue for me is a big concern as well and I'm not going to be automobile to support the motion for the very same reasons that were presented as to why we're not allowing them in light industrial or industrial park. The reason being is the impact and the access. We talked about equity will I'm talking about equity and fairness so I don't know why any other business is more important than a small business or another business located in downtown or another industrial park or a light industrial area I get the heavy industrial. As I understand it small business is the back bound of our industry the backbone of the businesses in this country and to suggest that other businesses are more important I bet if we ask those other businesses what their thoughts are they may have some of the concerns that were raised in terms of the larger companies. So if we're going to concentrate them in certain areas, I'm not able to support that. I would prefer to

see us allowing greater access in other areas where it can include them. As far as the zoning verification and the notification can you explain that as you go forward through the application process?

>> Laurel Prevetti: Yes, the zoning verification would just be simply is the proposed collective in the right zoning district? Does it meet any distance requirements to sensitive uses? There is an option for a noticing component that's not staff's recommendation but if -- but we know that our council is committed to public outreach and so knowing that we wanted to put forward an option where we could send just a notice to the immediate neighbors, essentially, hey we've got an application for a collective, at this location, essentially just be aware that it's going through the process. So there would be no opportunity for public comment, no opportunity to really participate, because we're looking at a process that's more of a lottery type of system. But it would at least let the neighbors know that something might be coming into their neighborhoods.

>> Councilmember Rocha: Thank you, so then I guess we brought up the lottery system as you saw in the memo. My comfort level I'd prefer to look at these in a manner which are the best and safest and run in terms of considering Public Safety and the access for the patient. A lottery for me we could have a number of collectives that just so happened to be picked early in the process that meet all the minimum qualifications yet we may have some other collectives that have invested a lot of time, money, and sweat and ectd to providing safe and proper access to these patients and we're not even going to measure that so to me it goes against -- [applause]

>> Councilmember Rocha: It goes against our point of trying to provide facilities that are safe and accessible. So I won't be supporting the motion. And I'll be probably raising some of these very same concerns as we roll through these because as I mentioned I believe quite a number of these are interrelated so thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I will be supporting the motion. I think it's really important that we do something. This has been languishing on for far too long. The impacts to our neighborhoods have been significant. It seems like every day I'm driving I notice another new dispensary, collective, whatever you want to

call it either near my home, in my district, on my way to City Hall, around the corner from City Hall. Throughout the city. And I think it's important that we take steps today because quite frankly if we wait for the federal government we'll all be debt before they do anything because they're just not willing to do anything and that is where the big problem is. But we have to deal with the cards that we've been dealt and I think it's very important that we do it. So I will support it. I've got comments on other issues, look forward to getting this vote so we can get through all these other parts that have been bifurcated out.

>> Deanna Santana: Mr. Mayor.

>> Mayor Reed: I hear a voice. Deanna Santana.

>> Deanna Santana: Hi, I want to offer some clarifying comments here on the lottery process and the registration because I've heard from comments from the public as well as from the dais. The lottery process establishes a transparent mechanism for how we will look at the application so that everybody knows their place in line and we can review. The registration process is the qualification process. And while there has been reference to a somewhat arbitrary process or minimum set of standards I just want to summarize very quickly, that the qualifications are outlined in the ordinance. The qualifications themselves are outlined over seven pages that outline the requirements for managers, security plans, finance and accounting and any other information that's deemed reasonable to request on the part of this city. So there's seven pages worth of what qualifies you to operate and then to ensure that we have good operating collectives, there's about three and a half pages in there that covers the areas of what disqualifies you. And so I just want to add that to the conversation that we have not lost focus on making sure that we have quality collectives in the city.

>> Mayor Reed: Anything else from the staff? Back to the council. Councilmember Pyle.

>> Councilmember Pyle: I think Rose has some clarification she wants to make.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just want to lottery right now. I think this clarification is going to cause confusion. We're just voting on A on the staff recommendation and the mayor's addition. We're not voting on whether we'll have a lottery, we'll have ample time to discuss that.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: If we're just doing that one I'll wait for the other items to come up.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Laurel remind me where medical office falls in qualification in the city as far as zoning.

>> Laurel Prevetti: Medical office is generally considered a commercial use and if you bear with me just a second. Happened to bring my zoning code, I figured we might get into this. Medical office is permitted in all our commercial districts, commerce office, commercial pedestrian, commercial General.

>> Councilmember Oliverio: Do we allow medical office in commercial park or light industrial? Medical office are permitted in the combined industrial-commercial zone and they are a conditional use in the industrial park. And there is a note with that. So long as they are within the mixed industrial overlay, portion of our general plan. So in certain instances, we do allow medical office, if there is the mixed industrial overlay with the industrial park zoning, and then it is a use permit.

>> Councilmember Oliverio: So one could apply for a medical office through the C.U.P. process, in a mixed overlay?

>> Laurel Prevetti: That's correct.

>> Councilmember Oliverio: Today in the industrial.

>> Laurel Prevetti: Yes.

>> Councilmember Oliverio: And the Sunday analysis quickest analogy is like a liquor license?

>> Laurel Prevetti: We do use permits for a wide variety we do need to make certain findings before they can be approved and we are able to condition those businesses. P.m. and would you, based on your knowledge of these you have worked hears for loig.

>> Laurel Prevetti: I've worked here for 25 years.

>> Councilmember Oliverio: Would you say there's a lot of opportunities for mixed office overlay in this area? LI.

>> Laurel Prevetti: , if San José 2020 plan. We are in the midst of updating our general plan exrervel through the envision 2040. So in our envision 2040 we're trying to be much more specific in terms of our employment lands and what the arrangement of uses would be. If the council is interested in considering a use permit approach for some forms of our industrial lands, that's something we could certainly explore but again, what we're really trying to do is make sure that we've got a jobs-first general plan, as we move forward into our future. So we are looking about being a little bit more clear about that. Our current mixed industrial overlays we've got them in North San José, we have them in the Berryessa area we have them in the Edenvale areas so they are sprinkled throughout the area as well as the Monterey corridor location.

>> Councilmember Oliverio: If I understand correctly you're telling me the new general plan once adopted by council will not allow medical office in the mixed use area or whatever that destination changes to?

>> Laurel Prevetti: We do need to do some work summer as we're waiting for the environmental review process to continue so we haven't gotten to that level of detail yet in terms of what the new zoning would need to be to align with the new general plan. My sense is that we would want to continue to allowing some amount of medical office in appropriate industrial areas. But it would need to be crafted in a slightly different way. Because we would no longer have the mixed industrial overlay as the mechanism. So that's a level of detail that staff has not yet completely figured out.

>> Councilmember Oliverio: That's fair. It's a big plan. You've been working on it for three years.

>> Laurel Prevetti: Yes, it is.

>> Councilmember Oliverio: Have a question for you, Cisco system, eBay, all in industrial park?

>> Laurel Prevetti: They are.

>> Councilmember Oliverio: As I look where they can locate and this actually includes industrial park so if I remove industrial park from this map then the uses get much smaller, I would imagine, these parcels.

>> Laurel Prevetti: That's right. There would be fewer parcels that would be available for consideration. But please keep in mind that the maps also looked at the 500 feet from other sense fief uses and I can tell you that it's the 500 feet from residential use that actually takes away the majority of the opportunities in San José. So how you want to deal with a distance to residential is going to drive where many of these opportunities are going to be located in our city.

>> Councilmember Oliverio: And fair enough and then if --

>> Mayor Reed: Before you move on, on the motion the motion contemplates 150 feet from residential which is the way we do liquor stores. So that would expand the number of residential sites.

>> Laurel Prevetti: That's correct.

>> Councilmember Oliverio: And this map is just land, it doesn't show vacancy.

>> Laurel Prevetti: We dwrufd criteria that the identified in the title of the map.

>> Councilmember Oliverio: When it came to maps there was no -- obviously I can go look on the Internet to try find how many clesks are in that area but there was no staff report that came with that.

>> Laurel Prevetti: No, we have with information memoranda a list of collectives as best as staff has known it and we started to do analysis as to which districts they're located in but best efforts for crafting regulations for your consideration rather than trying to analyze the circumstances of all the existing businesses.

>> Councilmember Oliverio: I appreciate that clearly I could have taken the time and done it as well so I knew where they were all at. I appreciate that. I'm of the liking that we do allow some type of C.U.P. process in these areas that can be voted up or down. Again, these are areas as said by the Vice Mayor, can have little or no complaints and frankly I have had no complaints of them located in the industrial area, it's only in the case where they're in at this point in time I'll be voting no on this motion.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I wanted to care of, when made the motion to bifurcate I do appreciate the memorandum put forth by Councilmember Oliverio and Rocha and the attempt to put together a comprehensive approach my concern was simply that I think we get far afield on a lot of issues at once and I think it's far simpler for us to focus and move me thought cli. .

>> Laurel Prevetti: Industrial areas and what that can do is put pressure on to existing businesses especially if they have hazardous materials, or diesel engines and this sort of thing, they essentially have to create evacuation plans of how they're going to be dealing with this. Sometimes they even have to limit the amount of hazardous substances that they can have onsite in order to be meet other regulatory requirements. So typically there's a requirement of 1,000 feet from a sensitive receptor and a business handling hazardous materials. Given the importance of job generation in San José having yet another sensitive use within our sensitive areas puts that restriction then on another classification of uses.

>> Councilmember Liccardo: So a cannabis dispensary would be a sensitive receptor?

>> Laurel Prevetti: Talking to our fire marshal and understanding the sensitivity, if we've got patients who have medical needs we would assume that we would want to be careful about exposing a vulnerable population to the potential of hazardous materials just as we would for children.

>> Councilmember Liccardo: Right, so that would be true whether it's a school or another sensitive receptor regarding restricting the job that's happening in your area .

>> Laurel Prevetti: That's correct?

>> Councilmember Liccardo: We have a domino effect haven't we, sensitive receptor?

>> Laurel Prevetti: That's right as you know in this economy cities are competing with one another to attract those jobs even across the city border so --

>> Councilmember Liccardo: Okay. Then with regard to the value of light industrial, my understanding on my work with the task force.

>> Laurel Prevetti: Very limited supply it's probably our least available land that we've got in San José. We've got some in the North San José old Oakland road, much of that has been reduced because of other land use actions the council has taken. The Monterey corridor is really the largest contiguous area of light industrial land and that is you know thriving actually, that's where we've got the lowest vajijs rates, where clean tech companies are coming in. There are other pressures on light strum land other uses that are very eager to be in those areas bit it is very limited supply in San José.

>> Councilmember Liccardo: The opportunity light industrial is fairly key is that right ?

>> Laurel Prevetti: That's right. Businesses that make thins that then go to other businesses it could be a service business it could be a landscape company it could be a janitorial service, so it's -- cuts across a wide range of wage and educational requirements in terms of being able to provide jobs.

>> Councilmember Liccardo: Laurel, thank you, I think you've articulated the reasons why I'm very supportive of the motion. One last question. There hasn't been any discussion of -- I have no idea whether any hospital or existing primary care would allow a dispensary on their premises. But if one would allow one I assume we would probably want to modify the current direction, is that right? The current motion?

>> Laurel Prevetti: It makes sense that they would be located close to hospital or other medical forms of uses that's why we were looking at the commercial general as one approach it's my understanding and one of our attorneys could probably elaborate is that hospitals and pharmacies by law can't handle this substance because of the federal restrictions.

>> Councilmember Liccardo: Okay, I was actually interested in making a modification to the motion but I recognize that that federal prohibition exists and there's probably not much point to it.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Call for the question.

>> Mayor Reed: Okay, we have a call for the question. That basically means we cut off debate. And in order to cut off debate because we still have a couple of councilmembers that requested to speak we have eight votes to cut off debate. We don't need a debate over how to cut off debate. Opposed to cutting off debate, one opposed so time to vote on the motion. Which is on the floor. Which is Councilmember Herrera's motion. Based on agenda item A as modified with the memorandum that I authored, on that motion, all in favor? Opposed? Kalra opposed, Oliverio opposed, Chu opposed, that's four, nieng opposed, the motion failed on a five-six vote. [applause] Okay well that was fun. Now we get to do it again. I'm not really sure if I'm trying to figure out the divisions among the council and how to get to a majority on this. Bifurcating was one way. We could further divide up on issues on the zoning question and try to take those piece by piece. Or we could just give up and come back another day, which I don't favor. We've got a pretty good investment here in time and effort so we need to figure out a way to go forward. Councilmember Liccardo.

>> Councilmember Rocha: (inaudible) question?

>> Mayor Reed: I'm sorry.

>> Councilmember Rocha: (inaudible) question or are we going to move to another motion?

>> Mayor Reed: We'll have as much conversation as councilmembers want to have, before we put another motion on the floor. But in terms of how we get the motions on the floor that would be something to do but I know Councilmember Rocha you wanted to speak so let me go to you.

>> Councilmember Rocha: Let me first remind my colleagues and staff in the audience that we could all be home right now if we just supported my memo with Oliverio. [Laughter] [applause]

>> Councilmember Rocha: Let me ask staff a question about the stuff and I don't know if I'm ready for another motion. Or if I want that kind of pressure, honestly. But you had mentioned some points about why you feel the lottery system is not arbitrary. Can you just -- sorry I was in the middle of a conversation with my colleague, my mistake. Would you mind repeating that please? And I know we're not discussing that item right now. I didn't get to hear you staff, sorry for interrupting you.

>> Deanna Santana: The comments I offered were to distinguish between the lottery process and the registration process. The lottery itself is arbitrary in that it establishes a transparent and public process for how we will process the applications. But the applications, that's the registration portion. And so the issues that set the requirements for operating, there's seven pages worth of operating of requirements. In your draft ordinances and those requirements cover operations, cultivation procedures, roles and requirements on managers or manager yules requirements as well as any operation reasonable that the City Manager determines to make a decision. There's also about three and a half pages of provisions that will disqualify you from being able to be eligible. And so collectively, the ten and a half pages of what qualifies you and what disqualifies you we felt is pretty thorough, it covers a lot of grounds in terms of some of the interest and input that we've received over the past year from the city council. And we felt it focuses on the best interests of the city.

>> Councilmember Rocha: Okay, I don't think my suggestion as to why lottery is or is not arbitrary really is addressed within that. I mean we have many RFP processes using the recent one as an example the commercial RFP process we just went through and awarded I'm sure there's more than seven pages of regulations I'm sure there is more than three or four or five pages ever requirements. So if we had done that using in my opinion this logic we could just award tr threw lottery who got the system without pulling out or weeding out who is the best run or most safe collective so again I want to stick to that point. Legality me --

>> Deanna Santana: You are correct. I just want you to know from staff perspective we have stated RFP process is an option however what we were following is the rules committee direction to create a streamlined process and that's what we advanced.

>> Councilmember Rocha: That's what I think doing the application first, we would be able to weed out all those that don't fall under what we're requiring. Do we know how many are located in the light industrial areas right now? I'm sorry city attorney's office did you have something?

>> Just a point of clarification. The lottery just establishes the order in which we look at the application. Once the applications come in then each of them in order is reviewed to consider all the things that you were concerned about like code compliance with building codes and fire codes and then looking at the criminal background and the prior experience and what they can offer us in the way of what their prior experience has been. Other things such as a site floor plan a cultivation procedure and identifying how that's going to occur, a management plan a security plan so things that really go to how the operation is functioning to make sure that it addresses any Public Health and safety concerns. And once those things are submitted to the City Manager, the application is then reviewed, in the order that they were assigned for the lottery and then they looked at whether or not there are any grounds for disqualification, if there's not a appropriate plan in place that would provide for accountability when Facebook have complaints but accountability both ways so we also to communicate any neighbor concerns to address public nuisance activities that are coming out of or allegedly coming out of concerned with. So I think there might be a little bit of confusion and maybe the confusion is probably coming from the fact that the previous draft did divide it up into the way that you are discussing now, which is a very minimum qualification process to even get into the lottery. That's not how it's drafted now, we've changed it up so we make sure it's a comprehensive reduce so we get the best operators possible.

>> Councilmember Rocha: Thank you. Laurel, did you have the number at your finger tip?

>> Laurel Prevetti: Just a quick review, of the businesses we knew about by the end of 2010, about five or so of the 110 businesses were located in known light industrial areas. So that's not by doing an actual point by point but just visual inspection and knowledge of the street names et cetera. So about you know less than 10%.

>> Councilmember Rocha: In terms of that known is located in the industrial park?

>> Laurel Prevetti: There are quite a few, about probably twice that number, about ten, about 10% on this list.

>> Councilmember Rocha: About 15 total in light?

>> Laurel Prevetti: Light and industrial park, yes.

>> Councilmember Rocha: Do we know how many are doing onsite cultivation, in general all of them?

>> Laurel Prevetti: I don't have that information available.

>> Councilmember Rocha: Do we know if any have on site cultivation?

>> Laurel Prevetti: I have not inspected those businesses so I don't know.

>> If coy address that question, I went to several, there were several that were doing on site cultivation as well as getting some supply from other areas as well.

>> Councilmember Rocha: Okay, thank you. Again I feel by my concern for adopting the motion as it was is that we're in a sense forcing concentration. And which again goes back to my earlier point of moving through the regulations process first, finding out where they're located and those that met those minimum regulations, we may weed out that they're located at industrial park or light industrial at the end of the day anyway because they didn't meet those qualifications, and I'm not willing to take a shot on this one thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I am willing to take a shot but first I want to pose a question to Councilmember Rocha and Councilmember Oliverio. I wanted to know if it would change your position at all if we were to adopt

the current motion with an additional restriction, that there be on concentration no more than two location per council district. To avoid what I think we might expect to be overconcentration in one or two places in the city.

>> Mayor Reed: That's a question for Councilmember Rocha and Campos?

>> Councilmember Liccardo: That's correct.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. First of all I want to disclose that I did meet with a or had a conversation with a representative of cannabis patients Alliance and to answer Councilmember Liccardo's question, it wouldn't make a difference.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Would not make a difference.

>> Councilmember Liccardo: Okay.

>> Mayor Reed: If I could speak to the concentration issue, the language pursuant to the my memo would diversify the there were a lot of commercial areas that would not be excluded if the motion were approved with the memo. It would different diffuse it and keep them from being concentrated in any one area. Councilmember Liccardo did you have --

>> Councilmember Liccardo: I had a question in terms of how we could move forward. Laurel if we were to unchain ourselves from the requirement of onsite cultivation, that cultivation could occur in other location, and let's say it were a limited number of locations but there were other locations, do we have the same concerns around

use of industrial land for the cultivation, exclusively for cultivation not for dispensing, as we do for the collectives themselves?

>> Laurel Prevetti: Less of a concern in terms of an employment land preservation. But once we deal with offside cultivation we enter into another legal realm, and I think I would defer how we to our city attorney's staff.

>> City Attorney Doyle: And I think that's an area where Oakland tried to get into the regulation of cultivation, and ran into some difficulty and we would want to confer, at a minimum, with our law enforcement folks. But can I just make a suggestion, that I wants to remind the council this -- you're not adopting an ordinance here, you're not being asked to adopt an ordinance. This is for further study and review back to the council on a zoning ordinance and there may be more generalized what you can send forward with concerns noted and let the Planning Commission take a stab at it and get a full hearing with the Planning Commission and have it come back to council. You're going to get another chance to consider this when you want to or not, if the Planning Commission comes back with a recommendation. So I mean that's I think you know, if that helps move it along or gives some comfort that's just an option.

>> Councilmember Liccardo: And the warning's well taken, thank you Rick. You know I recognize that I think we're going to have difficulty moving forward with anything as I'm counting the votes unless there's probably some flexibility here. I'm open to hearing suggestions. I have an idea of about a motion but I'd be interested to hearing from my colleagues.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, gives me a little bit of sense of flexibility in terms of trying to get something done in regards to these zoning districts. So my motion would be that we accept staff recommendation A, and also include the mayor's memorandum dated April 11, 2011 and also to include the light industrial, after we move forward with the zoning districts for marijuana collectives. That would be the motion.

>> Second.

>> Mayor Reed: All right, we have a motion on the floor seconded by Councilmember Pyle who has a question on it.

>> Councilmember Pyle: I do, that would mean A number 1 through 6 is that correct?

>> Councilmember Nguyen: No that would -- in staff memo, just A, adoption of a resolution to initiate amendments.

>> Councilmember Pyle: No problem.

>> Mayor Reed: On the motion, further discussion? Councilmember Liccardo.

>> Councilmember Liccardo: Vice Mayor Nguyen does that require C.U.P. for industrial areas, for light industrial, rather?

>> Councilmember Nguyen: Because the City Attorney state that you know we're not creating any kind of ordinance right now I'd like to hear this goes to the Planning Commission, and then come back to us, and I think at that point we have a better, you know -- a better idea of where the Planning Commissioners feel about this. You know, members of the public can speak to this when they know that this is moving forward. So I would not include a C.U.P. as a part of the process.

>> Councilmember Liccardo: All right, I can't support it if there's no requirement like that.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Yeah, I would applied with the motioner that a conditional use permit would make me feel much more comfortable because -- I know there's a process here but I want to say know not all industrial land is created equal, that's why not all lands are created equal. It's a prudent way to go forward and I would just say that it would make me feel as at ease and you know, and all. So I would stress to you that it's important to me that we have a C.U.P. process because I don't want to have it just to be anywhere.

>> Councilmember Kalra: Can I ask for clarification? Are you asking C.U.P. in industrial only or C.U.P. for any permitted use?

>> Councilmember Liccardo: My question was about the light industrial because we probably don't want to be seeing every one of the applications at the council I'm guessing so I imagine we would probably want to identify a few areas where we would require a C.U.P. and other places where it's permitted by right with all the other requirements we have.

>> Mayor Reed: Vice Mayor.

>> Councilmember Nguyen: Councilmember my apologies, so if it's C.U.P. for light industrial that would be acceptable.

>> Councilmember Liccardo: Great.

>> Mayor Reed: Question to the staff. The staff is talking about a zoning verification as a staff recommendation. Conditional use permit is different than a zoning verification and a conditional use permit runs with the land. And the staff's recommendation is try to avoid these running with the land, is that right staff?

>> Laurel Prevetti: That's correct. We -- if this is the recommendation of the council, one of the things that we might be able to do is to determine how we can have the control and the clear linkage with the title 6 regulations

and registration process. So there's probably some more thinking that we could be doing on this. It looks like our City Attorney might have an idea.

>> City Attorney Doyle: Well typically and it hasn't, we don't do these much anymore. There is a term of years, once you issue the permit it's pretty hard to revoke without evidence in the record for grounds. You tie it into title 6. If they're not operating in accordance with any law title 6 regulations then it gives you grounds but you have to go through a hearing and the Planning Commission has to take the action.

>> Mayor Reed: Councilmember Pyle. Councilmember Herrera.

>> Councilmember Herrera: I still remain concerned about the light industrial but I would be more inclined to support this if we could add the not more than two per district.

>> Councilmember Nguyen: I don't think I want to talk about that anymore. We have to talk about the cap and up to a certain amount so we'll get to that part of the discussion, then we can talk about that but right now we're just dealing with the zoning district.

>> Councilmember Herrera: And I think I'll look forward to hearing Planning Commission and hearing the hearings on this so the feedback on the light industrial I remain concerned about it but I do think it's important that we move forward. And it's obvious that we're going to have to be making compromises if we're going to move forward. So I'll support the motion.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Someone help me here, Laurel, I'm sorry. So if we do allow for a C.U.P. in the light industrial, what is the -- how do we recroak any permits that we would have for collective, let's just say hypothetically some were approved?

>> Laurel Prevetti: I'm sorry could you repeat that? Dsh sure, hypothetically we have some collectives we approved, how do we revoke their operations or terminate their operations? I'm sure it's very extensive in here and I did read through this. I heard concerns about in a sense locking that use in, and how difficult it is to revoke that are we better off not doing the C.U.P. because within these requirements we can terminate or end a collective's presence at a side?

>> City Attorney Doyle: From a land use standpoint yes, that's true, it's very difficult, that's why the C.U.P. is not recommended. From a he regulatory standpoint, police regulations that's a different standard and there's a lot more flexibility and ability to move more quickly when you have a problem and if you need to revoke or rescind a or suspend the business.

>> Councilmember Rocha: So it's easier to close one without the C.U.P?

>> City Attorney Doyle: Absolutely.

>> The other thing that --

>> Councilmember Rocha: Go ahead I'm sorry.

>> Just the other element that you might want to consider is sort of the awkwardness that you would be doing a C.U.P., which runs with the land in the most sensitive area that you're concerned that you may not want to locate these in that area. And yet that's where they would be most entrenched then.

>> Councilmember Rocha: Yeah, I wouldn't be supportive of the C.U.P. I would rather just see the light industrial and honestly the industrial park included. So maybe the maker of the motion might consider the C.U.P. recommendation.

>> Mayor Reed: Well I'm not going to support going into the industrial zones for reasons I've previously stated. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I'm hoping that the Planning Department can see what the general intent is here, that some of us want to allow at least the option of going into some of the light industrial areas but want to have a little more control over it because we don't want you know collectives necessarily next to a Cisco or a nanosolar or what have you. C.U.P. can have concern of that going in but there's concern now about it having run with the land. What would you suggest as a way for us to have that greater degree of control in that industrial land without hindering the other areas that we are already agreed that they could go into, let that go the normal process what would you suggest would be the best way for us to achieve the best way of some consensus being built here?

>> Laurel Prevetti: I would recommend that you hold with the zoning verification and perhaps add other distance or local criteria for industrial zones that you might be considering. So for example, if you are looking at the light industrial that maybe you only allow one per contiguous area rather than.

>> Councilmember Kalra: Rather than coming up with an answer on the spot is there a way that in part of the process it can be just very simply put that in consideration of light industrial areas, that is discretionary? In other words, even if everything else is complied with, the Planning Commission, ultimately the council, has discretion, based upon economic factors, you can label it what you will but you clearly understand the concerns we have, could that be something that could be put in there, specifically for the light industrial area areas, so that we have extra considerations that essentially amount to us expressing our concern that we're not going to saturate this important driving industry region, regions with collectives?

>> Laurel Prevetti: If that is the will of the council staff would be happy to coming up with some extra criteria. We would recommend however that we delegate a certain amount of authority to the planning director to be the one to I consider economic factors or other pieces. And again kind of in the spirit of the way these regulations are coming forward, we could pilot that, you know, I suspect that with whatever this program is going to be, we be

back to you with whatever experience ever what's gone on, you can make recommendations at that point. Either we have zoning verifications or we don't, I recommend we hold with zoning verification and have additional criteria and even have some flexible ones that the planning director could handle.

>> Councilmember Kalra: Okay I would ask the America of the motion to simply as stated allow for light industrial but with the comments I just made as far as asking or giving direction to Planning Department, to follow-through on creating some discretionary rules, specific light industrial. And I don't want to make up that language right now, because I think it would be much better for the Planning Department to sift through that and look at other best practices, maybe have done that put I think the intent is pretty clear that we certainly don't want to give a C.U.P. but we want to have greater discretion than with other areas, does that make sense?

>> Councilmember Nguyen: That would be fine, yeah.

>> Mayor Reed: Is that acceptable to the motion maker?

>> Councilmember Nguyen: If that is the amendment that is accepted.

>> Mayor Reed: The motion is amended by friendly amendment. Councilmember Liccardo.

>> Councilmember Liccardo: I understand that, I want to suggest something, under sorry to bring back bad memories Dave. We do have a mechanism on which we can essentially grant authority or revoke obviously not the entertainment permit itself but something in title 6 that would simply give us the same authority without being stuck with something on land forever, I guess that's a question for Laurel or for Angelique.

>> From a title 6 perspective those are the regulations that we proposed. So it's the registration as opposed to calling it a permit or license we call it a registration, we don't want it to be a vested right and if they are not in compliance with the regulations or not in compliance with other parts of the code we can make the registration null and void.

>> Councilmember Liccardo: I understand that's the direction of staff but as we look at alternatives, I think all of us or some of us have concerns about wading into the industrial land area. Is there an ability to be able to create a permit and those areas that we have concerns like light industrial that can more easily be revoked.

>> I'm sorry,.

>> From a purely land use perspective I think you're headed in the right direction since title 6 does give more flexibility and those permits do run with the land they go with the person it might be that when we come back after noodling on Councilmember Kalra's request, that we might be suggesting that some of those tightenings be in title six. I see what you're saying.

>> Councilmember Liccardo: I hope those are contemplated by the Amendment of the motion that is noodling.

>> Mayor Reed: The maker of the motion says yes noodling is okay.

>> City Attorney Doyle: This is not First Amendment activity either unlike the entertainment --

>> Exactly.

>> Mayor Reed: Not yet. Wait for the next Supreme Court session. Councilmember Oliverio.

>> Councilmember Oliverio: No matter how the motion is noodled or massaged, I think it's necessary to get to the Planning Commission. I don't necessarily need C.U.P. But as long as the planning director would use strong ministerial powers and or a certain percentage of the number is in industrial like no more than X percent or something like that. That might be some criteria you might think of as you have the discussion at the Planning Commission. Thank you.

>> Because I know it might not be on your radar but one of the other side benefits of having it be a zoning verification we set it up to the ministerial which doesn't trigger CEQA. So some of the more discretionary aspects that you are now asking us to fold into it, will trigger CEQA. Please keep it streamlined which is another element you asked us to keep in mind.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Just a clarification on the motion. So is the C.U.P. not in the motion? It is out?

>> It is out, yeah.

>> Councilmember Herrera: Okay.

>> Mayor Reed: Anybody else on the motion? We have a motion on the floor. Vice Mayor. Restate the motion.

>> Councilmember Nguyen: Yes, so the motion is to adopt staff's recommendation A. Also, the mayor's memorandum dated 11 -- I'm sorry April 11, 2011, and part of the zoning driks and to give the director of planning discretion in regards to light industrial and not include a C.U.P.

>> Mayor Reed: All right, that is the motion on the floor. All in favor? Opposed? Two opposed, constant opposed, Campos opposed, so that passes on a 7-4 vote. All right what's left to do aren't we done? That was A. Mover to category B. Staff if you could get those slides up of what's in B. Category B. So category B has to do with the registration process.

>> Deanna Santana: Just based on the comments that I've already heard today it sounds as if the issues are focused on the lattary concept and as they tie into the registration requirements. I haven't heard any comments on the term of registration being for one year, as well as the concept of applying a processing fee or any vested rights so those are the decision points for council.

>> Mayor Reed: Questions for councilmembers, Councilmember Kalra.

>> Councilmember Kalra: B also covers title 6. So rather than take up so much time I'll ask questions at one time. I know, in regards to this issue Councilmember Chu had indicated we haven't been given direction or at the very least the federal government has caused us to treat marijuana differently, I don't think we've done it by choice. And I think senator Vasconcellos, voters did vote to allow for access to medical cannabis for health reasons and I think if we continue to go further and further away from the intent of the voters, to make sure that people in meme need have access to medicine. And you know, in regards to it being a drug or not a drug the reality is there are plenty of drugs out there that are legally used if not bad or worse, alcohol cigarettes, prescription drugs, many of which are morphine, cocaine based or some similarly based. I want to paraphrase Chris rock. The federal government doesn't have a problem with us using drugs. They just want us to use their drugs. I think that's what's happening here. The federal government has made it more difficult for us than it should be given the state of the government and the voters in Santa Clara County have stated their intent. That being said the lottery system. So the lottery system it is objective, it will take the first ten and they do have to comply with the much more stringent regulation as part of the application process than previously stated however, I still have an issue with it because it's still as opposed to an RFP type system it's having us take a random ten that meet the bare requirements. Even if they meet the more stringent requirements, even the bare requirements that the best 10 collectives upon I think that we're really and I frankly would have supported the memorandum from councilmembers Rocha and Oliverio because I think that approaches this concept better by holding off on a lottery system and seeing if there's a better way to certainly assess the quality ever establishments that we allow into our city, around we get the best of the best not just the first ten that meet the requirements. As far as the ten that's premature to choose the number 10. We are serving not just a million people in San José but really over 2 million people in this county since there are other cities directions seem to be towards banning collectives. We may be the only shop in town so to speak so in order to be very cognizant of that and we may be creating more problems by restricting ourselves to just ten. In terms of also with the lottery system, does it and this may be worked out when we work more on the permitting system as far as creating the ordinance but does the lottery system take into account the concentration of collectives? In other words if you pulled the first three and they

happen to be in the same general area is that taken into account? Or is that something that we're still trying to process?

>> Deanna Santana: The lottery concept determines how we will manage the lottery process. The process established in title 6. The concentration issue has just been handled through the land use. I want to mention on the registration process. We certainly can do an RFP process. It's an option that we've put forward before. There are some additional comments that I'd like to put into the conversation, if that's the way that council wants to proceed with this discussion. The standards outlined in title 6 over the ten pages of what qualifies you and what disqualifies you are largely what we would use in an RFP process and we would convert those requirements into a scoring mechanism. The issue that the -- the lottery concept and the registration requirement specifically responds to the a result committee discussion where we were asked to develop a streamlined process. An RFP process, so we would look at applications, accept the processing fee until we get ten that meet those standards. In an RFP process you would need to consider the time to do a substantial procurement of this nature, and I would consider a large one, having completed quite some large ones in the city before. It would require that we complete an RFP document, publish it, put it out, do all of the normal procedures related to procurement. We would need to establish a fee, because -- and it would not be the same as this application processing fee that's roughly under \$5,000. Because in the RFP process, we would have to go through all of the applications that are received by the city. And so considering the comments of Councilmember Campos of the unprecedented amount of transition that the organization is going to take, if there which are 110 applications received or more we would need to go through all of those in order to sort through which ones best meet the cap that is established. That's partly of what I wanted to offer as earlier comments is, that's not a six-month process. It's not a 60-day process. And it certainly isn't a \$5,000 fee.

>> Councilmember Kalra: I know that's a daunting process. My question is what if applications 105 through 110 are the ones who get to them because that's -- and don't get me wrong, I certainly understand the challenges of doing an RFP versus lottery, lottery certainly reduces our overhead cost and our staffing cost and so on. But you know, I don't know if there's something short of an RFP that still allows us to evaluate each one individually but I

think that the lotteries system sells us short and puts us at risk of getting bad operators that may even cause more issues than we're trying to prevent by not going through an RFP type system.

>> Deanna Santana: We'll do whatever option is directed by council. I just want the pros and cons to be out there as part of your conversation specifically focused on staff resources given the transition the organization is going to go through.

>> Councilmember Kalra: I understand and if there were another system that would justify the 4900 application fee, if it's not a lottery that's something we could have a discussion over as well. Simply not having a lottery is something that I'm not in acceptance of. In addition, in regards to the fee, I understand 4975 is the application fee. \$167 an hour hourly fee is that additional money spent during the processing of the application, additional hours beyond the 30 hours?

>> Deanna Santana: Yes, the 30 hours is assigned to the multiple departments and offices to conduct the lottery and the registration process. There's roughly about 15 hours dedicated or the police backgrounding and application. With the assumption that the applications will all come in differently the number of individuals may range, we wanted to ensure that there was sufficient capacity on behalf of the particularly to do the investigation. It assumes the ordinary cost in a fee. So the sergeant's rate at top step was the appropriate indirect or overhead cost applied.

>> Councilmember Kalra: And again though but it's strictly for the application process so it's not like when someone's already in business that they're charged \$167 an hour when someone comes out to inspect or is that also --

>> Deanna Santana: It is a one time fee to process the application .

>> Councilmember Kalra: I have some concern, irknow I've expressed this before in regards to the 7% tax which I already thought was excessive. But you know, continual addition of fees I know you are compared to other cities

but many of those other jurisdictions don't charge 7% tax on top of everything else. And so you know at some point, and I know that this issue has been looked at by many folks as an opportunity to make revenue and like I said I've looked at it from a different angle. And if it's strictly for the application process then hopefully the 30 hours in most caress will suffice and there won't be a need to go beyond that but I'm certain that there would be -- that any applicant would want good auditing of that I'm sure. In regards to the the draft ordinance ordinance in discussing the records and records kept, I do appreciate that in B on page 13, in any case, nothing in in chapter requires the disclosure of any applicant's private medical record. This might be the indicates that a copy of the member's identification card or a copy of access to the card and or essentially what would amount to a prescription, in regard to any other drug and not access to any records beyond that?

>> That's correct.

>> Councilmember Kalra: Oso any medical records that the collective may have onsite that deal with the condition a person may be suffering from and so on, that's not considered accessible according to this draft?

>> Correct. If you look at page 6 it gives you a definition of medical record what it means what it doesn't mean. What we're looking for is a recommendation from a physician indicating that medical marijuana is an appropriate treatment for them and that's it.

>> Councilmember Kalra: I really appreciate staff taking that into consideration, it was a very big concern of mine. Additionally in regards to the issue that was raised by some of the folks that spoke, the issue regarding the whole issue of sales as opposed to you know, contributing to the cost of the collective, page 25 indicates no sale of any products and it goes on to discuss the different kinds of products but it does in-kind contributions or monitoring property contributions towards overhead expenses shall be in strict compliance with state law. Now does that allow for money to go to staffing, to security to pay, you know, which is the way that you know most collectives that do have ordinances are operated, they have a staff they pay to run the collective. Would it allow for that?

>> What it doesn't allow for are members of the collective to be compensated with a salary or wages. What it does allow for are members of the collective which are qualified patients and primary caregivers to contribute services and receive medical marijuana in exchange. But because the statute clearly provides that only primary caregivers can get compensated for their services which include administering providing marijuana and other care of the patient, that's where we're limited. But in terms of private security, that can be -- the private security you're contracting out with a private security company that could be included in the overhead expense which the members of the collective can contribute to as part of their membership dues.

>> Councilmember Kalra: That partly is good but I have an issue with how we're setting these up because in my opinion, I think it would be better to have a much more clear record of who's being compensated for what and have someone on the payroll and have them get health insurance and so on rather than having a member exchange work in helping to operate the collective. [applause]

>> We're limited in what health and safety code 11 three 62 and seven 75 provide in terms of who can be compensated for services. Again, we're limited by -- we're limited to the primary caregiver but in terms of someone contributing a member contributing, their manual labor in exchange for the medical marijuana, that is allowed and permitted under the law and what we do in the ordinance is we ask that all those exchanges be documented and that in turn goes to our gross receipts ordinance passed in November.

>> Councilmember Kalra: So this he --

>> They do.

>> Councilmember Kalra: Your estimation they are acting against current law?

>> I think there is opinion from our office and opinion from other agencies that they're operating outside the confines of the law, yes.

>> City Attorney Doyle: Councilmember if I can chime in on this one I think this is one where it's not entirely settled in terms of at least among lawyers, even government lawyers who have looked at this. And so our opinion is, really, a very I think accuracy interpretation of the law. That being said I'm aware the District Attorney is looking at this issue and this is one issue where he is also intended to come out with some additional guidelines. And we will work with the District Attorney's office. Remember, at the end of the day, the law is such that it provides a defense to criminal prosecution. The District Attorney believes that certain things do not give rise to criminal prosecution then I think that is something we would have to take into consideration in whatever we ultimately recommend for adoption.

>> Councilmember Kalra: So wouldn't it be important to know that first before we codify these restrictions --

>> City Attorney Doyle: Well I think there are areas here where probably 98% of this Weaver pretty much in agreement with, there are other issues such as sales, such as onsite cultivation, such as offsite cultivation, such as the employee issue, where we certainly want to have the opportunity -- whether we adopt this now or we come back later because there's no guarantee when these guidelines are coming back, at the same time we're informed that the attorney general, the state attorney general is also reviewing and expected to come out with more guidelines. As I said in the past this is an evolving area and it may be that we need to bring tweaks back from time to time.

>> Councilmember Kalra: I know the lack of direction both legally and otherwise tend to but I tend to disagree with our opinion on the ability for someone to be employed by a collective and so I think that we're going down a wrong direction especially when we have people that have medical conditions that require them to use medical cannabis and that we're asking them to be the ones to work when there's you know, that causes enormous issues rather than having a more professional medical-type office where you have someone that's actually on staff on payroll.

>> City Attorney Doyle: And that would be ideal if that were the law and the law were written that way but unfortunately this wasn't designed to be a Costco type situation where you join a club and they have independent

employees that service the customers. What this was designed to be a true collective and I think that's where the legislature has failed in terms of giving us additional guidance.

>> Councilmember Kalra: I think that the aware they do it in Oakland and San Francisco is better and if it's unclear as to what the law is or it's unclear, that's the direction we should go to help move the state in the right direction to allow for that type of operation which is much more professional and allows us ultimately to have better oversight of the facilities as well.

>> City Attorney Doyle: And I've looked at that and what I would just say is I'd like to work with the D.A. on this issue because that is what is going to be quite germane how we should move forward on this.

>> Councilmember Kalra: Okay, in materials of edibles, are edibles now, I didn't see in the current edition but edibles weren't allowed.

>> I'm sorry are you asking for the sale of those products or consumption of those products?

>> Councilmember Kalra: The providing medical cannabis in different forms other than smokeable forms for folks who don't smoke.

>> I think the regulations discuss consumption onsite. If you give us just a second.

>> Councilmember Kalra: Yes, my reading was silent on the issue. But the previous edibles were not allowed but it seems to be silent on it now. I'm hoping it does allow for edibles.

>> I'm sorry, just a second.

>> Councilmember Kalra: Okay. And then the -- while you're looking it up I can --

>> So the way that the regulations are drafted now is that you cannot consume onsite and you cannot sell those type of items.

>> Councilmember Kalra: I've continuously opposed that. I don't smoke and if I ever needed medical cannabis I wouldn't want to smoke it. I don't see the logic in requiring someone to ingest smoke as their only option of getting their medicine.

>> I think what we were trying to do in drafting these regulations was stay true to the language of the statute which is collective cultivation. Not collective manufacturing and distribution and things of that nature. So what we really developed were guidelines to address collective cultivation and not those other things.

>> Councilmember Kalra: I understand. Someone can get it and do whatever they want to it, make it into any available product they can but I think that we again move further away of looking at these as health facilities. If it's truly a health facility where they're trying to give assistance and aid to need, I think those products available is a critical part of that. And the more you restrict it the more we're just going to create the negative outcome of having something that just ends up being a distribution of marijuana. And so I think that the more we make these holistic health centers that allow for different types of options I think the better off we are not just for the patients but for us creating establishments that are much more well rounded and I think fit into the community much better. [applause]

>> Councilmember Kalra: And the last -- the last question I have again is to onsite cultivation. I think that restrict -- that restriction, incredibly problematic especially when we're concerned with where these sites are going to be located. I think we've seen some of the issues, this is certainly a breathing issue because we see other jurisdiction really troubled with it as well. But rather than -- that's why I agreed with the memo from councilmembers Oliverio and Rocha, it's not ready for prime time, we're going to see problems from acquiring that onsite cultivation. With those questions and comments, I think it's clear that I'm not going to be able to support the ordinance as it's currently written.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I'd like to recommend a few changes from it but support it with these additions. I would like to make a motion that would place a cap on the collectives and that cap would be 15. Citywide with no more than two in each council district. With the provision that it come back to council in 24 months for review. The cap. Also, direct the administration to prepare a potential memo, with all the issues we have considered such as taxes collected, public safety issues, staff resources. I also wanted to ask staff, I wasn't quite clear whether sales would be in this item or in C. Because I would add something to the motion --

>> Sales are in C.

>> Councilmember Herrera: That's what I thought. Regarding the distribution and lottery process method outlined in the staff memo and the procedures established in select egg franchises use did collective's operation plan included in the ordinance language as the minimum qualifications for this process and automatically disqualify applicants who have won false information on their initial application for a business tax lines or 3, are not currently in possession of a business tax lines.

>> Mayor Reed: We have a motion. Second by Councilmember Liccardo I believe.

>> Councilmember Herrera: Can I speak to the motion?

>> Mayor Reed: Certainly, go ahead.

>> Councilmember Herrera: So I want to say that I think it's very important that -- that we do set the number of collectives that we want to have in San José. I think we need to state in the very beginning of this process not the end of this process, that we've had a lot of staff input, there's been a lot of meetings and work on this. This is the policy question that the council has to make their decision on. There is not a perfect number provided by science that's going to tell us what that number is going to be, there is some randomness but there's a thought and

different cities have taken different perspectives and different limits set on that. It may not be a perfect number. That's why I've moved to the number 15 to come back though in 24 months for review, as this process rolls out I think that gives some time to see if that -- how that works and to give feedback to council. But I think we need to make a statement to our community not just the people that are here today to speak, not just the collectives, not just the users of those collectives but the entire city including businesses and entire residents that we have a plan and can put a number on it .

>> Mayor Reed: City Attorney has a comment.

>> Councilmember Herrera: It is a tough decision but these are the decisions that we are elected to make and I think we need to make. Also wanted to say on the really process is what I'm suggesting here is to not do a lottery, to do something that looks more like an RFP process. I think we hear a lot of comments from folks saying we should have a rigorous merit based kind of process in looking for the dealers will operate here. We should be looking at the best of them and I understand that staff is not just proposing a lottery maybe in the worse sense of the word, you may have more standards but I do think we need to look at a process that's not a lotteries to get the most -- the best fearing's of these collectives that we can.

>> Mayor Reed: First the City Attorney and then Deanna Santana.

>> City Attorney Doyle: Mayor, councilmembers. First of all the cap was A, the way this ordinance works is the land use title 20 sets it at ten, and this ordinance references the tile 20 limitation. So if council wants to take action at a higher number then we need to make that consistent with the prior which capped it at ten.

>> Councilmember Herrera: I wasn't aware that we were capping that at ten, I don't think the maker of the motion was either. I mean I'd be happy to leave it at that.

>> City Attorney Doyle: Secondly, the issue is, insofar as business lines, we have been under direction to not issue any new business lines. The only in existent is prior to December 2010. Is that just for your own information Q.

>> Mayor Reed: And Deanna Santana has something.

>> Deanna Santana: If council was to ask judge processing fee and hourly investigation structure because it's really not applicable. That fee was developed to administer the streamline process. I would need to go back and work with stave to look at our resources particularly in light of 11-12 budget and establish a cost to administer and support a very substantial RFP process. I would need a little bit of time. I can probably accomplish that through the MBA process.

>> Councilmember Herrera: Can I --

>> Mayor Reed: First that is not in the motion here.

>> Deanna Santana: I'm sorry, I thought I heard that as part of the councilmembers comments.

>> Mayor Reed: That's E and the motion is on item B, clearly we'll have to do something about that fee if that motion passes. Councilmember Herrera on the motion.

>> Councilmember Herrera: I was not -- I'm hoping we can put together a process that's a hybrid that's not necessarily the RFP, the long RFP process but you know looking to staff to come back with something that is more similar to the way we select franchises.

>> Mayor Reed: I feed to clarify the motion whether it's changing the previous motion, I don't know how procedurally we do that or whether the previous motion included the number.

>> City Attorney Doyle: The previous motion included the number per the draft ordinance, in the direction of the Planning Commission. If the council wants to say this needs to clarify it, there is one or two ways to do this. You either take a motion for reconsideration on the prior motion or --

>> Councilmember Herrera: I think I'm doing that knowing A I'm proposing this and raising the number to 15 with all the things I'm setting forth in my motion.

>> Mayor Reed: Vice Mayor.

>> Councilmember Nguyen: Thank you. My previous motion did not include the number ten, the cap number so everything is fine except for the cap and we can have -- I believe we can have that discussion with item D which Councilmember Herrera is including in her motion.

>> Mayor Reed: Okay. So the cap of 15 is included in the current motion.

>> Councilmember Herrera: Yes and I want to reemphasize for those who are unhappy with the cap. Coming back to council in 24 months, that's a compromise.

>> Mayor Reed: All right, on this motion. I have several requests to speak. Councilmember Rocha.

>> Councilmember Rocha: How do you deal with those that are not in compliance? I understand prior to my service here there was direction to close some these that aren't in compliance. That's okay.

>> Laurel Prevetti: Do you mind repeating the question?

>> Councilmember Rocha: Sure. How are we dealing with those collectives that are not in compliance. I understand there was direction to close some of those.

>> Laurel Prevetti: In June of 2010 the council gave us clear direction to go ahead and enforce against collectives that did not meet the criteria at the time in terms of not being in correct zoning district which at that point we were only talking about the commercial general and those that were within 500 feet of schools, community centers, residences, et cetera. What we found through our code enforcement division was that we had so many collectives, that we just did not have the staff resources to close all of those collectives and I think at that point we had on order of 50 to 70. So we essentially instead took a nuisance approach that those that were clearly demonstrating a public nuisance and we had evidence we worked with the city attorney's office and we did successfully close two or three of the most egregious collectives. Since then, we've supplied letters to the collectives, informing them that really all of them are illegal. We do not have provisions to allow them in our city. And at this point we're still working with property owners and with residents. We get a lot of call all of the time in our code enforcement division. We get a lot of complaints but not enough to really raise to the standard of public nuisance that would then allow us to pursue legal action to close them. So we've got now over 110, 120 of these, so there is a large enforcement issue facing our community. I did talk to our code enforcement chief, and regarding of whatever happens today, we fully intend to send a letter to all notice collectives of the status of these ordinances and regulations. Both to property owners as well as to the tenants, to the collectives themselves, so that way there's knowledge about where we are and we'll see what business decisions those property owners and businesses make. But enforcement is going to be an ongoing issue for us especially given the other challenges and priorities that the city is facing.

>> Councilmember Rocha: Then let me ask you a question, I'll go back to the hypothetical. We're looking at these regulations and if we had adopted all these, and we had gone through the registration process or application process whatever you call it. In your professional assessment how many would you expect given also the locations we just talked about as the zoning designations would you expect would even be in compliance with all the regulations we would have passed?

>> Laurel Prevetti: At this point given what my code inspectors have told me a lot of it is going to depend on what the actual parameters are but I think very few --

>> Councilmember Rocha: Assuming we adopted all of these.

>> Laurel Prevetti: I would say a handful at most just in the zoning consideration and some of these distance requirements that we've been talking about so far so not commenting on their operational.

>> Councilmember Rocha: Whether or not they have paid their fees, whether or not they have a lines, all those factors come into play, we would probably talk about a number probably lot less than 100, less than 50, probably less than 20.

>> Laurel Prevetti: I think that's correct but we're in a very entrepreneurial place so whatever the rules could be -
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>> Councilmember Rocha: Trying to get a sense of those --

>> Laurel Prevetti: Of those out there I think a lot of them don't meet these disarntdz but I think we have some creative people who will try to make this business model work.

>> Councilmember Rocha: Then establishing this application process I had suggested that we again address the number when we finish this application process and all those that are in compliance we can then talk about it again and bring it back to council. I don't know if Deanna you had some accommodation about a certain memo or direction. Was that one of them? Dses yes, Laurel and I had a chance to connect a little bit yes. I'll have her -- I'll trigger some memory about our conversation. The issue around the maximum number of collectives and a decision on onsite cultivation, it does drive the final CEQA analysis that we would need to bring back in maize or June. So I'll offer to Laurel, that we do need some input so we can advance through the planning process to bring forward to council later as part of a draft ordinance.

>> Councilmember Rocha: You can be general enough to include both and we can make the determination after as I understand it. You wouldn't have to be specific, would you?

>> I think what we're looking for from a CEQA perspective is we'll want to perform an environmental analysis of the ordinances that we're processing so that you can adopt them. We don't want to bring you something that then exceeds the scope of what we've analyzed the environmental impacts for and say now we have to go back and analyze the impacts. If you wanted to give us a broad umbrella within which you think any decision would fall we just want to make sure that we analyze the environmental impacts of that. The other elements are with regard to the cap it's not necessarily a land use issue. My understanding is that it was a staffing issue in terms of the police department analyzing how many of these they thought they could process, register, evaluate, monitor, and then enforce the regulations so that it's not just words on the paper but then they're actually enforced. So I know that we're talking about numbers, the numbers aren't necessarily because the planning director is feeling that we need to cap the number from a land use perspective. It really was a staffing issue, that drove the rationale behind providing the number. And so it was a staff resources analysis, how many can we efficiently process, monitor and administer. And I don't know if the police want to address that but again it wasn't a land use cap necessarily. It was staff resources driven.

>> Deanna Santana: Before you go into your response what I wanted to just add is, as we said at the Public Safety committee we had offered 10 just as an acknowledgment of the transition that this organization has gone through in the past year as well as the upcoming transition. The -- we wanted to approach regulations with some sort of manageability for the department and the organization. As I said at the time Public Safety committee to the extent that we settle into regulations and we evaluate our staffing resources, that we advance to council, and that hopefully council approves, we're okay, and we've said it in our written reports, with increasing the number. But we wanted to put forward a number that is manageable and it is realistic at this point in time with our organizations, but Dave I'll let you speak about the safety concerns.

>> And I think that many of these issues that are coming up just from a perspective, I haven't spoken to some of the questions that have come up. But much of the way that we have drafted this is, to deal with it practically given the resources that we have. Given the resources that we're looking to cut or we have already cut. I tell you that my narcotics unit is very small. About 11. We just took the vice unit and cut it down by three and incorporated that

into our undercover unit. So the resources that I have to do much of anything with this are very, very limited. When we look at these issues of the lottery process, the way that we came up with that was, like Deanna stated ten pages of how we qualify and disqualify. And I've heard you speak about are we going to get the best ten? I don't know if we'll get the best 10 but certainly what we'll get are 10 that are very qualified and if we look at an RFP are we going to be able to get the best ten or are we going to get 10 very good ones that are qualified. This allows us the resources that we have if we're going to have to look at 120 of these when my investigators look at this, it depends how many owners and managers there are. I started at 40 hours, Deanna told me there's no way we can do this with 40 hours. I came down with 16. When I came down to 16, I can't look what collective A is going to do in compare to collective B. I have to do a full background on every manager and owner in this. I want them to be honest with me so I can look at the backgrounds of all of these managers. So practically speaking with the resources that I have for both, if we go to an RFP I don't know how we're going to do that. So to have us look at 120 different collectives and go through that whole process with the resources that I have I just don't know how that would work. The second issue in regard to the number 10 the reason that we came up with that number was the very things they're talking about, because resource-wise, I have a background in looking at the night clubs and I'm not looking at just like night clubs, I'm looking at it like a regulator. I know regulating anything is a whole lot of work. If it's ten that's manageable. It is a guesstimate as to how many people I'd need. I've guesstimated I would needen regulate five. But that's why we came up with ten so we could look at that evaluate come back in a year or two and say, this is manageable, this isn't. And when they're complying with everything it's very easy. And I think what's been brought up is, sometimes what happens is one of the biggest issues and councilmember asked what are we doing in the issues here surrounding closing them down? Well criminally speaking we've done some investigations with regional task forces with the limited manpower that we have but in looking at that the resources to go and look at those things criminally multiapplies when we're trying to do that because it is very difficult to show if people are operating criminally, it's a very intense investigation. So as long as they're doing what they're supposed to within the confines of the code it's easy for us. When they -- not they oops see this with the night clubs where we have to figure out how they're doing things and that's where our time really comes into process. So as long as they're coming with everything I think that the three would be okay but when I start getting outliers when I have problems that's going to start autoespecially in these times. So from

the police perspective, the way at a we have set this up was with the resources in mind and I just I guess that's the answer to the question or to many questions.

>> Councilmember Rocha: Thank you very much. Very helpful. Then following this discussion, in the past year, we've addressed two or three of them, given what you're saying I'm even less comfortable that even the ones that don't submit applications and continue to operate how are we going to address that? I know you kind of spoke to that in terms of the essence of the code. But I'm not getting the sense from any department that they have the manpower or the time to do anything on this.

>> The easy answer to me, would be if we pass, the who, the what, and the how, and now if we have these regulations in place we can close them because if they're in violation of these regulations and these are passed we can close the ones that we don't want and that resolves this issue. that staffing to do that but if these regulations are in place and there are huge fines for if you're violating these things now civilly the City Attorney can go after it, I can go after it civilly and I can also devote some resources criminally. The real question is if we pass regulation 6 part 4 through 9, and they're then can I close them down and the City Attorney can close them down.

>> Councilmember Rocha: So then you see yourself being able to manage the application process, and cap it when you get your ten that you need and then also to enforce those ten that would be operating and then, also, on top of that, go after the ones that are thought operating in compliance.

>> Two different processes.

>> Councilmember Rocha: Still staff time.

>> Right but the way that we have it set up now with the application process that's where the question came about with the amount of money that we're talking about right now for the application. The extra time for that extra \$167 or whatever it was, was if my sergeant had done basically two days worth of work and wasn't able to finish

that, that would be increased. So that would cover the registration process. But then we would later ask for the fee to the number of collectives that we put into place. That fee would then cover the cost that would come back to the police department to fund those two police officers and sergeant whose main job, their only job would be the to regulate these. And I think somebody brought up, the card clubs, we have groups that regulate the card clubs, very different process but same idea.

>> Councilmember Rocha: The 4900 would be for the officers to enforce that? I'm sorry I misdismood.

>> The \$49 is the the initial application.

>> Councilmember Rocha: The initial application okay.

>> And there's an additional amount I can't remember.

>> Deanna Santana: Only parts 4 through 9 will bring that back through the MBA process. -through fees and charges process. Okay.

>> Deanna Santana: Through a based on decisions made today we'll adjust the staffing plan and bring bam the statistic.

>> City Attorney Doyle: Forgive me.

>> City Manager Figone: I'm sorry councilmember I just want to ensure that Dave, you clarify and perhaps Deanna can help. We're not adding officers to do this work. We're having these fees pay for their share of the work. But I guess it's important to put that in context as to then what would be set aside in terms of your normal workload with the A time you're going to be devoting to this effort or are we going to be adding capacity?

>> Deanna Santana: To get through the registration requirement, to receive applications we have an application processing fee that does not assume the addition of staff. It just assumes covering the cost incurred to the city to perform that process. If council establishes regulations you'll recall, in December and in June, we advanced a staffing plan that had an annual operating fee in the order of \$104,000 a year. And in that, that covers the enforcement and the monitoring for -- to sustain parts 4 through 9 of the operating parts. That did carry two police officers, one sergeant, a couple of other staff members and that was \$104,000 operating fee so that will add staff. But we'll bring that back later as part of the MBA process so that we fold that into the budget process.

>> Councilmember Rocha: Okay, understood. So I'm going to go back to the original point that I asked Laurel about in terms of just the cursory glance of how many we may be eliminating just by establishing some of these which again goes to the same point I've been probably boring people with, the absolute number is not necessary today. If we eliminate 80% of those and the applications still come in I think you're suggest being immediately throw 80% of them in the recycle and say they're not in the right place we're not investing that staff time that you're talking about unless we still have to go through the entire application, regardless of whether they're locating in a site that's in compliance.

>> Laurel Prevetti: Right. So if they don't meet the zoning verification then they would not be able to go forward into the registration. Some of these now are well established businesses. So from an enforcement standpoint we would use the tools that the city has in terms of code enforcements and compliance orders to then go through and close them down. Because again, tear in our community and we acknowledge that some of them may wish to stay and we're going to have to deal with that. Having certainty around what the rules are going to be is very important because then our staff is able to communicate with the collectives and let them know what the rules of the game are going to be, if that helps.

>> Councilmember Rocha: The money we would have been receiving at 5,000 per application was at 100 -- I don't think we'll even get 100. That's about \$250,000 if we got 50 applications. And you suggested that you would need to modify that if we go away from the lottery system.

>> Deanna Santana: I say okay. The way that the process we've outlined it on Page 6 needs to get their land use verification they need to provide proof that they've been paying the city's business tax and they need to complete the application. As we've -- as we completed. They then need to submit their application, with the application processing fee. If their application number under the lottery concept is selected we will open the sealed application, begin to review it, at that point in time we will cash the processing fee check because we are now incurring staff time to review the application. If we review 50 applications and say the first ten are deemed qualified under our regulations then the remaining 40 will return the filled applications back to the applicant and we will not cash their application processing fee. We will only collect --

>> Councilmember Rocha: That is in the lottery system. I'm talking about outside the lottery system, if bee.

>> Deanna Santana: Really think through the significant procurement process and level of resources that we will have available to us and establish a relateddify fee. My guess is in this case, where applicants are going to in the previous example they pay us as we go and we cash checks as we review them. Here the assumption is that we'll review all of them and make determinations through an application process and surface the first 15 or 20 scores and bring those forward for processing. So if we have to review a complete universe of 50 or 100 that really then impacts workload and staff time and capacity. So we would need to adjust a fee that reflects that amount of investment of resources.

>> Councilmember Rocha: And I'm very supportive of doing that so if we do go another direction we do need to adjust the fee to cover staff cost, absolutely. I'm not going to support the motion. I'm sorry to go on and on. I'm sorry for the time but I'm not comfortable.

>> Mayor Reed: Let me speak to time. It's after 6:00 fm Councilmember Pyle had to leave because she wasn't feeling well and she had another meeting as well. Some of us have to go to Sacramento tonight and we're clearly not going to get through the entire agenda. I suggest we try to complete our work on item B and a vote on item 4 and take up the remaining items and continue this until them week. There are already items on the agenda of

course but that's better than trying to press through tonight. If we could finish our debate on this motion, get a vote and if it passes we'll be done with section B I guess. So on this particularly motion, Councilmember Herrera.

>> Councilmember Herrera: So if this motion fails then, there will be based on the earlier motion, then, the ten collectives are what has already been approved by the council?

>> City Attorney Doyle: That's a -- that's what's in the draft ordinance, that has been referred to the Planning Commission. But you know again the council can reconsider it as partly of your motion here, the 15.

>> Councilmember Herrera: Okay, I'm just saying if this fails, I'm just trying to get clarification. I don't think this is time for the audience to be participating but I could be wrong.

>> Mayor Reed: You are not wrong, it is not time for audience participation, it is time for us to get our work done and we still have people who want to speak on this item.

>> Councilmember Herrera: I had another question on staff. I'm very concerned about the police department discussion about the resources that are going to be involved to do an RFP. And I want to hear from my colleagues, I'm hoping I can get support on this motion so that we can get a cap in place. I think that what one of the things that really provoked me and made me really want to push for the cap was when I heard what the police department had to say back in December in the D.A.'s office and the A resources we were already using and going forward what kind of police resources would have to be used. So I think this is a very, very serious part of what we need to consider moving forward especially in light of our current budget situation and the already impacts we have on the police department I think we really, really have to think about this seriously and it makes sense to put a number on there to have a complete scenario so our staff can work on it and understand what the ramifications are and not leave it open ended so we have to keep coming back and coming back. But I am open to looking at the lottery too, I want to hear what my colleagues say. I tried to put something together to come to a compromise but it is going to cost more to do an RFP process.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor. We're trying to solve a federal issue in the city government. Just one comment. Maybe word it as a request. Since we are not all those operators, what they deed with edibles marijuana whatever shape or forms. I would like to make sure that we got the Santa Clara Public Health department involved because edible form is a food, and you know, we should definitely somehow get them into the loop. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. First I'd like to give the feedback to Councilmember Herrera. I think based on what I heard from deputy chief Hober, that I could support your motion if it went back to the lottery system, because we are going to have so many immense challenges in workload at our police department very shortly, with the budget, with the reduction in officers, with the restructuring potentially of the vesting bureaus, the time that would be required in the RFP process is just huge compared to the time that would be devoted to the lottery system. And Dave you did a great job in explaining the difference and I think that's really away we need to do. So I'm going to ask you if you would take that as a friendly amendment to keep this and switch it back to the lottery with everything you've said and I have one more comment after that if you accept it.

>> Councilmember Herrera: Can I hear some -- can I reserve that? I like to hear other colleagues talking.

>> Councilmember Constant: motions and comments of staff about people who are currently in possession of the business license or have been paying their measure U taxes. The fear I have is that number one, we're we're not giving credit to people who haven't taken action because they wanted to follow the law. They're waiting to see what the doinl is going to do so they could pick a appropriate location, build a business plan that fit within our policies and opened a proper business, which would be very unique amongst the 100-something that we have. I think that we should have latitude for a new business that is going to do it right and my understanding based on the motion, that they would be disqualified if they didn't have current possession of a business tax license and that

would worry me. If it said automatically disqualify applicants who have been operating without a city business license and/or have not paid taxes due under measure U, that would be acceptable because that would leave the door open for the person who's been waiting by the sidelines to do things correctly. That's the other comment would I like to make and if staff had anything to add in that area I'd like to hear that. That was also a request for friendly amendment.

>> Councilmember Herrera: I'd like to hear the staff.

>> Deanna Santana: Councilmember Constant you are correct and our original approach accounted for people who haven't taken action. The process we designed is responsive to the March 9th Rules Committee process where the caveat of business tax and license requirement was thrown in to us on a pass-fail basis. That is the design of the current approach but you are correct and your comments were originally integrated into our approach.

>> Councilmember Constant: That's what I was worried about. We keep taking multiple bites at this over a period of years and the more times we come back the more we're going to take the conflicting directions, we send staff to the left and to the right and forward and backwards. I think it would be appropriate to change that wording similar to what I said so we leave the door open for people who want to do it properly.

>> Councilmember Herrera: I would be willing to add that to the motion.

>> Can I just very quickly offer some clarification on that issue? The way it's drafted it says you need to comply with chapter 476 and chapter 4 I think it's 66 dealing with the measure U tax. But the intent was not to punish those who wait to see what occurred. So to the extent you are operating prior to the adoption of those regulations we would want to see that you complied with the measure U tax and the chapter 4.76 operating tax or license tax. To the extent you were not obviously you would not be able to show that however you would be required to comply with that from that point forward. So that was the intent in terms of enforcement. It probably wasn't captured in the language of the regulations and it should have been.

>> Councilmember Constant: My intent is what you just said and I was referring to the wording from Councilmember Herrera's motion that had that. So I think if what I suggested got added which I did, we'd address the exact things that you just addressed. At least that's my intent.

>> Mayor Reed: We do have a friendly amendment to the motion. Council -- Vice Mayor -- all right, Vice Mayor Nguyen.

>> Councilmember Nguyen: I'm sorry. So in regards to the cap, first of all let me just clarify again, that my motion does not include the ten collectives the previous motion, we were just addressing the zoning issue and I think we did that. So the cap is actually in this motion, just wanted to clarify that. Now, regarding the number. Here is the concern I have. So I was one of the cosigners of the memo dated March 3rd, 2011, where we actually thought 10 was the right number, or the appropriate number. But after listening to the representative from the medical cannabis community and just doing a little bit more research I've come to realize that 10 is not a sufficient number nor is 15. Let's just be realistic. We have 110 collectives in the community right now in San José. And we are not anticipating that they're going to close down. So obviously there is a demand or a need for this cannabis to continue to operate. And so for me, I think that I would be probably more comfortable if we allow up to 30, given the size, the population of our city, and the demand and the needs that you know we have with our patients. I wouldn't support anything less than 30 and I wouldn't support anything more than 30 either. I think there needs to be a cap. That's how we can regulate. But the reality is if we stick with ten or 15, these operators following the guidelines and the rules I think what we're going to encounter is that our police department will go out and try and crack down on the illegal dispensaries that are operating because there is a demand there is a high need. We are spending the time to try to crack down on the illegal dispensaries and collectives, instead of trying to make sure the ones that are staying within the guidelines and following the rules. That's something we need to think about as we move forward, in regards to the lottery I'm not entirely in support of that, I'm waiting to hear see what my colleagues are going to say about that but I think that some kind of hybrid process similar to an RFP would be something that I'd be more supportive but you know I'm not really going to be adamant about that. I think what really concerns me is that the number 10 or 15 is just not sufficient. Thank you. [applause]

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. I have concerns over the RFP or the lottery process I understand there needs to be a higher fee to pay for staff time. If we get to that point, I'd like to know what that is. Doesn't have to be today, but the community would like to see the RFP process as well as I, you should have to pay for that because we are in the mode of cost recovery. I do employee I think that's pertinent to how the organizations are run in all these other cities in 15 state. I do have an issue of not allowing ed illibles. I hear testimony of the 77 yearly woman who doesn't smoke but takes it in a different manner. I'm concerned there. Planning Commission, back to us and based on the maps we're going to be closing at least half, just purely on land use if not a higher percentage. Then when you go down to the other items on are you paying your taxes, there might be some of those that refuse to pay, their fees, et cetera. But I really think that you know, I've said that you know we should take this in bite sized more sells but sometimes the bites need to be even smaller to get concession on the council. Because any time we're going to bring ten little subjects within a vote it gets confusing because some of them might not agree with three of them. Just an example, the simple process of doing background checks for the manager and growers and owners. I'm into the bite sized more sells to get consensus much quicker oliverio Rocha memo, just kidding. I will not be supporting the motion for those concerns. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, I'm interested in seeing what the fees would be with an RFP because when those numbers come out there may be a real difference of opinion particularly for the lawyers and lobbyists who have been responding for the RFP process oomsz we may have a very different view about the RFP versus lottery, so it may be very informative to get those numbers and I know that's hard to calculate but I'll be honest with you, I preif the retch from a pure standpoint of fairness but frankly I think we are in a place where it's impractical. And I'm guessing the fee is going to be really exorbitant and people are going to be complaining. And I think we ought to be clear you know, Vice Mayor Nguyen talked about the high need and high demand but those are two different issues, high need and high demand. There's no question there's high demand and there's no

question there's need but it's also apparent to me dealing with those clubs that are in the downtown and in the core let's faced it I've got a lot of business owners who are not dainty fragile suburban business owners. These are parse about a and clubs and cox did I club and they are livid over the operations of cannabis clubs downs and we don't have clubs and their operations. We don't have the police department staff to be able to enforce on open air dealing outside these clubs. There is no question there are legitimate clubs out there that want to serve people with serious medical maladies and I trust that they're doing a good job but the reality is, is that this has gotten to the point where it's completely beyond our ability to control and we need to have serious constraints on numbers until we can get a handle on this and then certainly open up and be more liberal and allow more clubs in the future. But it just seems to me you know I don't understand, I certainly don't pretend to know that ten the is precisely the right number or 15 or for that matter 30. I don't think any of us do but let's start small and try to get a ham on this. Oakland had until recently four clubs. I never heard that Oakland was a fascist city and being antidispensaries. I think that the number suggested is a sensible one to start out with. We can revisit this in a year or two, and improve as we go along. But I think that we really ought to be honest with ourselves before we jump into the RFP business about what it might mean in terms of fees. Because I know let's face it. I've been getting a lot of calls from lawyers and lobbyists and constituents, I'm sure others are getting too. it's about the money and we wouldn't have all these lawyers and lobbyists if it weren't about the money. So let's at least be honest with each other about that. that's why we want to have a regulatory scheme but let's at least be honest about the money that's involved. Because that's completely tainting what's going on it seems to me and all the studies I've seen in Colorado and so forth, about who's getting the card and whatnot, it's apparent to me it's much more than just medical need.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. Assume thing to the city it's all about the money that's been certainly one of the factors that's come occupy out quia often how much revenue tailing that approach. The -- in terms of what the correct number is the reality is, and Deanna I really appreciate the discussion on the regulations and how stringent they are in this process if we were to go through lottery. But that same stringent filtering is also going to reduce the number of applicants that would even go -- that would even apply especially if they know

they're going to be charged 5,000 or whatever that number might be if we go to a different system other than a lottery. I just -- it's not going to be 120. We don't know what the number is going to be that will apply and so I do think that it's premature to as I stated earlier and I'm glad that Vice Mayor Nguyen clarified that the ten wasn't part of her motion because it certainly wasn't the understanding of many of us up here. But it's now been brought before us in terms what the number should be. I also agree with Councilmember Liccardo, I don't think that we absolutely do know what the right number is. But I think that we can get better informed on that issue. Going through this process, I think that that's where I felt that Councilmember Rocha and Oliverio's memo was right by deferring that issue because I think the more information we get especially with the more rigorous regulations required, the better sense we're going to get as to even if we need to put a cap, maybe there are only 20 or 25 that even qualify through this more stringent regulation process and comply with the land use regulations. So to presume we're going to have 100 or 120 that are going to qualify or even apply I think is just not a fair assumption. And so I -- as previously stated would not support a lottery system. I would be supportive of looking at a greater fee, if necessary if we're going to do some other system that requires it. And again, I also am not supportive of having a cap, if it's up to 30 then at least that gives us some space to work with, where we can -- you know because in all likelihood there probably wouldn't be more than 30 that I think would qualify given all the regulations we're putting in including the land use regulations. And -- land use regulations and so going forward on this particular part I cannot be supportive of the current motion on the table.

>> Mayor Reed: I'm going to support the motion, Councilmember Herrera, I think you got the last word here.

>> Councilmember Herrera: I think it's very important that we move forward today on a cap that we set a number. I think we heard from the police department, clearly, the cost and the staff resources that are going to be required, they were contemplating 10. And that was about the max they could see managing. We're talking about 30, that's three times what they're talking about. Again what I'm proposing here is to set a number and review it. It's not cast in concrete. It's going to come back to council. It's a start. Why not start from a place that we know we can manage with our resources? Why place those unnecessary demands of having more collectives out there than we know right now that we can manage with our staff. I think our staff's been crying out for us to make some decisions. They've been coming back to us over and over again they want us to make the decision so they can

move forward. As much as I appreciate the memo that's put forth by comb Councilmember Rocha and Oliverio I think a lot of those things were puppeting things ahead and we need to make some decisions it's high time we do this. I'm not sensing I have the votes for this but I hope you consider the ones that are going to vote no on this, our community is going to ask us to account for what did you do when you were there and had a chance to regulate this. I don't want to see another 100 clubs spring up or 50. We've already heard we'd be considered the oasis in California for these entities. If we do not take action we are asking for more problems. We are going towards the way of Los Angeles. We need to move forward, put caps on this, as I've made in this motion, and move this thing forward.

>> Mayor Reed: Speaking of moving forward it's time to vote.

>> Councilmember Constant: How about that amendment I offered?

>> Councilmember Herrera: You know what I'd like to do is maybe have staff come back with what the RFP would mean so that we have an alternative path to move back to the lottery if that would be acceptable to you Councilmember Constant. I'm very concerned too so maybe we can have some process so --

>> Councilmember Constant: I just want to go home. I'll do either one quite frankly.

>> Mayor Reed: Okay open the motion we did have one friendly amendment. Yes City Attorney's office.

>> I just wanted to add also from -- I know CEQA is never the top thing on your mind but from a CEQA standpoint the reason that the cap of ten actually creates more impacts is because there's the potential for superstores. So that if we only have 10 let's assume that they're wildly popular. As opposed to having 100 like we have now and they're just each one has, you know, a smaller amount of business. I just wanted to note for the council that from a CEQA standpoint we had spoken earlier about giving us the envelope that you want us to naldz analyze. I think the planning director had noted previous that his anticipation was the smaller the number the more potential

environmental impacts were possible. Again so when we come back you have the largest in which that you could approve from a CEQA standpoint.

>> Mayor Reed: I don't know that we're going to approve any envelope until we get this motion taken care of.

>> Councilmember Herrera: Can I make comment on that? I'm hearing kind of a mixed message then from staff. This is confusing. So what are you saying the size of envelope that you're recommending? Because apparently, initially you were recommending 10. Somewhere embedded in this was ten.

>> Right, so there are two issues. One is a staffing issue and the reason that staff had come up with ten was, what did we think we could adequately manage and administer and enforce. I was also noting from a CEQA issue, when you're Nadler analyzing the environmental impacts, putting a cap on ten, if there is, the planning director hasn't said there is, if but if there is any environmental impact, his anticipation was ten would give us the greatest environmental impact from a traffic and environmental standpoint i'm just noting that ten serves a couple of purposes.

>> Mayor Reed: Let's talk about impact. How about a thousand. That's impacts in the neighborhood. We're ambulancing impacts. We've got staffing impacts we've got neighborhood impacts we've got environmental impacts. We're picking a number to get started. If we don't have a number we're not going to get started.

>> If you came back and wanted to do ten your planning director.

>> Mayor Reed: But if we picked ten we could come back and do 100 from your logic.

>> Exactly from an environmental standpoint.

>> Deanna Santana: . I just wanted to classify where conflicting messages.

>> Councilmember Constant: Can I just call the question? I've just heard enough.

>> Mayor Reed: Yes, you've called the question. Anybody opposed to voting on this or you want to stay here longer? On calling the question, all in favor, opposed, one opposed, Pierluigi loves this process oh, okay. We're calling the question, question has been called, no further debate or staff presentation at this point. On that motion all in favor? Opposed? I see opposed, Kalra, Oliverio, Chew, Campos that's four, five Nguyen 6 Rocha, that motion fails on a five-6 vote. [applause] Councilmember Oliverio.

>> Councilmember Oliverio: May I make a motion just to do something very simple that we require all the collective, collective managers to come submit a security background check? I think that's something we could all agree on without much debate.

>> Mayor Reed: Well, that's a motion and a second. I'm not sure what it's relevant to.

>> Councilmember Oliverio: What it's relevant to is we need to provide some regulation or some way for our city staff to manage something we can agree on specific examples and my specific example would be managing the background checks of the collective members of the management of the groups and I think we can all agree on that's a good idea. That we don't want people to have a felony conviction anything to do with drugs in their background running these facilities. [applause]

>> City Attorney Doyle: I want to chime in on this.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: Councilmember I understand the whole process here and the ordinance that was before you is a regulatory process meaning that the police department has to do the background checks and by signing off on the background checks they're essentially permitting the use and I think without additional regulations in there saying you need to have X security and you need to have X lighting and you need to have certain other

things in place, that is part and parcel. I mean we can do without the, at this point without dealing with the cap or things like that. I think the regulatory scheme is necessary, you can't say please do a background check that's not all there is to it, they need to have more. I think we should defer this one more week as the mayor indicated and come back with a revised ordinance that would have the background check and the permitting scheme that we would have in place.

>> Councilmember Oliverio: Then carve out the things that you've noticed that were controversial and bring bam something regulatory that would pass and have the management of the situation.

>> City Attorney Doyle: I will do the best I can but we can come back next week with something.

>> Mayor Reed: Councilmember Kalra. Okay. Going to table that motion withdraw that motion we're just going to defer this for a week.

>> Councilmember Oliverio: Withdraw.

>> Mayor Reed: Motion to continue the hearing for a week. Motion is to continue the hearing for a week. Can you debate on that? None. All in favor, opposed, none opposed, we'll take this up on the afternoon of the 19th. Any cards under open forum? We have open forum last thing on our agenda. Stephen Hazel still here he's gone no other cards on open forum that concludes our meeting we're adjourned.