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>> Councilmember Herrera: So we're going to call the meeting to order. And we can do roll call. So Councilmember Oliverio.

>> Councilmember Oliverio: Yes.

>> Councilmember Herrera: Councilmember Liccardo.

>> Councilmember Liccardo: Present.

>> Councilmember Herrera: And Councilmember Kalra. And I'm present. So we'll get started. This doesn't look like it's going to be a really long meeting here.

>> Councilmember Liccardo: No.

>> Councilmember Herrera: So I think we -- the first we're going to look at a review of the work plan. And I just wanted to say in terms of the work plan we're in the process now of putting together the work plan for next year. So if any of the members of this committee have any items they would like to have considered for that work plan we're going to have input on it. Talk to me after the meeting because it's going to be -- we need to get it in right away because Kim is working on a Wednesday deadline.

>> Councilmember Liccardo: Move to approve the work plan.

>> Councilmember Herrera: Are you moving to drop the scarcity of affordable housing resources?

>> Yes.

>> Councilmember Herrera: I need a second.

>> Second.

>> Councilmember Herrera: All in favor, aye, that passes. Do you have any items from the public? I don't see any items or anything. All right. So we don't have anything on consent we're going to move on to our verbal report on economic development. With Kim Walesh.

>> Kim Walesh: Good afternoon, Maryland and committee members, it's great to see you. Just going to give a quick overview of what's been happening with your economic development team on this past month. First, on business outreach retention and attraction. Broadcom is now in the permitting phase of their 200,000 square feet. They currently have 200 in San José and will be adding another 150 and our staff actually sees potential for further consolidation of Silicon Valley operations into San José in the future. Qualcomm is another firm that we're working on, major player based in San Diego, wireless Telecom player. They're in North San José where they currently have 225,000 square feet and they're adding another 100,000 square feet. And the company plans to add 300 jobs in San José which is also really great to have them growing. We also met with Polstar, which is a big French mobile telecom company. They're interested in expanding into the U.S. market and looking in San José. So a lot of activity in Telecom lately. And another biomedical device company, bam, B-a-m labs, just like C-8 medasensors, they are based in Los Gatos and looking to expand and looking into San José. And we are looking into a car dealer in the region that's look for space in San José to be closer to the market. Hopefully we'll have a good new story later this summer. We continue to promote the foreign trade zone. It's interesting, we talked about right speed last month, so right speed is interested in establishing a foreign trade zone, which is great. And then on June 14th you'll see that we're bringing a foreign trade zone application forward for Tesla. So even though Tesla is based in Palo Alto, we administer the foreign trade zone, and we get fees off of their application and annual fees and of course helping Tesla is good for the clean tech sector in the region. We all continue to work on the urban markets project. Active leasing is now taking place. There's four tenants that are going through the process. And anticipate soft opening for the initial round of tenants in the third quarter of this year. So alt very committed to making that happen. On the workforce front right now, Work2Future right now is hosting a job fair at Mexican Heritage Plaza for youth, which as you know is really important to get our youth into jobs and we had sold out at 16 employers looking to hire our youth. For small business, we want to give you a heads-up on a new

initiative as actually being developed by Work2Future called shop San José. And it is a way to do partnerships with major social media companies like Facebook, linked in group, Google, living social, to drive awareness of retailers in San José. So been working on this in an incubation mode right now. And want to put on your calendars, June 23rd, in the rotunda, in the morning. We'll be hosting a social media seminar for small business. Where all of those large social media players will be there, as well as some of the smaller ones, like like list, dish crawl, Odess, innovation games, E-labs. This is being led by Jeff Ruster, and it's a really terrific partnership to do the Shop San José in a different way than putting up banners and fliers in ways traditionally it's been done. We continue to have airlines interested in touring the airport, a lot of irons in the fire. We're really hoping by the end of summer we'll have one or more of those confirmed, that's our goal. Enhancing cultural and sports amenities. Just want everybody to be aware that the FMC site where the earthquake stadium is going to be, 400,000 square feet of space is being taken down at no cost to the city. We're trying to generate revenue but we're trying to save cost. Just want to point out that saves thirty about \$2 million of demolition cost and 250,000 a year of annual maintenance we have on that building. We had a highly successful Amgen tour of California. It was just an incredible finish on top of the Sierra. I think one thing that mattered most to us was how happy our corporate partners were. Councilmember Herrera and Liccardo, I know you were there. You saw how thrilled SunPower, Silicon Valley Bank, Webcor, Applied Materials, Net App, Virgin, they were all there, that was a good event. We received word this week that San José has received a grant from the national endowment for the arts for the public art program for the Alum Rock cultural history corridor. Which is great. Those are highly highly competitive and again this grant allows us to do a web social media presence to the Alum Rock cultural history corridor, the physical part of that. And last of course the summer event season is underway. So we had a really great San José eats, the second one on May 7th. Music in the park starts next Thursday. And then next Friday night, June 3rd, the first Friday art walk is in partnership with the subzero festival. So the last thing I just wanted to point out is in addition to trying to get a lot of results and leads in the pipeline, we've really been focused on how best to organize our efforts for the next fiscal year. So on -- with OED, especially, very small staff, how do we maximize the impact? And what we are really implementing now is a project team based approach. So I just wanted you to see just so it's clear, how we're organized. You can see up there, these are the five strategic priorities for business development. And each team has a clear leader. Has a sponsor or coach, which is generally Nancy or me. And then team members. So each one of these teams is now developing a work plan for

the fiscal year, starting July 1st, that will indicate their major objectives, major outcomes and major activities. So there's five teams there and if you could go to the next slide, and then another five teams, under our initiatives that I oversee. So just wanting to be clear who's the point-person and how we're going to work together, and it's really this team based approach. So with that, that concludes my monthly report.

>> Councilmember Herrera: Thank you so much, Kim. I think it's great to hear about jobs. I think I counted at least 450 new jobs in your report and probably more than that and all the cultural events that are part of our economic development strategy and so important as we move forward and continue to be a great city, things that attract people. Amgen was incredible. One of the things I thought was really cool about Amgen is the number of people that actually told me they made their way up on Sierra road to watch it. We were proud to have that event here and folks that came in from out of town spent a lot of money here too. Do I have questions? Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, chair Lara Herrera. Is Qualcomm because they bought a Theros, a company, the Theros which is already located in San José?

>> Kim Walesh: In part.

>> Councilmember Oliverio: They have such a cool product line, they will probably be adding folks to the Atheros division of Qualcomm. And then on Broadcom, if I recall from reading stuff that they kind of headquartered in Sunnyvale downtown. How is this small office --

>> Kim Walesh: Nancy, you have been working on this. Do you want to address?

>> Nancy Kline, economic development. Councilmember, Broadcom has a presence in Sunnyvale, Santa Clara and San José. The original pitch that we went after moves to take all of it and put a million square feet in San José. Since what they did though is add 200,000 each of those cities and left the door open for future expansion and consolidation.

>> Councilmember Oliverio: Nancy in your background is that sort of bizarre versus having one central site or the three? Because they bought other companies or something or --

>> A lot of this is just expansion based on what they're doing in the marketplace. And it would be normal that they would consolidate. But they were able to stay advantage of unprecedented low lease rates. That's why they took advantage of those and expanded in place.

>> Councilmember Oliverio: As long as we got a little piece of it, that's great. They are obviously a marquee company. And then on -- I'd just like to throw my assistance, if you're doing anything with BAM labs, I have met the CEO before and happy to -- if you feel I could add value. Thank you.

>> Kim Walesh: Great, excellent. I like they companies starting in Los Gatos and moving to San José, these hot medical device startups.

>> Councilmember Herrera: Any other comments? I had a question on the shop San José. How will we be tracking that to see what impact that's going to have on sales tax dollars in San José?

>> Kim Walesh: I think that's a really valid question. We're going to be working with partners to track the number -- each one of these partners is going to be making a special offer to San José retailers. And so we'll be able to track the number of retailers participating. I think we're going to have to look at you know how do you really track what a difference this made. But we're going to have to look at industry benchmarks for that because it's always an important question for any shop, city, campaign, what's the real impact. I think because it's online and you can measure click-throughs and you can measure views it's a little bit easier than for a program that is a real world program.

>> Councilmember Liccardo: Yeah, it sounds like having that ability to follow up is a lot better than handing out bunch of coupons where you didn't get that feedback.

>> Kim Walesh: The social media partners are really excited about this because this is the first time they worked with a big city to try this kind of pilot.

>> Councilmember Liccardo: We'll be there to support it. Also I just wanted to comment on the OED, your team approach your strategic priorities and kind of looking at how do we work together, OED and RDA, I think it makes a lot of sense to have one teamworking together, RDA and OED. So and having that clear leader and bringing it together, I think that's a really good idea.

>> Kim Walesh: Yeah and I think I should say, we would be doing this work regardless of with the agency's situation of getting smaller. But we are in conversation now that we have a better sense of what the agency staffing levels look like, about how we can work together on some or all of these teams.

>> Councilmember Liccardo: I heartily support that. Okay if we don't have any more questions we'll move on to outreach on tenure changes for housing development. And is that -- okay. Joe. We have Joe Horwedel.

>> Joe Horwedel: Hi. Jackie's here from housing and Joe Horwedel from Planning, Building, and Code Enforcement. We did put forward a memo, looking at the issues of changing or notification to the community on change of tenure, and as noted in our memo, we do think that there are some challenges with the proposal. That if the committee wants to move forward with it, it is something that staff's prepared to do. But we do think it's going to take us significant time to move through the legal and operational issues of the proposal. So we put those together in our memo for the committee's consideration.

>> Councilmember Herrera: Okay, do we have -- I think Councilmember Liccardo wants to speak to this.

>> Councilmember Liccardo: Joe, thank you for the memo. I've also reviewed the memo from the City Attorney. Question about alternatives. If there's simply a council policy on tenure change, effectively would there

be any difference in terms of how it would be implemented in any way? I mean as long as developers are made aware there's a council policy and they sense some obligation to comply? Is there any problem with that?

>> Joe Horwedel: From a staff standpoint, I really don't see a difference in the operational requirements, whether it's through an ordinance or from a policy. I think the concerns that both housing and planning staff had with it were more on the reality of how it would work.

>> Councilmember Liccardo: I understand it would be difficult to implement.

>> Joe Horwedel: Are we putting forward something that a neighborhood has an expectation of being able to change something or is it purely a notification of something just to let you know this is happening and you really have no say in it.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: It's been our he experience when we have those types of policies, rules, the neighborhood still has an expectation that they can be heard and it puts work on council offices and staff to go ahead and meet with the neighborhoods to go and talk through what they do and do not have control over. So it's really what our concern was, that it was giving a false sense of decision-making or entitlement.

>> Councilmember Liccardo: Here's my concern, I'm sorry Joe, I cut you off.

>> Joe Horwedel: No, go ahead.

>> Councilmember Liccardo: We'll need to do it either way, whether we have an ordinance or not, I know it's going to happen. I'm happy to go the path of lease resistance and go with the council policy but the very minimum is going to have to be there to hear concerns of people who believe they were told one thing by the city or developer and now something else is coming. I have no problem with a policy that says explicitly in it that there is

no authority, the public or the city to change if differentiation a developer after this -- the decision of a developer after this entitlement process has worked through. I have no problem making it explicit so everybody is clear. But I think we'll have to deal with those expectations one way or another. And at least to allow developers to be aware that hey if you are going to be changing at least let's let people know. I think there's value in that and the value is for me, you know, I know you've been through every one of those meetings at the general plan task force, looking at these incredible staggering number that we're dealing with. The expectation that we have in the coming decades about the amount of density we're going to expect neighborhoods to absorb, the reduction in parking requirements that also neighborhoods are going to be very, very concerned about. Issues around affordability of the housing as well. I think we've got a lot of goals through the general plan process. And they're citywide goals that we've adopted and it's really critical that we keep the faith with neighborhoods that if we're doing something and telling them that they're going to get X, and they get Y, that at least, we've been thorough, in informing them. That's my goal.

>> Joe Horwedel: And I think that is a very good goal. And I think in some ways it goes and puts notice on the development community about how they represent something.

>> Councilmember Liccardo: Yes.

>> Joe Horwedel: Because of how staff goes through and talks about new residential development, is we try to be really clear that we can't regulate that.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: From day 1. But I think of house developers talk about new developments np in the community, talk, probably upsell ownership without fully disclosing the flexibility that is there. And so you know, I think being true to commitments to the neighborhood is important, and Councilmember Oliverio has a neighborhood group that is very agitated on that issue that felt that they were sold one thing by a developer, and got something else built.

>> Councilmember Liccardo: Yeah, I think I know that we've -- there's been mention that oh, this has only happened once or twice. I think with all the developments financing that have fallen through in the past years. I think we're going to continue to see this. Because people are going to continue to get entitlements, they are going to have financing or it doesn't go through and developers have sold their options. I think we'll see more of it. I'm perfectly happy too if the policy is very clear with developers about what they should and should not be promising up front so neighborhoods are very clear about the fact that -- that there's no certainty or assurance.

>> Councilmember Herrera: Other -- Councilmember Oliverio.

>> Councilmember Oliverio: Yes, thank you. I would keep repeating though when it comes to community, rather than push it to the council office just to be clear oftentimes our city departments bring more work upon themselves than needs to be when it can be done through the other way. With this particular matter, really, what's the issue is, is that communities feel once the development comes in they're going to get something. And what we should really look at is rescinding the current council policies that don't require affordable housing developers to pay for things like park fees. Because then you're taking the argument away from the people that don't want to see it there. If you keep this up you're going to have the constant arguments against it. Again, there isn't any reason why the people who are going to have this development shouldn't have their roads paved. We have a regulation against arterial roads that in itself creates the payments of no property tax. If we just drop those policies then we don't have to do this work and guess what? Then there will be no other argument against affordable housing in this city. They'll be on parity with market rate housing. It will just be about architecture, it will be about setbacks. It will be about parking ratios, it's affordable and I think that's what the community and I think that's why we're even looking at this is because you put in one project, it switches and then the community that planned on getting a park, isn't going to get it. And the community that planned on getting their streets paved won't get it or keep their libraries open. To Councilmember Liccardo's point, it's the least resistance point, our own policies are creating work and circle back for them. I would finally argue, finally stating one more time, drop the current policies and we'll have development going forward.

>> Councilmember Herrera: Do you have a comment?

>> The requirement to have the nobody profit be on board and the exemption there on the taxes is not a local requirement, it's actually a state provision.

>> Councilmember Oliverio: I was told the council adopted a suggestion from the housing department a while back saying, let's partner with the housing departments therefore they can qualify for more housing units and they can let the development go about further and qualify for more units.

>> I'm sorry, that's not correct.

>> Councilmember Oliverio: Can I build an affordable housing project without a nonprofit?

>> They typically have a nonprofit that partners with them. President do they choose not to have one?

>> Think they must have a nonprofit but can I check .

>> Councilmember Oliverio: I'd like clarity. In that case it was different from what I was told.

>> Sure. But the exemption I believe you're talking about is a state exemption and not a local exemption. It would have to go to the state, it's not locally controlled.

>> Councilmember Oliverio: If we have the flexibility, I'd rather have the property tax than partnering with nonprofits which exempts it by state law, true to your point but I can make that policy and just I build less units but higher quality city, that's what I want.

>> Councilmember Herrera: Okay, I think everybody's been here. I think we got a little far afield on this issue because I don't think we were sort of debating whether affordable housing was happening here. I think I want to

get us back to the issue here, with requiring developers to notify residents frequently I think residents here promises whether real or sometimes maybe they have heard some things that developers didn't say. But I think oftentimes they will hear promises made and will complain about those promises not being kept. I know I've heard of that in developments in district 8 where people were promised community centers, schools, traffic improvements, all kinds of things that never -- did not come to pass so they're very, very frustrated. This is an issue that goes beyond this particular issue with things developers present. I think Councilmember Liccardo mentioned that. I think in terms of policy that might be an area we ought to look at. I don't necessarily have the answer right here on the dais but maybe having some kind of disclosure from developers in terms of what they are saying they're going to do so that communities are not given information and leads to falsely expect things that are not going to happen. I think that's very important. I'm concerned about this turning into an ordinance just because of the kind of workload that everybody's got now. I heard Councilmember Liccardo is willing to look at a council policy. I heard it's six months and 26,000 to do that and I know we have a long list of ordinances, fine ordinance I think we're still work on. Medical marijuana is up there, habitat conservation plan. did you want to comment on that? goop there willen it is easier to do a policy than an ordinance but it's still of just getting a policy adopted, about it, I've still got to do outreach out to the development industry, community, about what it is that's coming forward. So it's -- it may be that it's 75% of the effort or 50% of the effort but it's not 3% of the effort.

>> Councilmember Herrera: I'm not certain, I think there should be a policy developed around this whole one issue but around what developers are disclosing as an issue. I do know that staff is really occupied with a lot of different issues right now and I really hate to add one more onto the plate. But I'm happy to hear what my colleagues 30 about it.

>> Councilmember Liccardo: Could I inquire a little further? Joe, I know you routinely meet with the development round table over chamber and you have pretty routine meetings with developers around standard issues for housing and planning issues. I guess I'm suggesting, by that statement, that if we're drafting a council statement and you're meeting with these folks anyway, is there a significantly greater workload if you just happen to include

this on the agenda, and you know, pass a draft around, let folks comment on it, and just like you'd normally do without commenting on anything internally, are you adding that much to your workload?

>> Joe Horwedel: It wouldn't be anything substantially on that piece of it but it would be what I'd be putting forward in front of them, is it literally a two-line policy that whatever you say to the neighborhood you're held accountable to or most of our council policies have implementation built into it of how that actually works. That's where everybody goes in and argues. That's the part I'm trying to gauge.

>> Councilmember Liccardo: We've been on this issue for two and a half years since I raised it and there have been enough staff memos and work done just to get to this point. Honestly we could draft two or three paragraphs, I'd be happy to propose something from our council staffer and you guys could chop it up deed it however from your like. Given all the work that's gone into this point, I can't imagine there's a lot of thinking to be done. I know it's been dissected three different ways from attorneys, planning staff and so forth. It would just surprise me to know there's a lot more thinking that needs to be done.

>> Joe Horwedel: So it's -- willing to go through and work through something. It's just it's a part of what is the scope of it. Not -- you know what I have had to work with thus far is, encompassing. If it's literally a two-line memo or policy, that says what you tell the neighborhood is, what the law of the land is, that's much simpler. So I was just of -- kind of -- that's what I'm trying to get a gauge is when I have things that I've got to go through and do notifications and out, then the policy goes into, so when somebody complains what do you do with it? That goes into normal council policy.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: So I just --

>> Councilmember Liccardo: Well legally you can't bind them to their commitments to neighborhoods, that's what I seem to be hearing is that fair to say?

>> Joe Horwedel: No.

>> Councilmember Liccardo: That approach isn't in the mix. What seems to be pretty broadly discussed is what is in the analysis section here, which I think will be covered in a couple of paragraphs. Which basically says, if you say one thing and do another, at least let people know what you're doing.

>> Joe Horwedel: Right.

>> Councilmember Liccardo: That's what we've been saying for the past couple of years, can we come up with a policy that tells developers, tell folks what you're doing if you change your mind.

>> Kim Walesh: And you're saying you're also comfortable if we don't go into our usual detail about implement requirements and steps to keep it on the front end what the policy is?

>> Councilmember Liccardo: Yeah. I assume that if there's some mefng with which the attorney is comfortable, that says to developers we'll hold you accountable to either do what you say you do or let people know otherwise, I just don't see that being tearably onerous.

>> One of the things a distinction between a policy and an ordinance, I think one of the policies for an ordinance, ordinance is allowed, because it is a regulatory function it allows to have a city policy is a little different. A policy is an expectation of what the council would expect from developers. But wouldn't ordinarily have a consequence to it. It can but I think that's going to be the issue if you want tofully Vieted out policy, you have to go through what the expectation is, what the implementation is and what the potential conventions are if you don't. If the council expects you to live by the development proposal and that you should not be making modifications without promptly notifying them. It's simply an expectation in the policy matter that I think you can pick up.

>> Councilmember Liccardo: I don't think we need criminal penalties here but something that says we won't give you the building permit until you at least comply with the council policy.

>> Joe Horwedel: See I can't do that. The development permit is neutral on the type of ownership for rental. That's the fundamental thing, what I come back to. At the end of the day, when somebody does not do what they said they were going to do, how does the city respond to that? Whether that's an ordinance or policy, we need to have that thought through. Because that's what happens in my permit center and then, the people are yelling at your office because we didn't issue a permit. Because we're off seeking what should hatch or not happen that's what happens on a daily basis. I'm trying to not have that train wreck happen when somebody as got their money tied up outreach which we haven't described what it looks like. That's why I think it is you know it may not be 100% of the time in here but I think it's at least 50% of the time to go story board, kinds of flow-chart that out and say here's what that looks like and then I go talk to the development industry and the community say here's kinds of our contract between both of you. Of how we will react with these situations. I think that's going to be important to adopt that policy. Because I don't think if we're clear about what our expectations are if you don't do it, it's really a hollow policy.

>> And as demonstrated by 360 that conversion could occur at time of occupancy way after building permit. So I understand council's concern about staff trying to be ahead of it but often especially when it's flipping in a market rate situation we have no way of knowing when that's going to occur because we're not engaged or involved in that deal.

>> Councilmember Liccardo: Right. But if the responsibility is placed on the developer to notify --

>> Joe Horwedel: Yeah so I'm okay with the concept.

>> Councilmember Liccardo: We don't need to be chasing developers down.

>> Joe Horwedel: No I think the tack you were taking councilmember is an appropriate one. It's policy based, puts the own onus on the developer, and here's what you need to do. I don't think it needs to be hundreds of hours arounds it but I think we need to be clear about what that is. So at the end of the day, I've got to have six councilmembers to say they are willing to live with that consequence.

>> Councilmember Liccardo: Okay. I appreciate that there are challenges in terms of holding building permits up and I also recognize that threr going to be challenges in other ements implementation measures. I think having a council policy and having it articulated in some way to developers and reference of that policy somewhere in materials that developers are provided as a routine basis when they're seeking approvals from the city would certainly be helpful and would certainly at least give neighborhoods some assurance that they know when the rules of the game have changed. So I'd make a motion that we would simply implement a council policy that would reflect the council direct from the last several memos and obviously to the extent that we cannot implement significant enforcement, I understand that. You'll draw the line I'm confident at the place you feel you're confident drawing the line.

>> Councilmember Liccardo, can I ask, are we talking about something that would involve infractions or are we talking about something that's more like --

>> Councilmember Liccardo: No understand you need more than infraction.

>> More than two things discussed in the alternatives?

>> Councilmember Herrera: Policy --

>> Joe Horwedel: It's pure policy.

>> Councilmember Liccardo: It is an ordinance. I understand we create can't we've got a lot of challenging development goals in the city if we're going to try to meet all our environmental and economic objectives and

fiscal oivetsd in development and we can't meet them if we don't have the trust of the community. That's what I believe is the strong compelling interest is here.

>> Councilmember Herrera: Councilmember Oliverio.

>> Councilmember Oliverio: Joe, on a development when we put something specifically in the project that this will be provided, let's say it's seven benches and 19 trees, okay and the developer chooses not to put that in, what is the are regulatory to make sure it gets done?

>> Joe Horwedel: If it is in the development permit, I have enforcement through the building permit as well as if it's post-construction, through code enforcement that I can cite them on that. We typically put in those to the satisfaction of the director of transportation, Planning director or whatever, recognizing that for something, seven benches is too precise for zoning but that benches should be provided, we would put that standard in. So that's part of it is we try with PD zonings we would say attached residential, as opposed to its ownership or rental. At the development permit stage we jeanlt are going to know because how we subquite the land, as a clue whether it's a condo or just an apartment map. That does not preclude them from coming in later for a map. So that part of it is I'm trying to make sure of how we regulate it, matches up with how we zoning planning development level versus zoning subdivision level.

>> Councilmember Oliverio: Suffice to say that verbal promises to a developer, to a surrounding community's residents should be something written into the development agreement?

>> Joe Horwedel: If it is something that the city can on should be regulate being. And this is the project that was in your community, there were assurances by the developer allegedly made that there were certain things that were outs of the scope of what the city should regulate that the developer was telling to the community that really belongs more in some sort of agreement with the naked itself.

>> Councilmember Oliverio: I often sometimes feel on the depictions from the developers and when they're built they are actually always missing the children with balloons that are walking in front of the complex constantly. That's a shocker. Shasta can I, as a councilmember when I understand a development is changing can I simply without a council policy just notify the residents that for example, what was approved in the market rate projects is now going affordable, therefore, these things that would have come from that will be gone, and I'm letting you know as a courtesy, to just let you know that. Can I do that as a councilmember for the community that's surrounding the project?

>> So acting on behalf of the city?

>> Councilmember Oliverio: Acting on behalf of myself to inform my residents.

>> I think that you know acting as yourself you're of course free to exercise your rights. But when you go to interact with things that interact with fair housing law, and your con plan and the various protections that are inherent in state law, it gets a little bit complicated.

>> Councilmember Oliverio: Okay.

>> So when you act for yourself and when developers do things voluntarily, without the city interfering, then we're much less likely to have problems.

>> Councilmember Oliverio: Let me give you a specific then. So project, neighborhood, park plan. Has a -- dependent on park fees completing the park. Project is approved. Switches from market rate to affordable, will not be paying the same amount of fees. That park will not be completed as everyone had expected. Do I have a right as a councilmember to let those surrounding residents know that by the way since this project changed that the fees will not cover the park project you had expected, just a simple analogy there. I'm not talking about -- I don't believe I'm talking about fair housing. I'm simply talking about the fees from the project won't cover the park.

>> Councilmember, if you're simply informing the public as to the factual nature of the charges, that's when you can mention the charges. If you go into, by the way, we're having an affordable housing project come in, that's the area where a residents that the project is now changed and as a result of the change there won't be any -- that the funding for the park would be lessen, programs that factual statement.

>> Councilmember Oliverio: In the factual statement you would have to use the words, affordable housing once in that paragraph.

>> The question is again, cps nature of housing, then you do that wide having to promote the fact thaiftsz an affordable housing project.

>> Councilmember Oliverio: Okay because I had been under the impression based on something I had read that I was supposed to wait and not talk about these things to the public but clarification I'm happy that in the sheer fact I can let the subsequent know the fees aren't coming in to cover the park.

>> You have to be careful with the way you promote the --

>> Councilmember Oliverio: I will run it by you, but you're actually telling me that I can factually say there's a difference in the fees.

>> Councilmember Herrera: Other comments?

>> Councilmember Liccardo: One last question. I'm very sorry. Can we actually require in our ordinance simply if there's a material misrepresentation that there's an infraction for that and if there's some city penalty? I understand that's different from the are situation where they change tenure or whatever. Often cases. But at least can we require in our own ordinance that developers fee helps with regard to any material representation about the faculty that we knew were untrue at the time of the --

>> The Shasta has looked into this a little more than I have. But information that's provided, if it's something to do with the subdivision and map act, or subdivision and zoning, the response is you're not going to get the project you want, the proposer said land use, we had to come up with another way of dealing with the fact that they weren't providing the courtesy notice and the way we had decided to deal with the infraction or --

>> Joe Horwedel: Let me take a different crack at it, kind of the practical world. Twofold. One is and you've heard me say this at council meetings. You shouldn't be making a decision because of the picture with the kids holding the balloons. It will never look that like that.

>> Councilmember Liccardo: We appreciate that. Jfer the way the developer characterizes the development, the way it comes out of the ground. The one place we do have some maneuvering room is any time we have a project that asks for statement of overriding considerations, because when we make statements of overriding considerations for environmental impacts there are a number of factors, findings made about what that project will do and what I have seen is that a lot of those things that are fluffy and laudatory, the kids with balloons are used as the grounds of overriding significant impacts. And one of the things we needs to be careful about whether we do make those findings override. I think again, we also need to make sure that when a project is not achieve in this statement of overriding cierges, we have adequate enforcement tools not building your project or significant cost to your project because you promised made these statements of X of how we go through and connect that back and that is one of the things we're looking at with the mission monitoring reporting effort is how to go through and in fact make sure that all those things that people say they're going to do they are in fact doing it. These are probably more into the nuanced nuisance issues versus traffic impact but I think there is a little room in that end where if developer made certain representations and used the EIR to override places you said you didn't do this and now you're going to have to deal with this bigger cost around that.

>> Councilmember Liccardo: Right and I know we've had this problem before and we discussed it seral places. Ecopasss were promised and not delivered and we've got no means of enforcing it. I'd love to have an ordinance that says it's an infraction and that actually means something but --

>> Joe Horwedel: So we're trying to get past the feel good measures that people will go ahead and say, we'll make best efforts for TDF, one thing they really like doing. One thing at the end of the day they put a bus stop that you can't get to. So we're trying to get back, as part of the update to the general plan, make sure we have good measurable outcomes, that are coming out of the environmental process and I think as you noted that we are going to have to I think have a better means of providing assurances to the community about the development that is not going to be right in the middle of their neighborhoods but really proximate, what we're building is what we've promised and that we're really there for the duration that I think is a good neighbor. I think that's something that we need to work on more as a city, it's just how do we get there.

>> Councilmember Liccardo: Thanks Joe.

>> Councilmember Herrera: I think we're talking about a policy, not an ordinance. The motion is for policy. So Joe tell me, given the motion, what kind of impact that would be on staff time?

>> Joe Horwedel: Well it certainly has impact on time. It's one that as you just heard me say, I think it's something that we're going to need to do. So the fact that the motion doesn't have a time frame that says you need to do it in 90 days, gives me more room to kind of work within what we're working on, and do the prioritization. I think we're coming back to council on doing another prioritization exercise to -- that it is kind of refines what we did last time. But you know it's not one that I can commit to and says I'm going to put it at the top of the pile but it's one that I think we need to do.

>> Councilmember Herrera: And I'd be okay-d and I'm more likely to vote yes on this if I think there's not going to be a time demand that this take precedence over other thaidges we have that have been given certain priorities. The thing I'm also concerned about is that if we have this policy and there isn't any kind of repercussion or result you know from somebody violating it I'm afraid the residents are going know to feel frustrated. Because you know I think we don't want to create something that's confusing or pointless. You know where they think they had some expectation that something's going to be done and it's not going to be done. So I think that's another problem because there's already frustration. We don't want to be adding to that. I guess from staff before -- and I

think we have a member of the public that wants to speak on it too, what's the least impactful solution to the staff had some ideas to it right? What is a way to get to this notification and community knows about these changes? Is there anything less than a policy or I guess you're saying you think there needs to be a policy but just can you enlighten us on that?

>> Joe Horwedel: Well if we're going to do something on this starting with a policy is bernlg crafting an ordinance. It does have a little more flexibility about how to implement it. I think it does need to have is what the implementation mechanism and consequence of how we would deal with nonperformance in the policy. I think that's going to be the critical part to have the confidence of the community and that clarity about how we'll deal with this. I 30 we do need to have some thought around is this something that's going to run out of staff or is it -- how is it -- what's the role of the council offices in it. So as a part of drafting that into the policy I think we need to you know just bring clarity to. I don't know what that answer is today. I know -- I don't think we're set up to go through and do another you know round of community meetings around projects, at this moment. If it is just male notice, that's what I want to kind of think through, we've laid out what we thought was a basic process, one I could go and price out to implement with someone. But I don't know if that's the way, cheapest way or achieve objectives. That's why I would go talk with community, talk with development and neighborhood community to say does this achieve the objective and does it do it in a cost-effective manner that is not staff burdensome doesn't give false expectation. So that's why I think it's going to take some time to work through it even if we thought it's all right, it's priority, I would still want about six months to kinds of work that through. So it's going to put people up and come back to it, I think it's going to be a challenging.

>> Councilmember Herrera: Sounds like it's needed but it doesn't sound to be a number one priority.

>> Joe Horwedel: It wouldn't be my recommendation of highest priority. But I do policy work based on my policy leaders. So I follow you --

>> Councilmember Herrera: When you talk about delaying permits being issued, that's a concern too, that we wouldn't inadvertently create an unintended consequence because of this.

>> Joe Horwedel: Councilmember Liccardo is correct, if we're clear about our expectations, you don't have the complaint. You take that complaint off the table because that developer made a conscious decision to do something, fully aware of what the consequences were. If the permit got held up the permit got held up because they made a decision and didn't do it right.

>> Councilmember Herrera: Any other comments? We'll take public comment, David Wall.

>> David Wall: First off I think you might consider since you have no money, pictured for any services, why don't you put development projects on the ballot? That way you could sell them and raise some money for services that they don't have. Plus you'd raise money for the unfunded services from Planning, Building, and Code Enforcement and the attorneys since they're operating on vapors as it is. What's not talked about is this is an old variation of the old blockbuster routines. It happened in the '60s mainly on the East Coast. What we're not talking about, what I worry about is to have one of your hair brained nonsensical affordable living housing projects in my neighborhood. Destroying my property values. So I can't like sell my house and escape from slum San José. All right because that's what we're looking at. The old block buster statutes, this is a variation of them because you're bringing in an entity that is going to destroy a neighborhood or could destroy a neighborhood and the noticing requirements to residential property owners are saying hey, we're going to bring in these affordable housing projects that's probably going to have convicted felons in them all sorts of people that wouldn't be able to live in your neighborhood but for our hair brained policy that goes down with these type of residential structures. And I think this failure to slow to residents that slums are coming into your neighborhoods such as cornerstone, which is basically about two weeks away from being open. I was out there today. Looks like it could open any day. But it's this mindset of just passing it off, for economic development. Just housing doesn't pay, it's going to cost you a ton of money that you don't have. So how can people have confidence in their government leaders, when you consistently pull this type of routine? I have no confidence in you. I mean I like you as people, but no confidence in your decisions.

>> Councilmember Herrera: Okay. I think council is through with discussion. We have a motion on the floor. All those in favor? Opposed, motion passes.

>> Chair Herrera, if I could clarify a question that Councilmember Oliverio had with regard to the nonprofit, I was just speaking to the staff here, developers have nonprofits in order to get property tax exemptions, you're correct. State law allows for an entity that has a nonprofit that owns a certain percentage of it to be able to have a property tax exemption. In many cases in order for a project to work, to pencil out, you need to include the property tax exemption in order for it to work out. It's not required that you have one in, but it helps because property taxes are sometimes a significant impact on the project itself. So that's why in many of the cases where the affordability housing project is moving forward, you will have a nonprofit in there. And many times, when they come to the housing department, they ask about ways to try to deal with a lot of the funding issues. And one of the proposals is, have you thought of having a nonprofit? So it's not a requirement. But it helps the project out. And as Jackie said it is a state law that allows for that exemption to occur if you have a nonprofit as part of your development.

>> Councilmember Oliverio: Thank you for the further clarification. And certainly it's a choice even looking at locally here Larry Stone our council assessor is involved in affordable housing. When he does it with another city, he doesn't do it with a nonprofit. But when he does it here least told he should. In the Mercury News that's where we're involved with a choice.

>> Councilmember Herrera: Okay, we're at open forum, David Wall.

>> David Wall: San José does get an A at least in my purview, Mayor Reed's law journal, the article he put on for tomorrow's agenda, outstanding work he's doing. This is the first time I've seen something like that. We're talking about back to the 1980s, I don't know if it's ever been done before. What's interesting is when you claim a fiscal emergency, you can't really have a lot of assets hanging arounds and that's what you get from some of the language in here. Such as, you can't poor-mouth to the public saying we can't have police officers when tomorrow you're going to vote yes on the Mexican heritage plaza okay and all that money out of the General Fund. In other

words when you have fixed assets that can you sell and get rid of, Hayes mansion, Mexican heritage plaza, the golf courses, who knows what else that you've got floating around here, your parks. Get rid of them. Can't maintain them, they're liabilities. And furthermore, the type of city that you're going to create really doesn't -- isn't going to have those amenities anyway because you can't afford them. And you're not going to have the people with the intellect and experience to run your organization. Because you're losing people at an alarming rate. But this is one of the grates things I've seen of any mayor. I've never seen it before and that's why I want to bring it to your attention. But the City of San José is on a down ward apogee, it's on its way spiraling down, because of decisions made before me, sit before me and other people on the 18th floor. You have a lot of assets can you get rid of. You can't maintain the state of the government with community centers and what have you when you have no money. But you're trying to, on the backs of employees retirees and what have you. And that's sending a message to businesses if you stick the knife into your employees you stick it into the meetings.

>> Councilmember Herrera: Thank you, David, that's the ends of your time and our meeting is adjourned.