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>> Mayor Reed: Good morning. We can get started with the labor update which is the first item on our agenda today. We will do that and then adjourn into closed session. Return back in here at 1:30 with the rest of the open session agenda. Start by turning it over to Alex Gurza and his staff.

>> Gina Donnelly: Good morning, mayor and city council, Gina Donnelly office of employee relations deputy director. And a reminder to everyone that all the documents we will be discussing this morning are available on the employee relations Website and may be accessed on line. We'll start off our update this morning with the two groups that we have achieved agreements on a framework for negotiations over both retirement reform and the related ballot measures. The city met with POA and local 230 on Tuesday, August 30th and Wednesday, August 31st and we did receive a proposal for an opt-in program from local 230. That proposal is contained in the informational memo that is in front of you as well part of that packet. On Friday September 9th the city provided both the POA and local 230 with revised draft ballot measures and our next meeting is scheduled for this afternoon. The city did meet with AEA CAMP and Amsp on Friday, September 9th. During that meeting the city provided them with the revised draft of the ballot measure, as well. And on to retirement reform negotiations. On September 7th we met with the group of five unions who have referred to themselves as the nonmanagement coalition and provided another proposal for ground rules. We will be meeting with them again at the end of this month. And for ballot measure negotiation on Friday September 9th the groups that we did not have meetings with we did also provide a revised draft of the proposed ballot measure via correspondence. Two bargaining units have responded this far. We have received an information request from ALP, the attorneys union, related to the revised ballot measure, and ABMEI, the building inspectors union, requested to schedule a meeting which will take place September 22nd. And since we have been negotiating with all the city's bargaining units over retirement reform for quite some time, we wanted to conclude this morning's presentation with a summary of the proposals that we have received from the various bargaining units to date. This chart, along with all of the proposals, were distributed to you yesterday as an info memo and is included in the packets of documents before you this morning. As you can see from the chart above, while we have not received any proposals for changes to current employee retirement benefits, pension or retiree health care, we have received proposals for future employee retirement benefits from all but two unions. We also have received proposals for a voluntary opt-in program from some unions and received a tentative agreement with five different bargaining units to eliminate

SRBR, also known as the 13th check. And we have not received any proposals regarding either the previous or the revised draft ballot measure that was distributed on Friday. And that concludes our presentation this morning.

>> Mayor Reed: Thank you. I have no requests to speak. So we're going to adjourn into closed session to finish closed session agenda.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order. For September 13th, 2011. We'll start with the invocation. Councilmember Herrera will introduce our invocator.

>> Councilmember Herrera: Thank you, mayor. I'm very honored today to have present for invocation the venerable master Thich Chung min. Returning to Vietnam. In 1975, he left for the eastern United States, and the venerable master settled in San José in 1998 where he has served as a leader in the Buddhist community since that time. Located in district 8.8 for the past 12 years. Recently I had the opportunity to visit such a beautiful place in our district. The venerable master will explain his prayer in English before delivering it in Vietnamese. His prayer is a call for wisdom and compassion and a commitment for the quality of life for all people in San José. With that I would like to ask the venerable master Thich Chon Minh to deliver the invocation.

>> Thank you. Honorable mayor councilmembers of San José. On behalf of the Quan the Buddhist temple, I wish to extend this opportunity to the law of this gathering. as presence of this noble City of San José people, you have a crisp responsibility. May you carry out those duty which we have clear mind, and firm reason to deliver the quality of life of all of its inhabitants. The Buddhist spoke of the compassionate powerful life, that deal with the earth inheriting everyone. This season be wisdom. Inside in compassion and to lead to the higher cross community happiness as possible. Let us pray in harmony as we to contribute to conclude by concluding the Buddha. [Vietnamese] thank you.

>> Mayor Reed: Thank you, and thank you for joining us. Appreciate the invocation. We'll now do the pledge of allegiance. Please stand. [pledge of allegiance] Next item are orders of the day. Request to defer 2.3 A and F. any other requests for changes? I have a motion to approve the orders of the day. Councilmember Rocha.

>> Councilmember Rocha: Any direction with Councilmember Liccardo not here on his item?

>> Mayor Reed: Take it up under the consent calendar I think.

>> Councilmember Rocha: Thought that's what you were doing.

>> Mayor Reed: Motion to approve the orders of the day, all in favor, opposed, none opposed, that's approved, closed session report City Manager is going to start that.

>> City Manager Figone: Thank you, Mr. Mayor members of the council it is indeed my pleasure to announce that the city council has confirmed my appointment of Dave Sykes as the City of San José's director of Public Works. [applause] Just a few things about Dave. He is a 24 year veteran of the Department of Public Works. He is very well trained registered civil engineer and did begin his career as a trainee. Over those years he has played many different roles including reengineering the department's development review process. He was appointed in 2002 as assistant to the City Manager leading a new CIP action team in the City Manager's office which you know was instrumental in overseeing the delivery of our projects during the decade of investment and in 2003, was appointed assistant director with the responsibility for overseeing day-to-day operations. And during this period, he was instrumental in assisting the department to deliver some \$700million worth of new parks and facilities as acting director he led the department through a very successful consolidation with his team, consolidating his to recap what I saw in Dave clearly his experience is very, very deep and very well rounded. He's an outstanding leader and I think very importantly among all things that he is, is he has a deep caring for our city. He's deeply committed to the mayor and council, the residents, and our organization. Today Dave is joined by his wife Elizabeth, his daughter Courtney who is 13, his son Nicholas who is 10 and his mother Jean and we all know how important our families are to our success. Again please join me in welcoming Dave as our director of Public Works. [applause]

>> Thanks Deb. First I'd like to start off by thanking the mayor and the council for approving my appointment. The support you've shown has been fantastic. And really important to me, as I've been leading this department, and very encouraging. It's a big day for me personally. I grew up in San José. I went to school here. Went to college here' and have a lot invested in this community and to be asked to lead this department is very rewarding and truly an honor. I'll be honest with you when I started with the city 24 years ago at the bottom of the organization I really didn't think about becoming the director of Public Works. But over time you realize what a special place this is to work. And you start to realize that we can really make a difference by working here. And so that's really

what's driven me over the years. You don't get to a position like this by yourself, though, so I want to thank some people. First I want to start off by thanking Deb and Ed for their leadership for picking me for the position, their support has been really important to me and encouraging. Certainly the support that I've received from various industry leaders has been great. My leadership team, I really can't say enough about you guys. I enjoy working with you, and I really couldn't be successful without you. And the department wouldn't be successful without you guys. I want to thank the Department of Public Works. The support I received from our staff has just been inspirational, we have a great department because of the staff in the department and we are so very lucky to have employees like the employees that we have. There are a few people that have made a difference in my professional career. And I just want to kind of mention some of them. These are all former city employees. First off Manuel Rocha for introducing me to civil engineering and introducing me to the city as an employer. I probably wouldn't be here if it weren't for him. Jim Tanner, Terry Roberts for mentoring me and Katy Allen for taking a chance on me and giving me a shot. Last I'd like to thank and not least is my family. My dad couldn't be here because he's overseas. But my mom and my wife Elizabeth, Courtney and Nicholas I really appreciate your love and support. The fact is I love my job. And that's because this is a great place to work. And I'm so really proud to be a city employee and to work here. The work that we do is so important. And it is so rewarding. And the people that we work with are just top-notch so I couldn't imagine working anywhere else. And I know we have big challenges ahead but our community is counting on us. And I have high expectations that if we work together we can get through these tough times. So in conclusion, thank you for this opportunity. I'm so very happy to be here. And I promise I won't let you down. Thank you. [applause]

>> Mayor Reed: Anything else to report out of closed session?

>> City Attorney Doyle: Yes, Mr. Mayor. The council did meet today but I want to report out a case that has finally we have finally concluded the settlement. De la Rosa Fong et al. versus the city. It is a claim for defamation and the city to pay \$35,000.

>> Mayor Reed: We'll now move to the ceremonial items. I'd like to start by inviting Councilmember Campos and the Mexican consul general to join me at the podium. September 16th is Mexican Independence Day, so we're

here today to offer a proclamation. Naming that day as important day in the City of San José and Councilmember Campos has some of the details of what's going to be going on.

>> Councilmember Campos: On this day, Tuesday, September 13th, the City of San José celebrates Mexican Independence Day. I want to thank everyone here today who joined us in the special flag raising ceremony today to honor the anniversary of Mexico's freedom from colonial rule and the valuable contributions of Mexican Americans to our diverse city. September 16th, 2011 will be its 201st anniversary. The Mexican rebellion began in 1810 with the ringing of the church bells by father Miguel Castillo el Grito Del Dolores was the triggering war cry that eventually led to Mexico's independence the 16th is considered to be Mexico's most important national holiday and offers an opportunity for all Mexicans and their families there all over the world to remember this historic day. The City of San José will like to honor Mexican independence, by recognizing Mexico, and the Mexican consul at for the valuable contributions made by Mexicans and Mexican Americans in the city of San José. With that said, I would like -- I would like now for the mayor to present this proclamation to consul general Carlos Ponce for his extraordinary work and commitment to the Mexican people. And I will also invite the consul general to say a few words.

>> Thank you, thank you very much, thank you for the mayor and the councilmembers. It is an honor for me to be here, in the name of the Mexican government, to say thank you for the support, for the Mexican community. I'm going to say thank you too, for the words that the mayor say this morning for the Mexican community also. It is very important for us, work together, and walk hand with hand, shoulder to shoulder, to be a better community day to day. Mexico is a nation to work every day to be better to grow, and that is going to be possible only if work together. And the border, it is a very thin line between Mexico and the states. So I say thank you again. In the name of the Mexican government. Muchas Gracias.

>> Mayor Reed: Let me add a little bit of what I did say at the flag raising just to acknowledge the fact that the Mexican Independence Day is a little different, a lot different from the that we celebrate of other countries. It is our Independence Day as well and Mexicans founded the City of San José, in 1777, they were traveling on money provided by the king of Spain but it was Mexicans who did the work, Mexicans who took the risk and 2005% of the

population of the city of San José is of Mexican ancestry. We are very proud of our Mexican Americans and our Mexicans who have done so much for the City of San José. We are happy to celebrate that day. Thank you, consul general for being here. [applause]

>> Mayor Reed: Now I'd like to invite Kerrie Romanow and Hans Larsen city employees to come down and talk about alternative commute to work efforts as we recognize San José's participation in the great race for clean air during the month of September and October. Bay Area air quality management district is trying to figure out who the best employers are for encouraging their employees alternative ways to get to work. I'm going to let Hans and Kerrie give us the details.

>> Thank you. During the month of September and October encourage all of you to sign up and participate in that. I know Hans and I both are. A recent survey shows that 20% of city employees live within five miles of work and almost 70% live within 20 miles of work. With our great public transit options there's lots of ways that we can participate in this race and there is use commute alternatives throughout the year. A recent study from NASA shows that the transportation sector is the world's biggest contributor to sphere atmospheric pes includes the Bay Area in the transportation sector, one -- I'm sorry, every mile not driven saves a pound of CO2 emissions. I've committed to riding my bike several times during this month and also carpooling and I'm hopeful that all of you will join me in that experience.

>> Hans Larsen: Thank you, Mr. Mayor, thorning, Kerrie. While we're admitting to our commitment to road my bike to work yesterday and I took the VTA bus today. From my perspective as the director of transportation the great race for clean air also helps encourage less traffic congestion and a more livable San José, today and into the future. Speaking of the future just last night the City's general plan task force completed their work on a new proposed vision for San José, for the year 2040. That plan includes policy goals to shift more travel to transit walking or biking by 40% by the year 2040. And we can start encouraging this travel mode shift today, by encouraging our city organization to lead by example for the San José community and the entire Bay Area. Mr. Mayor, members of the council, thank you for this proclamation encouraging us to participate in the great race for clean air. The great race for sustainable transportation and the freight race for a better San José. And as a

footnote, I do want to acknowledge the great work of the city employees green team. The green team is an energetic group of organization to lead by example in promoting and implementing San José's Green Vision. Participation in the great race for clean air is one of the many ideas generated by the city employees green team and we thank them for their enthusiasm and great ideas. Again, mayor, council, thank you very much.

>> Mayor Reed: Now I'd like to are join Councilmember Herrera and Michelle Idradas to the podium oop pes environment squared. Councilmember Herrera has the details .

>> Councilmember Herrera: Thank you, mayor. We have a few members from Watkins Way here. And was just mentioned in the previous commendation we have a Green Vision in San José thanks to our mayor's leadership with ten goals. And a vision is important but also, having the community adopt the vision is really important. And so I thought it was very critical to acknowledge Watkins way neighbors here because they are really part of an early adoption program and helping implement the goals by some of the work they've been doing. And I want to highlight that today. So we have Nicole Adras here and Laurie Harris height, Dave Stewart, Lois Stewart Jim Augustus and Jim Cameron from workforce institute. We are presenting them with a commendation today, because they are leading a community wide effort to in doing so help promote a greener local economy in Evergreen and in San José. So on August 2nd the organizers of the Watkins Way National Night Out in district 8 use that event to kick off their neighbors participation in project 500 squared campaign. This is an nirve going Evergreen another local group in district ave and other community groups in my goal to meet assessments in homes and businesses within 500 days and the program started on May 26th. And the ideas is that these efforts can stimulate local demands to upgrades to insulation appliances and lighting that will boost green tech in the as well. The residents of Watkins Way are playing their part in meeting the City's Green Vision goal 1 to create 25,000 green tech jobs and the City's Green Vision goal 2 to reduce energy use by 50%. On August 2nd the organizers of Watkins way invited speakers from a variety of organizations including care Cohen and mike Alvarado of going Evergreen to talk about ways to lower their energy bills improve their environment and how to encourage their friends and neighbors to get involved. This was a great event. It was inspiring to see our ordinary neighbors and everyone in the community getting involved in this grass roots effort. As Nicole pointed out people

were so focused on these speakers that you could hear a pin drive. Thank you civic entrepreneurship and for helping our City's green tech job goals and energy reduction targets and with that I would like to ask the mayor to present Nicole and Laurie with a commendation and Nicole will say a few words.

>> Thank you very much, Councilmember Herrera and Mayor Reed. It's an honor to be here representing my neighbors. My passion for community and energy started about a decade ago. Back then, my neighbors were strangers. And the company I worked for, Epri, was struggling. The industry that I'm now in concentrator solar didn't exist and I was in the guarded first stages of a relationship with a guy named Jim. Ten years have flown by, my neighbors are not only friends, but we all have enormous amount of fun together. I work -- Epri's thriving. I work for the leading solar concentrator and I married that guy Jim which is a reality better than my dreams and this is my husband, Jim. But beyond the role of serving by day in solar and by night creating relationships and binding those relationships, the primary role I see is being a civil intrur. And there are many of us here. There are many on my street and we are collaborators who see -- who see new economic possibilities, and see the importance of forging strong relationships between business, government, and the civil sector. We see unprecedented regional opportunity in energy. We see it in energy efficiency, and we see it particularly in smart grids. We share pragmatic vision of solving our two biggest problems: Unemployment and climate change or put another way, the economy and energy security, with the same solution, green collar jobs. This year's National Night Out was the kickoff of much more to come. The future that we envision includes what green represents. Regeneration, devotion, lushness, the happiness of hitting every green light on your drive home. We see the color of money. And we see prosperity. I'm very excited about the future. Thank you. [applause]

>> Mayor Reed: Next item is the consent calendar. We have a couple of requests to speak on the consent calendar. Mr. Wall, you wanted to speak on item 2.3. And 2.18, I believe 2.18 is going to be pulled off for a separate action Mr. Wall so you can hold your comments on that one. Councilmember Herrera.

>> Councilmember Herrera: 2.12.

>> Mayor Reed: Okay.

>> Mayor Reed: Mr. Wall, I'm sorry.

>> David Wall: Quite all right. Good afternoon, everybody. On the Public Safety, Finance and Strategic Support report, recyclable thefts could be stopped if you just found a way to suppress the theft of shopping carts. It was never a police matter anyway but these people they come in with shopping carts to the neighborhoods create all sorts of havoc. With reference to all of the other committees, I would like to mention that Councilmember Rocha and Councilmember Campos have been helpful to the community by their questioning to staff and the inroads to start holding them accountable. I'm somewhat saddened and disappointed that this type of questioning of staff isn't routine. And some type of plan isn't enacted to hold staff accountable, and to for example the storm drain, 29,000 storm drains, we don't have any type of plan. Insofar as Mr. Mayor did you say 1.18 is to be discussed later or can I do it right now?

>> Mayor Reed: You can make your comments now if you wish.

>> David Wall: I would like to quote the following. It's from the City Clerk's letter to the Rules committee on August 31st. This deals with the revolving door policy and a waiver request that's before you. Councilmember Liccardo is correct in referring this back to Rules and I would like to take the time to thank him for this but all of you have missed a salient point on this issue. And I will quote this, one sentence: "at this time, it is not clear who Ms. Ramirez clients will be, what specific services she will provide to them, and whether such work is in the city's interest." That is at issue with all these waving door or these waivers of the revolving door and it should be clearly delineated prior to any request or concurrent with the request, thank you.

>> Mayor Reed: I have requests to pull off for further discussion item 2.12 the Silver Creek Thompson creek trails, 2.14 abandoned vehicle and 2.18, the revolving door restrictions. All in favor? Opposed, none opposed, that's approved. 2.12, Silver Creek Thompson creek matter. Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. This is in District 8, this is a great project and I certainly am in support of it. The funding comes with I think no local match from the environmental enhancement and mission doesn't require local match, is that right? I guess Yves is going to come up.

>> Good afternoon, Yves Zsutty, Parks, Recreation, and Neighborhood Services. Yes, the is the grant.

>> Councilmember Herrera: I know our trails programs is doing everything they can to complete the project. I have one question, can you explain how for the trail?

>> The funding we have set aside comes from local sources right now from C&C District 8 funds. We secured an HC manyF grant from the state of California which takes some of that strain in local funding and if we get the 350,000 grant from E MP that takes the other pressure off from local funding and those funds can be used for other projects in the district.

>> Councilmember Herrera: That's great. I want to acknowledge some other people. Councilmember Liccardo has been very instrumental in working with and encouraging the leadership group, Carl Guardino who also sits on CTC and he has made -- Carl Guardino has made a huge difference to make sure we get this funding so I want to acknowledge their leadership on this. With that I'd move approval.

>> Mayor Reed: Motion is to approve item 2.12. All in favor, opposed, none opposed, that's approved. Item 2.14, regarding abandoned vehicles. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. On this particular one, I had a question for the City Attorney. I'm concerned about this particular issue, given the Prop 26, and how it applies to extension of regulatory fees. And I know there's only seven specific exemptions under the voter approved prop 26. I'm having a hard time fitting this into one of those seven categories.

>> City Attorney Doyle: Councilmember Constant, members of the council, the issue is one that, as you know, prop 26 which just passed last year, and a number of these regulatory fees, have -- there have been some questions about. This is renewal of an existing fee. It's the second time it's been renewed. Not to say there isn't an issue but the county counsel's office it is a county program and the county counsel's office has not given you they have not raised the issue with us and I am -- continue to have conversations with them. I think it really is in their domain to make the call. And we'll be working with them, but I think other than to acknowledge the issue that's about as far as I want to go.

>> Councilmember Constant: So my concern is that the proposition clearly specified the renewal of existing regulatory fees. So getting to the liability here. What's our individual liability as a city, versus the liability of the county, if there's to be a taxpayer action to defend prop 26 in this instance?

>> City Attorney Doyle: Well, it's a dollar fee. And so -- and there's generally a three year statute on collections. We have our own claim statute of one year. We believe that you know, again, it is administered by the county and the exposure isn't great to the city but again I'd like to work with county counsel in making sure we are all satisfied on on this.

>> Councilmember Constant: I guess my question is who pays the dollars back, us or the county? We are relying on the county counsel.

>> City Attorney Doyle: I think we would at this point we would pay it but to the extent we have an arrangement with the county if we get sufficient nextion it might be open them.

>> Councilmember Constant: I'm really concerned about this because if we take this action I think we're knowingly going against the will of the voters that was pretty clear. That was the specific list of seven exemptions and the very specific application to current regulatory fees and their renewal. So I don't support this and if someone does, they can make a motion to approve. But I will not be supporting it.

>> City Attorney Doyle: I would say it's still authorized under the California vehicle code. It's still in the statute and statutes are presumed constitutional until otherwise determined but you know we have raised the issue and we acknowledge there's an issue. At the end of the day, it really is a county program. And they would be the ones to properly you know raise the issue. And in my mind, should have the exposure.

>> Mayor Reed: All right on that item does someone care to make a motion on 2.14? Motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Just a quick follow up question Rick. I recognize that there's limited amount of liability exposure here. But theoretically the plaintiff could form a class, is that right, in this situation?

>> City Attorney Doyle: Well, that's a good question. In this context, we believe not. There is a case pretty much on point out of the 1990s and each claimant needs to make a claim. I will caution that there is a recent Supreme Court case that allows class actions. But that case attempted to distinguish this one so this is still good law.

>> Councilmember Liccardo: Great, okay, thanks.

>> Mayor Reed: On the motion all in favor? Opposed? I count one opposed Councilmember Constant. Just like to add that this is a county program, looks like we get reimbursed out of it so if they're stopped from collecting the fee we don't get reimbursed if we don't participate we don't get reimbursed either. I think the county is at risk here but I agree with the City Attorney, we need to make sure the county sorts it out so we don't count on the money when we're not going to get it. Councilmember Rocha.

>> Councilmember Rocha: Smart of process if I can still ask staff a question now or have I lost my opportunity?

>> Mayor Reed: We can always go back.

>> Councilmember Rocha: I do have a question on 2.11 when the time is appropriate.

>> Mayor Reed: We can go back and reopen the consent calendar if you want to ask that question that will be fine. So 2.18 is the next one we have a request to pull off that's regarding the revolving door ordinance. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor I have a memorandum dated September 12th of this year with the recommendation to return to the rules committee with specific language about how a waiver of the revolving door restriction might be phrased to appropriately address any risks around conflicts of interest that I think might arise. But I know this is traditionally dealt with at the Rules Committee level and I certainly would want to defer to them and I know significant amount of time they spend on these issues quite routinely. So I'd like to make a motion as reflected in that memo.

>> Mayor Reed: We have a motion to refer this back to the Rules Committee. Probably not until next week I would say, City Clerk says not tomorrow but next week.

>> Dennis Hawkins: That's correct Mr. Mayor.

>> Mayor Reed: Okay, I think this is a good way to handle it. One of the things I'm trying to figure out is when you have restrictions and exceptions how do you describe it and how do you explain it? This will give the City Attorney a chance to figure out how to word it so everybody understands what we are trying to do. On the motion all in favor opposed, none opposed, that's approved. That will go to Rules committee considered next week. Item 3-- I'm sorry, we're not quite done with the consent calendar because Councilmember Rocha had a question on an item on there.

>> Councilmember Rocha: Thank you, mayor item 2.11 any staff here that could speak to that?

>> Ed Shikada: Unfortunately councilmember I think our staff just left the chambers. I just tried to reach him. If you care to pose your question we can see if we can answer it otherwise we will get an answer to you.

>> Councilmember Rocha: Who will be speaking to this?

>> Ed Shikada: Lee Wilcox.

>> Councilmember Rocha: My question is on the last city through its current agreement did receive a portion of the revenue generated from advertising the distilled spirits the city received \$20,000 I was looking at some historical perspective on that has that always been the case the entire agreement we have had with the arena authority?

>> Ed Shikada: It is actually a new provision in the agreement it was only established last year so this would be the first year.

>> Councilmember Rocha: Help me out things on the small side generally profits on distilled spirits are pretty high and I'm sure this is a negotiation. Can you give me some backgrounds?

>> Ed Shikada: It really was a negotiated agreement between Silicon Valley sports and entertainment or the San José arena management and our office. So it reflected the relative expenses that were going into the provision for advertisement of the spirits.

>> Councilmember Rocha: And how long is the agreement for?

>> Ed Shikada: I don't have that information with me.

>> Councilmember Rocha: I can follow up with Mr. Wilcox.

>> City Attorney Doyle: Councilmember, it was only beginning last year that this type of advertising was allowed in the arena. The agreement runs through 2018. You know we hope to be renewing down the road.

>> Councilmember Rocha: So we're bound by that 20,000 to 2018?

>> City Attorney Doyle: I don't know if there's any adjustments so that's something we'll have to look for specifically.

>> Councilmember Rocha: All right, thank you.

>> Mayor Reed: I think that concludes our work on the consent calendar. We'll move to item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor meshes of the council I did briefly want to highlight a visit of 20 individuals from China who are at City Hall today to learn about our economic development efforts. The officials are here as part of the Cisco government leadership program a partnership with Stanford's program on regions of innovation and entrepreneurship. How our economic development strategy is advancing San José as a center for invocation and entrepreneurship. The delegation includes 11 officials from China's central government and nine officials from various departments at the local government level. The focus of the visit to help them understand the policy and economic considerations that create an innovation economy and the role of city government and our partners. In addition to visiting San José the delegation will be meeting with venture capitalists, entrepreneurs and other officials in San Francisco, Stanford and at Cisco. Following the Bay Area visit the delegation will fly to Washington, D.C, where they will be hosted by Georgetown university and the U.S. national academy of sciences. This is a great opportunity for us to highlight San José's efforts to support our region, as a global center for innovation, and a great reminder to all of us about San José's reputation in the global community. And that ends my report.

>> Mayor Reed: Next item of business is item 3.3, response to the Santa Clara County civil grand jury report regarding rehiring of pensioners.

>> City Manager Figone: Staff is here for questions, mayor, no presentation.

>> Mayor Reed: I see no questions. Are there any cards from the public on this? None? Motion is to approve. All in favor? Opposed none opposed, item 3.3 is approved. Item 4.2 is prioritized work plan for the cultural connection, San José's cultural plan for 2011-20. We had this item before you, and council wanted staff to set some priorities so they're bringing it back to us. We had a memorandum, myself, Vice Mayor Nguyen, councilmembers for 11 to 13. So I want to thank everybody who's participated in this not just our staff but our arts commission and arts community for developing a two-year plan especially their interest and ability to partner and leverage resources to help implement the top ten goals because we're a little short on money. But we're not in short on enthusiasm and we have some enthusiastic partners that I think are going to help us raise some money and do this in other ways besides just direct city funding. It's good to see a measured plan with focus on goals. We can measure and that's good. So this is not a budget decision in case anybody thinks we're budgeting funds for this we're not. We're just prioritizing the work that needs to be done. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to thank Kerrie Adams Hafner for her hard work and the work of her team. Bobby's coming to the microphone now, I had the pleasure of Bobby's done a remarkable job as the leader of that commission but really there's a very profound sense of awareness about the budgetary realities that we're facing on that commission and I think throughout the arts leadership in this city. A lot of people are ready to roll up their sleeves to figure out how we can make it work in a world of scarce resources they're very practical about it but they also have understandably high aspirations and I hope we can all work there to get there. With that I'd like to move to approve this item.

>> Mayor Reed: Motion to approve. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor and I just wanted to add onto that how important I think our cultural plan is for economic development. Because as we have heard over and over again from experts and just from our own knowledge, companies and folks choose places to work based on the kinds of vibrancy they find in the community. And having cultural identity and cultural events and all the things that our commission and our

staff are working towards creating are important for companies wanting to stay here and live here and build jobs. Very, very important part of our economic strategy so I wanted to make sure it came to council and received that attention. Thank you.

>> Mayor Reed: I have one request from the philanthropic speak, Bobby Yont member of the arts commission.

>> Thank you, council. My name is Bobby Yont I chair the arts commission for this city. I'm a resident of District 10. First of all I want to thank you for your consideration of this cultural plan. This plan was put together with the input of some 3,000 people. We had e-mail questionnaires, we have had hearings, we have had committee meetings, this has been an extraordinarily vetted plan. And we're confident that this is the kind of plan at this time with the resources that this city is able to commit to us, that will work. This plan is scalable. It is not to request additional resources over and above those which have already been committed. Now, if you want -- because it's scalable if you find that you can give us more money, we can do more with it. But it is not dependent upon anything more than what we are getting right now. This -- the arts community of this city is substantial. It provides more than \$100 million a year in impact that comes from some 2300 people, employed in the city limits of this city, for this cultural -- for our cultural activities. We -- the cultural community and the patrons of that pay parking, they take hotel rooms, they eat meals. They're an important part of the city and we'd like to continue to be an important part of the city. And finally, at the last meeting, of the Americans for the arts, the national meeting, this city's public art program was named the number 1 public art program in the entire nation. Now, it's not top 10% or top 5. We were named the number 1 public art program in the entire city and it's something we're extraordinarily proud of and we appreciate what you've done, thank you. [applause]

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Well I just wanted to commend Mr. Yont for his stellar leadership. You've made quite a difference. Between your commission and the absolute expert leadership within the arts community, this city is beginning to be very, very beautiful. It was beautiful before, but now it's been punctuated with very, very interesting things to look at. And I also want to compliment -- I believe this came from San José downtown. The

insert that was in the business journal. I love it! So I finally get to tell you all how great it is. This is absolutely fantastic. This is what tourism should look like. Thanks again.

>> Mayor Reed: I think that concludes the discussion, no other cards. We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Get to work! Got a plan! Find your work, work your plan. I'm sure you will. Item 4.3 our demonstration partnership policy, a modification to the policy. I'd just like to note that this demonstration partnership policy has made it possible for us to do some really interesting things with companies in this area. This is a modification to make it a -- a slight change in it but we have clam charging station programmable deemable good morningable street light project that otherwise we probably could not get into a relationship as well as some of the technology we're trying to employ out at the water pollution control plant. This tool has been a very even better. Is there a motion? Motion to approve. All in favor, opposed, none opposed, that's approved. Next item is 7.1, the San José Santa Clara water pollution control plant odor assessment report. Motion is to approve. I'd like to draw everybody's attention to the recommendation coming from the treatment plant advisory committee on this topic. Which is in the pacts and been distributed. on the motion, all in favor? Opposed? None opposed, that's approved. Be seven.2, agreements with the U.S. bureau of reacclimation for design and construction of South Bay water recycling facilities and South Bay water recycling master planning. All in favor, opposed none opposed, that's approved. 8.1, response to Santa Clara County civil grand jury report entitled fighting fire or fighting change? Rethinking fire department response protocol and psychologist opportunities. We have our correspondence to the grand jury had a couple of comments. First just reading through this, we can see the significant changes that have been made in our department. Just over the last couple of years. I want to compliment the chief and local 230, our police union For working on a lot of problems around staffing and management that we're seeing in a collaborative way. Chief has done a great job. Clearly we still have some work to do because we have budget challenges that are going to continue to stress the department, along with every other department in the city. But chief has done a great job of taking the lead and I want to thank the leadership of local 230 for getting engaged. That's something that didn't happen in the past, nearly as well, if at all in many occasions. And so I appreciate that. Chief, I don't know if you have anything else that you want to add. Obviously if you have got questions, the chief is here. Councilmember Constant.

>> Councilmember Constant: Chief, I just had one question. In the response which is on page 3 of the civil grand jury finding number 1 where it talks about the cost to equip the fire department, and our response says we disagree and that it talks about our cost per capita and the lowest number of firefighters and that. But I'm having a hard time reconciling that with the Lafco service review that showed, while that may be the case on a per capita basis or a per firefighter basis our cost per response or cost per vehicle responding or per apparatus is significantly higher and in some cases 50% or more higher than some of our other jurisdictions. That's hard for me to reconcile because we're saying that we disagree with it. And I think from my perspective, we have to look at cost from another -- a number of factors. And I know we have that report that goes in significant detail. So I just wanted to hear your comments in relation to that.

>> Mr. Mayor, members of the council, Willie McDonald fire chief. the from my perspective, based on the number of people that would you have on a unit, that's a individual unit, even if they were all paid the same the more people you would have on the unit would mean the more cost for that unit. So that to me is not really the complete measure of the cost per capita of a fire protection services. We see our entire deployment system all of our fire stations, all of our engines, trucks and personnel as an entire system and they all work together in providing fire protection emergency medical services to our community. The fact that maybe one of our units or our units are staffed differently they still all work together and they respond as units or as groups of units to respond to emergencies and they provide that service based on whatever the emergency is that they see when they get there. So I think that the view that we have more people on or more personnel on a unit is one way to look at it. But the total system and the way that we provide services and how we provide those services, to me, is more total look-at, the cost of fire protection in this community. And I think that when you look at it, any way that we're providing a very high level of service but not a lot of resources. So I think if you compare that with all of the other communities here in Santa Clara County, I would say that we are very cost effective and that's my view on disagreeing with the finding.

>> Councilmember Constant: And I don't disagree that overall when you look at the whole we do a good job on a cost per capita but as we reduce our workforce and we reduce our budgets and we're forced to handle more and

more with less and less, a cost per response is a pretty significant number. Because if you take your whole unit and you reduce your cost per response, you can afford to respond to more events. Which is what we see the increasing number of events, and particularly, the increase in the ratio between medical and fire. So that's an area that I'm concerned with. And I know that -- I don't remember which report it is so I'll just get my comment on the other report out at the same time. We have comments in our response about the regional approach and the working with the others, whether it be in the dispatch or regional response or the boundary drops I think it's called or consolidating the actually communications. There's a couple of references in the -- it depends on the cooperation of the counties and studies. This comment isn't directed to you but to us up here because I think it's our job as elected officials that we keep the pressure on all the elected officials in the county so that we can insist on cooperation because especially when you're talking about some of the incidences that we are well aware of that happened in my district where response times were long and there were closer units available within borders. I know you've made progress in that area. But we see that throughout our entire region. We have all these areas where I think that a more integrated and cooperative response would serve the residents better. And we know that National, regionalization is a discussion that's happening in all areas but particularly public safety. Those are my comments. I don't necessarily disagree as a whole in the report but I think we need to be considering those other issues a little more broadly.

>> Thank you sir.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Chief as the budget will continue to shrink and you have to allocate your resources appropriately to manage the calls and certainly the fire department is one of those departments that has an incredible amount of data knowing the A calls where are the calls et cetera. How do you as a chief manage when you have, in the civil grand jury's report, it has a lot -- spends a quite a bit of time on the minimum staffing requirement and how do you deal with the fact that some station necessary our city don't even leave the station once a day while other stations with the same resources leave multiple times per day? How do you reconcile keeping those equal as the budget goes forward? Because if the cuts continue we come back down

to closing a station, versus thinning, allowing a different staffing requirement where there is truly less calls for service?

>> Mr. Mayor, Councilmember Oliverio, I think that you have to look at each one of those as a level of priority, and response in terms of our ability to respond to those incidents. The level of staffing that we have right now allows for us to maintain the levels at 4 on our engine companies and in my view that's the right number for the types of emergencies all the types of emergencies that they may go on in their districts and I think each of the districts should be treated consistently. Given the fact that response time and our ability to make response time performance in different communities or parts of our city, the point of having fire stations located where they are is so that we can reduce the distance that we have to travel thereby reducing the response time. So I think every district should have at least a consistently applied level of service in their areas. When it comes, though, to if I have to make a choice or recommendation to the council the City Manager relative to keeping fire stations open that's a complete different perspective. I believe that all of our fire stations need to remain open and all of our communities to be served consistently. If we get to the point where we're having to look at how we staff each of our individual companies versus keeping our companies open or stations open that's a decision I'll recommend to you these stations need to be changed because of that but at this point I still think that given that amount of time and in some cases the distance between our stations for the types of calls that they may go on where they need those four folks, that's the right staffing. If we get to a point where we have to reduce the staffing so that we can keep all of our stations open then I'll be bringing that to you.

>> Councilmember Oliverio: Thank you chief and I appreciate you saying that you know given the tough choices that we'll have to make that you'll be should that come to pass on whether the council chooses to close another station we've already closed Communications Hill, you might say three on an engine at two different stations to keep the other station open the thing you mentioned though keeping all districts consistent with staffing, even in the light that not all areas have the same calls for service, could certainly in our police force we put more of our police force to where the actual calls of service are versus other parts of the city have very thin, thin resources available. How do you manage that when you have consistent data for a decade that tells you this particular geography just doesn't have that many calls?

>> Again it's the distance. We try to staff based on the types of calls we'll have, the hazards that are in that district and the demographics and the density but again it's the distance. There's some places where we just couldn't get to within any kind of an acceptable level of time or amount of time just because of how much distance we would have to travel. But again if we get to the point where we don't have enough to keep all of our stations open it's a complete different analysis and we'd be looking at in addition to the call volume be looking at the hazards in that area, types of calls just in those areas and we'd have to staff differently.

>> Councilmember Oliverio: And then staying on that topic chief and even in the case and this budget will only get continually worse, we'll have a preview of that on September 20th, but even you're limited as a chief to recommend different staffing based on the fact that minimum staffing's in the current contract so you would bring a recommendation to us, but we wouldn't actually be able to make that change, we would be forced to close the fire station.

>> Well, at this -- Mr. Mayor, members of the council, Councilmember Oliverio at this point we still have the ability to keep all of our stations open within this current contract. One of the things I didn't mention that I should have is that in addition to the minimum staffing that we should have in each of our fire stations we still have the ability based on hazard demographics, call volumes other things we look at we have some of our stations that are staffed with more than one company. We do that because we believe we need to the capacity in those areas shows us that we need to have more than a single company and I think in the reverse you can look at our performance and our experience we've had in the time since we've closed some of the companies that formerly were in two company houses like on Lee, our performance on that area has dropped off significantly. The reason for that is is a lot of calls happen at the same time. The call volume plus the proximity of those calls causes our response time performance in that area to drop off. You saw the same thing at the Martha street station at the 10th street station, all the places where we had two companies before. But as long as we can keep all of our stations open would I not be bringing to you a different staffing level during this period or you during this current agreement. Again, if the conditions change and it gets to the point where we have to make those decisions with my staff I'll be looking at the different options and I'll be bringing those forward.

>> Councilmember Oliverio: Thank you chief.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you mayor first of all I want to allay certain fears, we have emergency prep meetings every other month on the training level, I'd like to have it you to Pete to up front questions about how we all are going to work collaboratively. There have been many sessions that were mock up situations where everybody did their best to work together. And I understand that we are operable throughout our county. We have interoperability. We can talk to each other.

>> We have the ability to talk to each other. It is not at the level that we would like it to be.

>> Councilmember Pyle: That's right, that's right but we're getting there, we're working on it. I want to say that I appreciate everything that you're doing.

>> Thank you.

>> Councilmember Pyle: Excuse me and to say that we don't have the best comparisons do we? As far as number of police stations, and the amount of time it takes to go from one to another. They're not the greatest. In fact from what I'm hearing they're some of the lowest in the country. We haven't -- I mean you've done very well with making things work. But we're right on the raggedy edge of not being as well staffed as we should be.

>> Mr. Mayor, members of the council, Councilmember Pyle our staffing levels are very, very low in this city. Everyone knows that everyone says that and we're doing a lot with the resources that we have and it's really based on the commitment of our folks to provide that service. We do have a performance standard that's lower than the national average. Or higher depends on which way you look at it. But the national standard would be six minutes and we -- ours is set at eight minutes.

>> Councilmember Pyle: Right. I haven't had a chance to research as much as I would like to but I understand that some insurance companies are looking at response times they're looking at mileage from one station to another et cetera. Because their thinking is well you know, if the city isn't staffing it as well as the city should, then we're going to start charging more in our insurance rates. Do you know anything at all about that?

>> I believe you're talking about the town classing.

>> Councilmember Pyle: Yes.

>> That the insurance services offices sets for cities, individual municipalities. That's been going on for some time.

>> Councilmember Pyle: Oh it has?

>> Yeah. The ISO I think the most recent schedule Schedule has been out for more than ten years and it does go through the insurance schedule service outs of office does go through and evaluate communities for periods of time. And those ratings ask in fact have an impact on it's primarily businesses but also on residents in some case and cause an insurance agency or company to charge more for insurance than they would otherwise.

>> Councilmember Pyle: And can that interfere with our ability to get grants?

>> I do not see it having an impact on our ability to have grants.

>> Councilmember Pyle: Okay well anyway I appreciate all that you do I appreciate the hard work on the part of all the firefighters and it was really an initial thing to see you all out there on 9/11 doing your thing.

>> Thank you.

>> Councilmember Pyle: I really regret that you were standing there in the hot sun but I really enjoyed the day thanks to your efforts.

>> Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. Chief McDonald, I wanted to explore a little more some of the questions that were raised around consolidation, and I understand that seems to me that there are lots of steps we could take around sharing costs and reducing costs short of full consolidation. I know boundary drop is mentioned and sharing of maintenance and purchasing. And I guess it would be helpful for us to understand sort of what the obstacles are of achieving some of those sort of smaller wins in the sense of trying to reduce some of the duplication and perhaps improving the efficiency and response time in those regions where folks are very close to a boundary line and may be much better served by whatever city happens to have a station on the other side of that line.

>> Mr. Mayor, Councilmember Liccardo, there are a lot -- I think this is one of the areas where we have the greatest opportunity to see some -- both collaboration between communities as well as some improvements in services that are provided as well as cost savings. There are lots of options that we could explore. The one that you talked about boundary drops I think is one of the best options that we have, that probably would be the most lowest cost because there's no dollars that exchange hands generally between communities. It's really just an agreement that whoever's the closest would go. One of the obstacles to that is technology. And part of that is also the requirement that when a 9/11 call comes in it goes to the primary public Safety answering point of that, wherever that phone call comes from. So it's usually the local police department. If in fact that happens it comes in there, their ability to transfer that call to the dispatch center that has the resources that are closest may not be easy. And so there needs to be what would facilitate that is a regional dispatch center. If all of the resources in all the fire departments in the county were dispatched, the status was known in one center, then it really wouldn't

matter where that primary call went. They'd all go to the same place. There wouldn't be the period of time that occurred between when the fire dispatch center picked up the phone, had the call, another fire dispatch center and say is this resource available? So that could all be eliminated by consolidating research centers.

>> Councilmember Liccardo: The county does have dispatch don't they?

>> The county has dispatch but many of the cities do as well like us.

>> Councilmember Liccardo: Okay. And then as we look at, you know, the additional steps we would need to take, and I assume a lot of these conversations are happening among the chiefs and the City Manager level and so forth. But you know there was some suggestion in the grand jury report that because mutual aid is essentially a free public good to many extents to these cities there may be incentives for the cities to underfund and there is suggestion Morgan Hill may be getting more mutual aid than giving. Is there an opportunity to use mutual aid it is a bit of a leverage point saying look if we are going to continue mutual aid we have got to see how we utilize resources or this area and that area is that ever used in helping to negotiate getting through some of these walls ?

>> Mr. Mayor, members of council, Councilmember Liccardo, from my perspective I don't know the answer to that question. My perspective is that an agreement should be entered into, where both parties feel good about it. And I think a leverage point like that may create some barriers to being able to get to a point where it's actually beneficial to both communities. I think the fire service is really ready for that. One of the areas that it's really easy to see where it's a challenge for cities, is that for example, a city who has a police-fire dispatch center that would like to consolidate with another city, generally speaking when the fire service moves out of that dispatch center they don't have any lower expenses and if they were to come and ask us to do it we would charge them. So it's more of an expense for that individual city in some cases. That's one of the barriers. Sometimes cities aren't comfortable giving up the control of their resources. There's lots of barriers but I think we're at a point here at least in this county where there's lots of opportunity and folks are seriously and meaningfully talking about it.

>> Councilmember Liccardo: Okay thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you and thank you chief. I had some comments about the report, and thought it would be appropriate for you to be here just in case you had any comments on my comments or if I had any questions. But do I want to thank you. I think that as others have said, very challenging time and certainly we need to be somewhat flexible on how we approach those issues. However I do want to note, you know, that we are already doing so much more, with much less, than other cities. So this is a grand jury report on the county service on county all the departments and what's happening in the county. We are not in a similar position and I don't know if you would agree or not in similar position with other cities in the county. For example Mountain View has six fire stations and they in total in one year get less calls than station number 2 in Alum Rock.

>> Right.

>> Councilmember Kalra: You can't simply say that city does that way so why can't we do it that way? That could be in terms of procedure in terms of staffing in terms of a number of how you deploy your resources, we certainly have unique issues, we are frankly very thinly staffed even the data indicates it in the report shoes showing that we're amongst the bottom in the county in terms of fire budget per cap tail at a and the percentage of city budget that's dedicated to fire and I think you must more than anyone else are aware of that. Also I think it's important to note on page 9 I think this is a shame. And I know it doesn't give you any source of comfort, Chief, it's just the way that we operate that our fire response target is far below most other jurisdictions in certainly other cities in the county. 80% in eight minutes, is not just blowing national standard I think, it is something that unfortunately we have come to where I don't think we should lives are being lost and I make the response lives being lost because I know during the budget hearings this last year you clearly stated that, as we a scaled back the service even when we do more dynamic deployment and we try to do everything in your power and our power to make sure that we have you know some capacity in every station, that we're still you can't make up you can't do it's impossible to do more with less so therefore we're going to see a greater increase of loss of life and

property just by virtue of cutting back on the number of firefighters we have. And so I bring that up because there's some statements in this report which I don't know where they get the basis from because they don't really put any -- they don't tell you exactly where they get the information from. There's a lot of quotes that are and phrases put throughout the report, I notice they did talk to City Manager's and fire chiefs. I don't see them talking to line firefighters or any of the unions you know they have particularly harsh comments about the unions without talking to a single one of them. Which I think if you're doing the report and be unbiased and on objective talk to everyone involved everyone that has a stake in it and clearly our firefighters who are on the front lines have as much of a stake in it than anyone else. There's comments in the report about staffing level on page 10 the first paragraph they talk about interviewees and they don't say whether it's the City Managers or the handcuffs and that they're paid 23 hours sitting around for one hour of work. I I just think that you know, I don't think it's accurate certainly not in our department when you look at the call levels that we get, across the board. I have the good fortune of during the course of the summer having trying to have lunch or dinner and I say trying to because usually we were called out, we didn't have a chance to have a meal, all nine the shifts or stations that I went out to, occasionally got called out. I know that's anecdotal but the reality is I don't agree with those statements. I don't know who made those statements but they just put them there without any -- it just seems just to kind of night more than any function at objective purpose. And they make a reference to residency. They talk about one department with 71% of firefighters living outside Santa Clara County. Again doesn't help at all because I don't know what jurisdiction that is. If it's Palo Alto and Palo Alto happens to be right on the county border, so what if they live over the county border in Palo Alto? I don't think it's a helpful piece of information when they're trying to make a point and again so I find that also as just a very kind of general statement that doesn't help inform me. When in regards to the minimum staffing levels it indicates that firefighters unions need for minimum staffing. Now, and there's several comments in here basically indicating all the firefighters all the union leadership all that firefighters care about is because of you know they actually use the word greed as basically their own personal interest. And do you believe that in the time you've been in here I know there have been some changes made and some of them have been made sitting down at the table with our union leadership and so if you've found instances where they've actually cooperated with you on trying to cooperate with you on some of the changes you do?

>> Mr. Mayor, members of council, Councilmember Kalra, my experience is quite opposite of what is reported in the report, in fact it was much more personal in the report than I thought it would be i have cooperative, very professional firefighters, committed to the community help us solve our problems as we face them.

>> Councilmember Kalra: And I appreciate that. You know, as far as the end where it talks about political will to effect change, we have to have the appropriate political will as well as leadership to make sure that we're able to serve our entire city, with limited resources, again it talks about neutralizing union efforts to spread an budget cuts and the example they use if budgets are cut houses will burn because it takes too long to reach you, cuts we're going to have again an impact on response times and there will be loss of property and life. And I assume you weren't attempting to be inflammatory when you said that it was just an objective statement.

>> Yes, sir.

>> Councilmember Kalra: And in that same paragraph they end the paragraph by after saying that -- the assumption that unions are a barrier to change referring to Milpitas, centerings making decisions so in the same paragraph that they say unions are barriers to change, they refer to the fact that unions are part of the change in Milpitas.

>> Right.

>> Councilmember Kalra: I bring that up because I don't think it helps us getting anywhere by again having this continual reference to the fact that the unions our firefighters are a barrier to change. Obviously when you have institutions and our City's included you have systemic issues you have things that have been in place for a long time, people don't like change. But to say they're resistant to change public which is the implication here is disturbing to me. And you I appreciate your response back and a couple of real clear examples in cases you don't agree with some of their assumptions. But I know that you know in the time I've worked with you, you don't seem to -- you just seem to want to have everybody at the table in order to make the changes we need to make. I appreciate that. I don't think that the grand jury did a thorough job in talking to everyone including fire experts

when they're making assumptions, they make some statements in here where they disagree with what the fire chiefs have told them. Because of fire chiefs tell them this is why we do what we do. They don't agree with it. They don't have a basis for it. Outside of the region and they say that this is a better way to do it and that's why we think these fire chiefs may be tucked to their old ways. Then I could say okay there's some basis for it. All they're saying we don't agree. Without any other basis except that they just don't agree. And so that's the issue I have with the report. I think that there's a lot of opinion and a lot of recommendations and suggestions without a clear basis as to where they got it from and without -- and the objectivity support you when you have to make those tough decisions. Thank you chief.

>> Thank you.

>> Mayor Reed: City Manager.

>> City Manager Figone: Thank you, mayor. Chief McDonald, I think you've responded to the questions very well. You and I talk about your challenges quite frequently and I know you discuss them with local 230 frequently and you've set a very good climate for all the problem-solving that has gone on. We have talked and I'd like you to share a little bit more about some of the things that you're contemplating. We've talked about, now that we have a new EMS contract, maybe using some of our star cars more, working through some of the lower level calls and how that could be responded to a little bit more efficiently, I think it's important for the council to hear that from you again very briefly.

>> Okay. I have had an opportunity to share with many of the councilmembers by now the collaborative concept that has been developed by our employees to look at many of the issues that are contemplated or discussed in the grand jury report. Most of those is that we do respond to a lot of medical aid calls and because of our priority dispatch system we're able to categorize those calls into a level of severity. We have the opportunity to use the vehicles we already have and to staff those with your people and to respond to those independently to some of these types of calls. Thereby keeping our larger pieces of equipment and the more important pieces of equipment available within their districts so that when we have significant issues or incidents, that occur within a district, that

they're there, they're available, they have the ability to respond to some of the more major incidents with the proper equipment and tools. It's been a very positive process. It addresses many of the concerns we have. It makes the best utilization of the resources even though we don't have what we think we should have. So it's been an opportunity for us to collaborate in the beginning to deal with some issues and solve some other areas that we didn't start out to try to solve. But it's been very positive and it's been an opportunity for us to work really closely with our employees on solving our problems.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Thank you chief and I had the opportunity I'm one of the councilmembers you had the opportunity to meet with. I just want to say how impressed I am with your leadership style.

>> Thank you.

>> Councilmember Herrera: I'm not a firefighter but I know when you come to meet with me I'm just very impressed with how you seem to be working with the firefighters that are working with you, and --

>> Thank you.

>> Councilmember Herrera: I just feel we're in good hands with your leadership so I just wanted to say that. I am interested in the grand jury report, lots of information, lots of things to think about. I think purchasing the equipment, wonder if you could talk about that, they talked about doing larger purchases regional do you think that is useful?

>> I do, I think everything to engines to trucks to different complex operations like our hazard regional effort and we try to standardize our equipment. But we have a lot of opportunity both in terms of engines, trucks, protective

clothing all of those things. It's really just a matter of agreeing and developing consensus moojts the county generates and moving in that direction.

>> Councilmember Herrera: I like the idea you presented to me and I along with Councilmember Pyle and most of the folks up here were at the 9/11 ceremonies and I think it does, I think any time you attend the money like that, we are firefighters and police officers and people in the military have a special job and a special calling. And are often, at times in their life, called to put their lives ton line and in some cases lose their lives. I don't think that should ever be fortен when we discuss this topic. I know I wouldn't want to be the one who didn't get a fire truck to come respond to my heart attack because I was determined not to have enough people living there. So I think that you have a unique responsibility, and the fire service has a proud history, I think how many -- how old is the fire service in this country?

>> Over 150 years old.

>> Councilmember Herrera: Over 150 years old. There's a history there's a tradition there's a culture. Change is aping and I think leaders like you are going to help us get there.

>> Thank you.

>> Councilmember Herrera: It is obvious the men and women who are working under you are working with you and I think that's great to but change isn't always easy for a proud culture and tradition that has existed and I think we are going to move forward. There's going to be technology changes in everything else. Hopefully I'm going to see more women firefighters, I think that is going to change how we deem with things too so I have positive -- I have a positive hope for the future and how we do this. I do think we're very thinly staffed and that does concern me greatly. Every report no matter what side you are on the equation of anything we discuss up here everyone admits that we have thin staffing.

>> Yes.

>> Councilmember Herrera: So hopefully we can work through our budget struggles and find ways to bring more money into the city and be able to get our staffing levels some day at a more comfortable level.

>> Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor chief I forgot to ask were you able to participate in the interview process with the grand jury or was that our prior chief?

>> No it was me.

>> Councilmember Oliverio: So you had the opportunity to have the full interview with them?

>> I spent an hour and a half with them and I shared most of what's in this report with them at that time.

>> Councilmember Oliverio: Appreciate that. National standards we are below standards and what would it cost to actually be to afford the national standard?

>> Councilmember Oliverio, off the top of my head I wouldn't be able to offer an opinion. It would be expensive for us to be able to get our response time down to six minutes. And we recognize that. And so we do as good a job as we can with the resources that we have. And the good news is that we have excellent firefighters, very high quality, very professional and they do a good job when they arrive adding fire stations but that is really the key is trying to reduce our response time.

>> Councilmember Oliverio: Does the strategic report that we do for the fire department for the city does that talk about how much that could cost to get to a certain level?

>> Not as a cost in the strategic plan. It's just identifying the areas where resources are needed but it's based on an eight minute response time.

>> Councilmember Oliverio: Would that report say it would need X amount of personnel and apparatus so I could figure out that cost?

>> To get to six -- it does not. It speaks to, it points to the eight minute response performance.

>> Councilmember Oliverio: I think that would be responsible, because whatever metric it is, whether it's police, it's fire it's whatever, what would be the tradeoff if it is worth the council to spend it on something else, it's worth to know that and hanging over our head with no price tag on it then it's sort of tough to fathom.

>> Thanks chief.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I think my comments or feelings have been heard during budget when we've talked about staffing. I found it very interesting reading the report, especially you know I'm wondering are these reports from -- is the report an economic based support or is there some level of expertise on the grand jury that points to, well, you know, the department can't survive you know with three personnel on the truck, or maybe we should reprioritize as to whether or not fire should be the first responders or the EMT should be the first responders, I, like Councilmember Herrera, would not want to be the one having to test it out personally and finding out. I mean I don't think anybody wants to be put in that position. I don't think that we can afford just from a soft standpoint to go any lower than we are right now. As you said, we don't even meet the national standards for response times. And I actually did some quick math here. Because we keep hearing Mountain View does it. Mountain View does it with less people on a rig. But if you look at Mountain View, Mountain View is 12 square miles. There are six stations in Mountain View. If you do the ratio there's one station per every two square miles in

Mountain View. If you look at San José, with our 35 stations we're one to five. Even if you look at Palo Alto they're 1 to 3. And Mountain View seems like the only station that gets to the six minutes. I guess my point is, is that in my poirch, and also from feedback that I've heard. Not just from the department, I mean you are the experts but other folks that are out there that have had anecdotal experiences of what took the department so long to get here. It was, you know, you got there within eight minutes. But still those two minutes is an eternity. The difference between life and death. So I appreciate the report but I just -- it just seems more of an economic-based report than whether or not you're really putting expertise in it so my comments, thank you and thank you for your service.

>> Thank you.

>> Councilmember Campos: To everyone in the department.

>> Thank you.

>> Mayor Reed: Chief, I know that simple is never really necessarily accurate. But if you take there report and try to simply answer Councilmember Oliverio's question about what it would cost to get to the national standard, if you did it at the rate Sunnyvale does per capita it would take us another \$16 million. If you did it at the rate Mountain View does per capita it would be \$116 million more.

>> Oh!

>> Mayor Reed: So it would cost more.

>> But that is in part sir if I might comment the answer to the question of the number of people on a company it really is a system. So in a case where in one of our battalions, in 40 square miles average that is about the size of Santa Clara, Mountain View and Milpitas and in those areas there are 19 fire stations. In our biggest battalion we have eight.

>> Mayor Reed: I don't know if we're the apples or the oranges in this comparison but compare ours to the other cities, there are a lot of different examples Not the least of which they have more money than we do. Your people are to be commended for the level of work they do. They are thinly staffed as many people up here have said and that's certainly certainly true. I think that's the end of the council questions. Chief thank you I have one request from the public to speak. I'll take public testimony at this time, Robert Sapien.

>> Good afternoon, mayor and council, Robert Sapien president San José firefighters local 230. I'll just make a couple quick points. If only analysis of our fire department was as simple as three or four. That would be great. But it's not. It's a very complex system out there. We have a variety of demands that we have to meet. We are an all-risk fire department. To the East, we have hills that are as vulnerable to severe fire as the Oakland hills were. We have an international airport. We have a high rise section just like the building we're in now. We have high density housing. We have housing that's spread out throughout the 205 square miles that we support and we participate at the county level in mutual aid and we participate at the state level in mutual aid. If it were only as simple as five or four. Now we have four. We must have more than we need. Actually amongst the 30 metro cities in this country we're in the basement we have fewer. Well we must not be able to afford them because we're too expensive. Well per capita we are the cheapest metro city in the nation. What is it then that makes San José work? How is it function being? I think this is a great opportunity for us to stop and appreciate what our network of services have. We talk about four person companies. What about the four person companies that are providing British patrol services to the East hills? What about the four person companies that are also providing ambulance services to the city. What about generator lighting and rescue services to the city? You have a tremendously efficient system in the city by I wanted to correct something the chief said I think inadvertently. The concept between alternate deployment predated this civil grand jury report. Frankly, this civil grand jury report misses so badly factually across the board that it doesn't rise to the level that I would stop and say we need to change the way we do business. The reason we're looking at alternate deployment is because we lost companies over the last couple of years, in budget, and we need to find -- we desperately need to find ways to relieve pressure off of our system so that we can continue to respond. That's why we're making changes. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. I'd like to just repeat a little of what he I said earlier because I said it before battalion chief Sapien came in and that's to thank you local 230 and the chief for his leadership in collaboration for solving the problems because much of what we have in this report that we can point to is progress that's happened in the last year and a year ago, we wouldn't be having this same level of conversation about solutions we would still be talking about the problems. I want to thank both the chief and the union for helping us work through really difficult times. With that I think we are done discussing at a it here at the council level it's been so long I can't remember if we have a motion. We don't have a motion yet. Motion to approve. We have to approve it because this becomes our response to the grand jury. We have to approve it. That's a proper motion. On the motion all in favor, opposed, I count none opposed that is approved so that item is concluded. We'll go to the next item. Similar topic 8.2, response to the grand jury record on emergency dispatch in Santa Clara County called, can you hear me now. Motion is to approve.

>> Councilmember Constant: Mr. Mayor, just one comment.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I think sorry I didn't hit my light like I should have. I think it's important to note the work of -- I know we've talked about it dozens of time but the SVRIA Silicon Valley bay web BayRICS all these projects are going on right now to ensure that woo can hear them. And it's been a long time coming. This is something that's been of national concern for a decade. Probably longer but it's been brought to the forefront on the last decade. I serve on the national league of cities public crimes priorities even the president mentioned it in the state of the union this year. It's something that continues to get a lot of attention and I know that we along with all the other cities in our county and the broader region are all committed to fully to the interoperability project but it's going to take a lot of money and some more time.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Well I just wanted to point out the fact that in the report it stated that Santa Clara County communications is already responsible for more fire dispatching than any other ambulance dispatching in fact the City of San José's fire and emergency dispatch center processed more than 70,000 emergency requests in 2010, or 3.5 times more than county -- that the county itself which was at 18,000. It should be concluded from the inaccurate statement and resulting findings that the report is leading readers to a potential solution, consolidate all the centers et cetera as stated in the report's conclusion when at a minimum more research is required, definitely. Thank you.

>> Mayor Reed: We have a motion to approve this report. Response to the grand jury. All in favor, opposed, none opposed, that's approved. Taking us to the last business item on the agenda, which is item 4.1, actions related to the medical marijuana ordinance. Which we have noticed to be heard last which is where we are on the agenda. What we have a few minutes to get the staff in place, I want to talk just a little bit about the process. We have several things to deal with. Including the Environmental Quality Act clearance. So we will take -- when we get around to public testimony we'll take public testimony on the whole thing so we have one round of public testimony but ultimately we'll take action first on the CEQA clearance before we then talk about the substance of the ordinance and the related actions. So we will have a presentation from the staff and then public testimony. And then we'll -- council will take over from there. So I think Laurel Prevetti will lead the staff presentation.

>> Laurel Prevetti: Thank you very much. Organic mayor and council. Laurel Prevetti Planning, Building, and Code Enforcement. Joining me this afternoon is a great staff team, not only here in the staff box but also in the audience to help facilitate your decision making. I want to recognize the efforts of the City Manager's office, police department, certainly our city attorney's office, as well as finance and others. What we're going to do this afternoon is give you a highlight of the presentation with respect to several areas. The negative declaration, the land use ordinance, and the regulatory ordinance. And with this, we're going to just start with the negative declaration. As required by state law, we completed an initial study that analyzed the potential environmental impacts of the ordinances that are before you. We did respond to the comments that were received, and the Planning Commission does recommend the adoption of the negative declaration as being in compliance with

CEQA. You may hear testimony this afternoon about oversized collectives. However, the proposed ordinances do not mandate any size requirements, as with any other business, in the City of San José, a collective would determine the appropriate size needed for their operations. And then they would need to comply with all local and state codes with respect to energy, water use, electrical, plumbing, fire, et cetera. Compared to the current unregulated situation here in San José, the ordinances would result in an improved environment, including compliance with all state codes, the energy code fire code et cetera. So with that, Planning Commission does recommend the adoption of the negative declaration. Would like to turn your attention to the proposed land use ordinance. Staff is recommending the approval of some modifications to title 20 to essentially determine where collectives may occur within our city. There are four primary parameters that I'll be going over this afternoon. What we'll be doing is giving you planning Commission recommendation is and then back to the administration's recommendation on these parameters. So let's start with the zoning districts. The council after much dinks back in April identified four zoning districts for which collectives may occur. These include the commercial general which is a very broad category of commercial, our downtown primary, light industrial and then the combined industrial-commercial. The Planning Commission recommended expanding this to virtually all nonresidential districts. For reasons that you can certainly appreciate from prior staff analysis, the administration does not concur with the Planning Commission. We are recommending no change from the council's direction back in April. We are continuing to recommend the four zoning districts that are listed in the slide ahead of you. Do want to just comment. The commercial general, the downtown primary as well as combined industrial commercial are all zoning districts that allow medical office for your future reference in the conversation. With respect to distance requirements, again, you had significant deliberation about this back in April. State law already identifies appropriate distances to public and private schools, that being 600 feet. The council identified a distance requirement of 500 feet between a collective and daycares, churches with daycares, community recreation centers, parks, libraries, substance abuse centers as well as other collectives and the council recommended 150 feet from residential uses. The Planning Commission recommended larger distances. 1,000 feet from all uses. With the exception of 500 feet from substance abuse and then 150 feet from residential. Staff did consider the Planning Commission's recommendations but then in light of all of the deliberations that the council had on this matter, staff is holding with the council's original direction as stated in the slide above. There is a law that's on the governor's desk, SB 847 that is looking at a 600 foot distance between a collective and residential

uses. However, the proposed legislation would recognize the ability of cities to enact something either more or less restrictive. If the governor signs this law, the law would only pertain to cities who are silent on a distance requirement between a collective and residential use. With respect to pedestrian area restrictions, this was a relatively new concept that the council considered back in April. Council was interested in make sure that we protect those areas that we're trying to have vibrant pedestrian activity and council specifically mentioned neighborhood business districts as well as those shopping centers that are providing economic benefit to our city and those of fairly large size. So the ones that were mentioned in the council motion were Eastridge the plant, et cetera. So staff essentially took that direction and tried to create language for the Planning Commission's consideration. The Planning Commission felt that we should just keep it simple and they just recommended at a we don't allow collectives on the ground floor of two of our zoning districts so that would be easier for implementation. The administration however feels that we can compromise, that recognizing that ground floor of the commercial pedestrian and downtown commercial would certainly achieve the objective that council stated back in April, and then we also would request, in light of the council's direction, regarding large shopping centers, that we actually try and define that, so staff is recommending for your consideration shopping centers on parcels of 40 acres or more in size as you know, some of our shopping centers such as the plant have multiple buildings. So all of those multiple buildings that's considered part of that shopping center would be captured by this particular parameter. The next is the additional parameters pertaining to light industrial. Council suggested broad discretion to our planning director to further protect our light industrial land. We felt that again, in light of needing to have a zoning verification an easy yes-no does a particular collective comply that we should again try and refine the council's direction. So staff and the Planning Commission did recommend that we consider no collectives within an enterprise zone which is a defined geography and no collectives within 1,000 feet of businesses that use or store hazardous materials. We did some additional analysis in light of the Planning Commission recommendation, and what we found was that hazardous materials, businesses that use or store them, we do not have a good publicly accessible database. So what would really be very difficult for a collective to know, where such a business was located, so with that consideration staff is now recommending that we essentially limit the light industrial and exclude light industrial parcels that are within our enterprise zone or any other future incentives zone the council might wish to enact that has a defined geography. Again this is a recommendation for ease of implementation. We are doing some analysis with respect to potentially compliant

parcels. We know that council's always interested in knowing how we've balanced the availability of sites for collectives with protecting our neighborhoods and meeting other community characteristics. So with the parameters that the administration is recommending to you this afternoon, we have almost 600 parcels within the City of San José. I apologize, the map on the left-hand side might be a little bit challenging to read so let me just point out a couple of key areas that would essentially provide opportunities. There is a cluster of light industrial up near highway 101 and North First Street that would be potentially compliant parcels. There is another cluster of parcels on Stevens Creek on the West side of our city that would be potentially compliant. A set of parcels along 7th street in the Monterey corridor area that would be potentially compliant as well as others along Tully Road so that we would have distribution across our city, easily meeting the -- any maximum number the city council may wish to impart. With this I'm going to turn it over to Angelique to review the remaining ordinances. Thank you.

>> Thank you, Laurel for taking the council through the land use component of the regulations today. Appreciate your handling that for us. The next item that the council needs to take action on is recommendation C which is approval of the regulatory ordinance. On April 19th the council approved the regulatory ordinance presented by the administration with some changes. These slides will guide you through those changes. In addition, although no change has been made to the maximum number of collectives allowed or the requirement for onsite cultivation the administration is aware that the industry has concerns with those provisions and as such will provide a quick recap for the basis for the administration's recommendations which again were adopted by council on April 19th. Finally we will end with additional updates made to the regulatory ordinance due to concerns from the city attorney's office. Specifically, this part of the presentation will cover registration, ownership management and grow alternative delivery systems maximum number of collectives and onsite cultivation. I'll walk you through the first three areas and then deputy chief Hober will cover the next two. With regard to the registration process at the direction of council the administration amended the proposed regulatory ordinance to replace the lottery process with a first come first he be served approach as such the regulatory ordinance has been updated to provide as follows: 30 days in advance of applications being accepted the City Manager's office will post the date time and place where applications can be submitted. Per the direction of the city council applications will be received on a first come first served basis and they will be time stamped as they are received. The applications will then be processed in the order in which they were received. Now, to assist the administration in avoiding a mad dash to

the designated location to submit an splition safe submission and provide direction to applicants in the City Manager's rules and regulations. And just so that the council understands what we're thinking of in that regard, we're actually exploring whether or not it's possible to submit applications online, and we're looking at the bid seek software to see if that's a viable option for us. This will hopefully prevent the mad dash of people physically trying to get to the location where the applications would be accepted. Again this is something that staff is exploring and we will report back to council when we figure out whether or not we can take that on. The way that that would work, if we were able to use the software, would be, we would accept a one to two-page form that you could submit over the Internet. And then we -- from the submissions depending on the order in which they would be received we would post a list that would designate everyone's place in line and then with a certain period of time after that list is posted we would actually see the -- receive the full application process. So the City's computer system our software system would not be shut down or crashed by a large files being submitted. And again we'll report back to council on whether or not that's something that we can undertake and whether or not our system will allow for that. With regard to the ownership management and grow, we did make some changes per council direction to the section of the ordinance. Originally proposed and approved in April the regulatory ordinance provided that no one involved in the ownership or management of the collective could be on parole or probation for the possession sale or distribution of a controlled substance, have a prior conviction of a crime of moral turpitude or have a prior conviction of any felony or misdemeanor within the last ten years involving the use of violence fear fraud or deception unlawful distribution sale or engage in criminal activity. At the direction of council that group has been expanded to include those that are directly involved in the grow of the medical marijuana. If the individuals have any type of this history they will not be allowed to participate in the membership. With regard to alternative delivery systems, as originally presented the regulatory ordinance was silent on edibles ointments and things of that nature but per the council direction on April 19th the regulatory ordinance has since been updated to reflect that edibles ointedments lotions and will not be prohibited provided that they're manufactured on site as part of the collective operations, and they're manufactured in compliance with the health and safety code which requires extraction of the oils through a natural process. In other words no chemical extraction can be used. With regard to the maximum number of collectives, again, on April 19th, council's direction was consistent with the administration's recommendation in that no more than ten collectives should be allowed to operate in the City of San José. In addition council went on to add the requirement that of those ten, no more than ten would be

-- two excuse me would be allowed in each council district. The regulatory ordinance has been updated to fully capture the council's direction however, as mentioned the administration would like to recap for the council the reasons behind the cap of 10. For that discussion I'll turn the presentation over to deputy chief Hober who will review for you the administration's concern.

>> Thank you Angelique. Staff is recommending no change from the council direction given on April 19th. The issue of the correct number of collectives have about process. Staff has recommended ten collectives for San José. This number is based on a plan that we have crafted to regulate the cultivation of medical marijuana and at the same time protect the health safety and welfare of the residents of San José. The plan calls for personnel from the City Manager's office, planning, finance, police and the city attorney's office. The staffing model that has been created is based on an educated guess that this group will be able to register and regulate those ten collectives. This is a regulatory process, that we have never undertaken before. It is a process that most jurisdictions have decided not to undertake. Because of that we can only anticipate and do not know for sure what issues will present themselves. we know that we have a significant limitation on city resources and for us to be successful we cannot overextend ourselves because we do not have other personnel that can take this on. Staff believes that ten collectives is a manageable number and that the cost for this program will be recovered. Staff suggests that the council limit the collectives to ten at this point and let us see what the results are. After we get our arms around this process, and see what the results are, staff can return to council to amend the process, and the number, if necessary. Angelique.

>> Thank you. With regard to onsite cultivation, council's direction on April 19th was consistent with the administration's recommendation that no offsite cultivation be allowed. As such no change has been made to the regulatory ordinance that was brought to you back in April. However, again, due to industry concerns, administration would like to recap for the council the reasons behind this provision. For that discussion I'll turn you back over to deputy chief Hober.

>> Staff is recommending onsite cultivation for a number of reasons. Those reasons include ensures that this venture is not funding criminal activity in any way. We want to limit the opportunities for crimes against the

collectives or those supplying marijuana to the collectives. We want to ensure that the marijuana is being monitored for Public Health and safety. And we want to attempt to reduce the marijuana growing locations that we know have led to house fires. The best way that I have figured out to explain this after trying to explain this over and over is that I've created a schematic here and it looks a little confusing so I'm going to try to describe it. And this really relates to the first aspect that we want to do and that is ensure that the venture we have set up here and the process we have set up is not somehow funding criminal activity. So in this slide what you see is a large box and that represents the collective. The green hexagon represents marijuana being grown on site at the collective. The green circles represent collective members that are supplying marijuana to the collective. The two way arrow between the collective and the green circle represents marijuana going into the collective and money going out to that member. The blue circles represent collective members that are only receives marijuana from the collective. The arrows leading to the blue circles represent plj going out to those members. The red circle on the lower right represents an unknown person that can be supplying marijuana and receiving money. And so to understand this I need to explain in some of the research that I've done and in going to some of the collectives and in visiting them my understanding of awhat is doing and that is this. What currently happens is that as we see with the green in the middle they are growing on site. The problem for us in law enforcement and for regulating this is created by the fact that if we have multiple sources that are supplying to the dispensary, what occurs is, they grow it wherever they grow and they bring to the collective. When they bring that to the collective, they get money for that, or they could get other marijuana. And when they leave, they leave with the money. So now we have multiple sources that are supplying this marijuana to the collective. The problem that creates for us is, there is also money going out in some cases. Not in all cases but in some cases. And so that red circle the unknown then what could happen is that we could have somebody, or a group of people, that are having other people sign up to be members of this collective supply the marijuana there and then receive money. So basically what we're doing is we're setting up a system that is through our doing this allowing that market out there to go into the collective, and then come back out. So we're supplying that intermediary for them if we use this technique. Additionally, we cannot monitor the origination of the marijuana. It would be impossible for us as regulators to go to every single one of the members nor do we want to, to figure out where that marijuana is coming from. And that creates regulatory and law enforcement issues for us. We're also concerned that, the next issue is that we want to limit the opportunities for crimes against the collectives, and those that are dealing with

the marijuana. Any time that you have people delivering marijuana there is an opportunity for crime against that person. If criminals know that people are delivering marijuana and receiving cash they can watch them and intercept them back to their point of origin, and possibly rob them at that point. Third, we want to ensure that we can monitor the marijuana from point of origin for Public Health reasons. If it is all being grown in one location, the marijuana can be monitored by the regulators to ensure it is being done in a way that does not endanger Public Health. Additionally if people start becoming sick from the marijuana because there is something wrong with it and we have multiple points of origin we do not know where the unhealthy product has come from. The analogy would be the recent E coli to determine the point of origination. We can't do that if there is multiple sources coming in there and we don't know what those sources are. Finally we want to reduce some of the public safety concerns that we saw with the house fires. We in law enforcement believe that many of the recent illegal residential home fires that were occurring were a result of an increase in demand for marijuana. We believe that some of those could have, in San José or other places, been supplying some of these marijuana collectives. As such, if we reduce the ability of folks to supply other than just the collective, we take that away from them. So that they cannot supply it to the collectives. I contrast that to the next slide. Which is the closed loop system. In this system, all that we have is the collective that is providing and cultivating that marijuana. So we know where all that marijuana is coming from. We are stopping the ability for marijuana to come in or money to go out. We get rid of that red dot that I had on the previous slide. And now all that we're dealing with is the fact that marijuana is going out to the membership. If this is a health issue we know exactly where the marijuana emanated from. And and that concludes my part of the presentation .

>> Thank you, chief Hober. So we'll wrap up with some additional updates to the regulatory ordinance that were not brought before you last time in April but the administration considered probably needed to be taken under consideration at this point. I'll run through them briefly because the administration memo and the city attorney's memo lay out in detail the basis for those updates. So very briefly, the first change that was made to the regulatory ordinance was the change in the word sales to transfers. The definition of medical marijuana sales has been updated to provide for medical marijuana transfers so that sales are not allowed under the ordinance . With regard to personal use cultivation the definition of personal use cultivation has been expanded to include groups of two and three. This was something that the staff noticed when we went back and read the ordinance again that

for personal use cultivation it covered an individual, for collectives we were looking at four or more so groups of two and three were left off. The definition was expanded to include two and three as well. With regard to the square footage due to legal concerns from the city attorney's office the staff currently recommends deleting the limitation on that requirement so that square footage from which you can cultivate is no longer within the regulations. However the regulations will continue to provide that if you are cultivating from your home for personal use that cultivation must be incidental. The primary use of the home shall be for residential purposes only. With regard to program implementation, we've made a couple of updates there. For example, on the grounds for disqualification, we've amended the ordinance to reflect that failure to register as a collective prior to program implementation will not, by itself, be a basis for disqualification. We've also added a grounds for disqualification such that if the maximum number of collectives as determined by council has already been registered, then you will be disqualified from applying for registration. With regard to the City Manager authority, originally the regulatory ordinance as approved by council in April provided for the City Manager to promulgate rules and regulations with regard to registration and security. Those rules and regulations would be in collectives should approach security and a little more direction on how the staff would approach registration. As I indicated earlier with the first come first served approach. Those areas have been expanded with the updated ordinance to include storage and display of medical marijuana and criteria necessary to promote safe cultivation. With regard to the requirement that collectives keep a log, documenting each transfer of marijuana, the regulatory ordinance has been updated to reflect that a member number can be used to identify each member instead of the member's name. And finally the final update to the regulatory ordinance was with regard to the affirmative defense that was clearly covered by the city attorney's supplemental memo so I won't get into that here. So next steps. If council were to approve the recommendations brought before it today by the administration, we would look at a second reading on September 27th. And in late September, early October, we would look for the rules and regulations to be established and posted on the City's medical marijuana Website. Those would be the City Manager's rules and regulations that would be in addition to the ordinances. On October 27th, the ordinances would go into effect. And in early November, the date would be published for applicants to submit their applications to register. In early December, applications would be received, and in late December, early January, we would begin to see the registration completed for a number of collectives. At this time the administration recommends approval of the proposed medical marijuana regulatory program, as set forth in both of the proposed ordinances. With some

minor amendments, the ordinances reflect the council's direction of April 19th. Furthermore together they create a complete medical marijuana regulatory program that is comprehensive and the result of almost two years of collaboration and thousands of staff hours to address the concerns of council the administration and the medical marijuana community. With that we're prepared to take any questions you might have for us. Thank you.

>> Mayor Reed: Thank you staff I'm sure we'll have plenty of questions when we get there but I think I'll take the public testimony at the time. There are plenty of people to speak and I'm sure we'll have a limit the speakers to one minute. Please come on down when I call your name so you're close to the front so we cut the transaction time down a little bit. Juan Nillums. Matt Lucero. Randy welty.

>> Take you out of order, just let me know who your name is what your name is.

>> Good afternoon, mayor, Matt Lucero, with buddy's cannabis, on Stevens Creek boulevard. You are going to attract dangerous crimes. You don't secondly, there's no way by reducing the number of clubs to ten or 25 that you're going to be able to satisfy demand. Demand is beyond San José it is throughout the whole South Bay at this point. Tens of thousands of card holders if you restrict supply they're going to go back to the black market. You're going to lose out on your tax you're going to lower cops lay off cops less law enforcement more crimes. Secondly guys please do not require product testing it's a great idea right now in principle. Think bit. What are you going to test? Is this a crop is this a drug, who is going to be testing what are they testing for? This is a protect of councilmember Liccardo's urging, to join the other cities to get California on board to get the regulatory system in place. Final point sir --

>> Mayor Reed: Sir your time is up.

>> Half the clubs are paying taxes the ones that are not shut them down.

>> Mayor Reed: Juan Nullums, Randy welty, Craig Garish.

>> Hi name is Randy welty I this is a very progressive ordinance I commend you on it but it still lacks the need of protection and care that is needed for patients and providers. I would recommend that you not approve this ordinance today. And talk with the citizens of San José and some of the other people involved and we are willing to help. You are very close to coming to an agreement for a good model here. To throw it aside would not be in my mind right. You have money that you need to put on other programs. But if it is approved I must say that the American patient care association and the Californians for patient rights do have a track record of referendum from handling San Diego, butte county and Kern county. We would not like to be forced into this. We think you have a winning position here.

>> Mayor Reed: Sorry your time is up. Craig Barish, Steve de Angelo, Jerry Strangis.

>> Thank you for your time. My name is Craig barish, I'm president of the California impis coalition, one of the directors for Californians for patient rights. What bief been rks referendums in the state of California every one of them has passed. I am here planted my feet in this city right now and prepared to move forward. Depending on what you do. My recommendation at this point is that you sit back hold off on this and work with the community a little bit more because you're getting there but you're not quite there. These people have brought me in here. I will do a referendum if necessary I will not lose so be prepared for that. It will cost a lot of money if we have to go forward. The time to work with the community is now. Take a look at my name, Craig barish. Look me up, I have not lost, butte lake San Diego Kern county Fresno is up right now. Thank you.

>> Mayor Reed: Steve Dee Angelo Jerry Strangis, Tiele Ayala.

>> Good afternoon council thank you for hearing this issue one more time. I'd like to urge the council to adopt the Planning Commission recommendation to expand the approved areas to include industrial park. Before we opened harbor side of San José I did an exhaustive survey of the entire city. I used all my experience of 40 years as a cannabis harbor side of San José to select the very most secure location. We chose industrial park because it provided us with a dedicated parking lot interior and exterior camera mount places we had the ability to photograph every face and every license plate that comes into our facility before they enter. We can isolate our

activities from sensitive activities like children and recovering addicts. And it prevents patients from walking to and from their cars where they could be harmed. So I would also point out that since we opened we have paid \$190,000 in city taxes. We've created \$120,000 monthly payroll, 40 jobs zero complaints we will have to close if you do not --

>> Mayor Reed: Time is up although we appreciate the tax payments. Jerry Strangis Thiele Ayala Miami ham.

>> Mr. Mayor members of the council Jerry Strangis, representing the medical cannabis coalition, CE 3. This has been a major effort special compliments to Laurel. This is an amazing process to compile all there and put it together in a way that it's understood. Good job on their part. Real simple the group that I represent, nine members, nine collectives have been involved for the last two years. We want to be able to compete fairly. Right now with this staff recommendation none of them will be able to compete, none of them. Their excluded because of this restrictive process. The Planning Commission got it right with their recommendations of zoning. We want a competitive process, we want the best collectives to be able to be chosen. The best operators, the best locations. That's all we're asking for. With that appreciate it. I did pass out an exhibit. Right now there's only 35 existing collectives under our recommendation that would be eligible to even compete. Thank you, Mr. Mayor.

>> Mayor Reed: Thiele Ayala, Daniel McCormack, James Anthony. Please come on down when I call your name. Lauren Vasquez.

>> My name is Thiele Ayala. Since you elected officials have laid down the law according to fit your budget development, what are you doing to reassure the public in general, who oppose of the wide range of abuse by cannabis holders? Can you reassure the public citizens such as myself a family woman? I myself know that there is abuse of cannabis card holders. As you recall last year I mentioned that my 12-year-old niece someone sold pot to her. Now she's using heavier drugs. And I want to know, what are you going to do to reassure that cannabis holders will not abuse of this so-called medicine you call. What will you do to reassure that? Thank you. By the way, this is not a pot leaf it is hen that a tattoo.

>> Mayor Reed: (saying names) .

>> My name is Daniel McCormick, I'm a i'm here to speak to you about the limit being proposed on the number of medical marijuana dispensaries allowed in the City of San José. The number I have most often seen turned around is ten with reference to 25 in my view with the current 100 plus dispensaries and the rapid growth of the medical marijuana industry this is simply irresponsible. Eye I much more reasonable 50 dispensaries allowed in the City of San José. As far as onsite cultivation and manufacture of edibles ointments and oils it is utterly ridiculous. The majority of collectives receive their marijuana related goods from vendors who manufacture these goods offsite. This would effectively put these vendors out of business. This is unacceptable as far as I'm concerned it would also turn collectives into cause eye factory cum Farr locations.

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

>> Thank you.

>> Mayor Reed: James Anthony, Lauren Vasquez.

>> we need an opportunity to discuss them with the deputy chief. I'm going to focus on one of them, the cultivation issue. The chief, deputy chief did a great job with those two graphics. Look at those. In one the first the current situation you have decentralized cultivation that's legal under state law and it's tolerated by the federal government. The second he put up with the big green blob in the middle, that is not tolerated 50 state government U.S. attorney's offices were talking about that exact approach. That's what Oakland tried to do, that is not okay. And it won't work. We can make decentralized cultivation work in San José. We just need an opportunity to talk about it, we look forward to it.

>> Mayor Reed: Lauren Vasquez Michael Car purvetionus Seghar Khan.

>> My name is Lauren Vasquez I'm an attorney I'm a medical cannabis patient I think you know where why I'm here today there's problems on multiple levels from what's included in this draft here to the process that got us here in the first place. And I think that can you do better and I think that we deserve more and not just as sick people but as voters and taxpayers and members of this community we deserve more than what we've been given. We deserve more than what staff has provided to us. And you've heard it already but if we don't get our due process here we'll find somewhere else to get it and whether that's the courts or the ballot box this is not the last word today. And it's not going to be the last word for a while and we've tried to work with you. We've offered you experts. We've offered you suggestions that meet you halfway and we're not getting that in return and I know there's people sitting on the council that get this issue and understand what I'm talking about and understand the law and understand why we're upset about these things but we're not getting anywhere so we'd like to see some changes. Thank you.

>> Mayor Reed: Michelle carpos, Segir Khan Susan Landry.

>> Hi, Mayor Reed and council I'd like to first thank you for your time and all the time you've spent on this issue. The issue I'd like to briefly address is the ordinances each San José collectives are at least 2,000 exclusive patients. To grow an appropriate quantity of medication for this cultivation equipment such as grow lights. This equipment is known to our fire department to pose risk of electrical fire when in high concentration. Three lights together pose a exponential out rather than concentrate them is not only more economical and allowed by federal law it is also much safer for our citizens. I would like to propose appropriate zoning. Another issue called cultivation presents is the rath of the DEA. It's been stated that state laws will be honored so long as large concentrated grows are not implemented. To force onsite cultivation of such a limit it down to 10 as they would implement cost to zero.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Susan Landry, ace Salvator,.

>> I'm Susan Landry, I live in San José I'm in council District 9. I have a couple of problems with private medical records and hipaa rights and patient rights. In 6.88.28 0 it states private medical records that is a direct violation of my hipaa rides to protect my medical history. It also says in qualified patients, health safety and welfare of the citizens it doesn't say about protecting our rights. I think the council would be good to come up with a list of patients' rights and have them be incorporated into this amendment. I also think there should be 50 collectives not 25. Thank you.

>> Mayor Reed: Ace Salvator, michael Gamino.

>> Hamilton street in Pierluigi's location. I'd ask that do you not approve this ordinance today. There's a lot of things that are still left out. As a collective director, I ask that you include the commercial office. It's a location that I've researched as well when I first came into this to find out that I wanted to be in a medical facility. I believe this is a medical approach to what we're trying to accomplish today. It is not a drug dmeel a building. It is a medical approach. If you would go in and see the members that we have it's a medical application. We also feel very attacked as owners. There is a number of collectives you say there's 150. I don't think there's 150 people here. There's roughly 70 of -- that have paid taxes, there's probably even less if you wanted to cut the number down that do not have business licenses. But there are those of us who are following all of your recommendations and trying to do things the right way but we feel attacked.

>> Mayor Reed: Sorry your time is up. John camburn. Michael gamino, Michael Hodges.

>> Michael gamino, I'm a member of the Americans for safe accessing Silicon Valley. I've been a patient for many, many years and in need of cannabis for many, many years. What I've heard today is a mess insulting my intelligence and thousands of people in this community. What I heard from staff is you want to protect everything but my rights as a patient! This section 9 you have in here, how dare you! How dare you tell me I can't grow my plants in my backyard! That's what that tells me. You need to get rid of this section 9. I've been using medicinal

cannabis for vegetables and the other herbs. I don't flaunt it. I've never caused a problem and you're telling me I can't do that anymore? How dare you. I need that. I have pain! I'm done with it. You people need to get back in there and talk this over!

>> Mayor Reed: Sorry, your time is up. Dave Hodges, Chris Colter, Ramani Springfield.

>> How's it going council? I'm Dave Hodges founder of SVCBC give a good analogy for what we see the what's going on. The city is basically taken apart from three different puzzles. We're talking about measure U title 6 and title 20 and tried to shove them together. Everybody else is looking at this puzzle and thinking you're insane. That's why we're talking about referendums and all these different issues. What's happening is a giant mess and we need to step back and start from scratch on this process. I'm not saying we have to throw out everything but most of it needs to be relooked at and it needs to be a coherent plan where we take these three different puzzles and actually make one workable permit that makes sense for everybody. Thank you.

>> Mayor Reed: (saying names).

>> Hello, thank you for not banning it outright do I appreciate that and thank you to the members and staff that met with us. With Americans for safe access. They were talking, staff was talking about how large scallit grows are not mandated by what you're doing. 140 down to 10 it's not mandated but it's going to happen it's a reality. In response to what the deputy chief was talking about whether he was wanting to protect us from being attacked when we were leaving after getting our medicine. You are more likely to get a gun pulled on you by robber. Through the raids that you guys did and everything else law enforcement pulls guns on people more often than robbers do. Please take out section 9 about the patients. You guys have got a lot on your plate, work on regularizing dispensaries not the patients themselves. For the sickness that needs to be tested for please show me a spike in illnesses that have happened from when this got legalized and --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Ramandi springfield, bmente-lou.

>> Good afternoon, council and Mayor Reed. I'd like to ask that you guys would consider the lotto system as a way of choosing collectives here in San José. But to configuration first consider the ones thr in the the right zones and have paid their taxes and done everything that you've asked up until this point to instead of condemning what they've done to start a collective, it takes a lot of finances, and time to get these things up and going, and to have one in the right zone and not consider them first would just be basically punishing their efforts. Thank you.

>> Mayor Reed: Michael Hoveland Joshua Balou Matt Senna.

>> Ladies and gentlemen of the council thank you for this opportunity to speak. I would first like to thank the San José police department. We have had good dealings with SJPD, been respectful staff have been working hard to finalize this ordinance. I know SJPD has their trying to stop illegal grows, drug cartel products from being brought into collectives and making sure the medicine is safe. No practical and actually harmful to collectives and patients oop like ourselves add med ex to grow enough population with only ten clubs available. Each of the ten clubs would need a whowrs the size of Costco to grow for the patient demand that means ten collectives ten Costco size grows in San José and if we can't run it we run out of medicine the patients will go back to the streets and they'll buy their drugs legally and then the cartels and popping up again growing in residential areas and all this work will be for nought.

>> Mayor Reed: Your next speaker is Joshua ballou and.

>> My name is Josh Belke and I'm a consult for medex and other collectives in the San José Bay Area oop properly serve the medical community. However I implore the council to bear in mind the density of San José and whether or not to set an arbitrary cap on the number of collectives is a proper thing to do. The council simply has

to look to the Planning Commission minutes or the actual recommendation to find a source of a legitimate discussion and logical conclusion in regards to this entire matter. A collective like medex take on this proposed burden will still retain the ability to and counterintuitive. Multiplying that patient load upon the surviving collectives would spirit of law of the state. Not once did I hear your staff mention that patients were advised as a variable in their decision and their recommendation. I ask that you keep that in mind. Thank you.

>> Mayor Reed: Matthew Senna, Daniel Pursland, Sharon potter.

>> Good evening council my name is Matthew sen that cannabis. I would like you guys to remove part 9 the already existing laws that regulate in home patient growth so please remove that and also please remove the no paraphernalia collective employees need that paraphernalia on site to properly use their medicine. So by having the patient or the collectives not able to have paraphernalia on site the patients cannot go do a smoke shop where these items be sold and ask how to be used. If they use how to use their bong or vaporizer they would be asked to leave the store. The paraphernalia onsite needs to be there for the patients to know how to properly use their medicine. Once again part 9 please remove and no paraphernalia please remove. Thank you.

>> Mayor Reed: Danielle purseland Sharon potter.

>> Hello council first off I wanted to say thank you to all those that were in attendance on church on Sunday and the event that was done on Sunday and honored to be everything that took place. Part of my reason of being here we really do need the police here. As you can see I did a story for you guys in short of the elephant and the blind men. I did a little political recap picture as you can see on kind of how I view what's going on with the cannabis industry and us and council working together. I'm hoping with the last little picture that you can see in the diagram that we that you the head council can determine today who will stay in the city. And table the rest for the rest. To come back at a later date so that we can -- sorry -- establish the foundational stability that we need in this community to protect our children and the patients within San José. Thank you.

>> Mayor Reed: Thank you, Sharon potter that's the last card I have. If I called your name and you didn't come down now is your last chance.

>> Hi I'm Sharon potter thanks for letting me to speak. I have a physician who deals with people's chronic pain a lot of disability patients and I think it's naive to assume that marijuana is the only drug available for patients who have chronic pain. The other thing I want to mention is I'm very concerned that students at marijuana from these dispensaries with false papers. I've rented to three mothers in the last week who told me that their kids have access to pot that it's easier to get than alcohol right now and I'm very concerned. My son just started at pioneer and I don't want him running into that kind of influence and it's very worrisome. Parents who think their kids are going to Stanford i'd like you to consider this when weighing the benefit of how many of these pot dispensaries should stay open. I appreciate your time. Thank you.

>> Mayor Reed: Come on down sir give me your name sir.

>> My name is Sean Cameron and I'm president of the cannabis patients alliance, thank you for the ability to speak. mayor based system alliance has many concerns about the proposed changes to title 6 and title 20 the one thing we would like to focus on today the is the need for a merit based systems, we need to apply. So we'd appreciate it if you would take a look at our proposal. We'll make ourselves available at any time to work with you to make that work for the city. Thank you very much.

>> Mayor Reed: Ross Signorino.

>> Thank you, Mr. Mayor members of the council. One of the things I'm breaking up the place here. One of the things that I didn't hear too much, I did hear I should say from the public testimony about safety in regards to all these dispensaries around the city. Then again, police testimony, I haven't heard anything on that, in regards to law enforcement, how will this burden or impact that and we're talking about budget how will that increase their budget. But nonetheless I don't really have too much to say on the subject. Listened to the public testimony, I want to get off now, I don't want to hear those dreaded words, sorry your time is up.

>> Mayor Reed: Thank you for saving 20 seconds Ross. That includes the public testimony on this matter. We'll now have additional comments staff and council. First I'd like the staff to have comments on the I heard some things I think were just plain wrong and I want to give the chance the chance to get into public discussion.

>> Thank you mayor, just one comment I'd like to make on behalf of the administration. There would be public comment today that we would be going from one 40 collectives down to 10. I just want to point out to the council that nonpayment of the medical -- I'm sorry marijuana business tax is automatic grounds for disqualification and as you received from the weekly report from the City Manager's office, only 71 of the collectives actually paid that tax. For the month of July. So it would actually be going down from 71 collectives to ten, if that's what the council decides.

>> Mayor Reed: Anything else from the staff before we get to council discussions? Okay well I'm sure there will be questions for the council as we get into this. I'd just like to start by noting that in preparation for this meeting that my staff met with Jerry Strangis representing MC 3 and in north City of San José as part of premtion for this. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, mayor Reed. Let me start out by thank staff for all the hard work that you do. Or continue to do. Staff from the city attorney's office from planning and also from the police department, I have a couple of questions, and then discussion on this matter. A couple of quick questions. Angelique you mentioned that 71 collectives pay taxes so far from March to July of this year we were able to generate \$1.6 million from the business tax. What are we doing with the ones that haven't paid taxation since March?

>> My understanding is that we're actually trying to enforce by sending out letters letting them know if they do not pay the tax they could be disqualified from the registration process when the time comes to actually register the collectives.

>> Councilmember Nguyen: Has that been effective?

>> We'd have to check with finance, someone is here from finance if you would like them to speak to the issue.

>> Mayor Reed: Julia Cooper is here. She could answer the question, she's close to the microphone.

>> Julia Cooper acting director of finance. Could you repeat the last question, Vice Mayor?

>> Councilmember Nguyen: Yes, Angelique was talking about sending letters to those collectives who have not paid taxes and legalizing them know that they might get disqualified. I was just wondering have we received any kind of response from them?

>> Some little response and then we're also going to be starting the audit process, we're staffing up to do that doing the audit process and making sure all the collectives have submitted the tax that's due to the city.

>> Councilmember Nguyen: Thank you. Another concern I heard from the speakers, the Department of Justice might come down hard on the potential large scale operations if we limit our numbers to ten. And I've read, I've received numerous letters from the Department of Justice dating -- the latest I think was on June 29, 2011 and they will prosecute large scale operations if that was the case. I was just wondering if the city attorney's office has received any indication from the Department of Justice stating is there any appropriate size that they might not come down on, or is there a size that they're looking at that they would just leave these collectives alone?

>> City Attorney Doyle: The short answer's no. The real issues surfaced with the U.S. attorney's office wrote a letter to the Oakland City Attorney or the Oakland city council, because Oakland was contemplating having onsite or I mean cultivation facilities as much as 25,000 square feet. I think there is some, you know, we know that that is so enormous that the justice department will potentially take action. And so I don't envision that anything in our ordinance, we would ever envision such a large scale operation. I think that 10,000 square feet has been something that has been discussed. But I think I don't believe the justice department would ever put in writing how much in terms of square footage they would be okay with.

>> Councilmember Nguyen: Thank you for that Rick. So I guess my assumption would be that if you're one of the ten collectives, and you don't want to invite the federal government to come down and shut you down or give you a hard time, then you would definitely look at the size of the operations or the onsite cultivation center, that's really up to an individual collective to determine if they want to continue to operate.

>> That's correct. And there's nothing in the regulations that speak to any size, limitations or requirements, anything of that nature. There's nothing that assumes that they will be large facilities. They could very well be mom and pop establishments that are one of the ten or if not all of the ten. But we stayed away from the size limitations because of that concern.

>> Councilmember Nguyen: Thank you, Angelique. We have had significant deliberation on this issue as Laura pointed out earlier in her prengts so I am hoping today we can finalize this and come up with a sensible solution in regards to the two ordinances that are being proposed. Obviously, this is a very complex matter, there isn't any perfect solution that will accommodate everyone's needs. I think some folks will walk out of here very upset. Others will walk out of here happy that the City of San José actually has rules and regulations when it comes to medical marijuana. I don't pretend that we're going to come up with a solution that's going to make everyone happy and so but in order for us to have a more thorough discussion and hopefully come up with some sensible solution I'd like to propose -- I'd like to approve staff recommendation --

>> Mayor Reed: Vice Mayor I'm sorry I know you're going to make a motion but I think we want to take first a motion on CEQA.

>> Councilmember Nguyen: Okay right.

>> Mayor Reed: And then the other two. If you could separate your motions.

>> Councilmember Nguyen: That is fine. I will move staff recommendation in the memo dated September 11th, 2011 item A.

>> Councilmember Pyle: Second.

>> Mayor Reed: Negative declaration not the substance of the ordinance. So specific questions for staff on the negative declaration portion of this, anybody who's still waiting to speak who has questions on that? Councilmember Kalra.

>> Councilmember Kalra: Thank you. Laurel I know earlier on there was some concerns regarding kind of having a limit of 10 and what kind of environmental impacts those would have. Just speaking to the neg dec, does that, what intnt entity might address that presentation that businesses will decide what size they want but it demands at a certain point if demand dictates that they have larger facilities then what if anything does at least in terms of the environmental impact analysis, to what extent is that relevant?

>> Laurel Prevetti: Thank you very much for question. I think we first need to recognize that we're currently dealing with an unregulated situation, where the current operations have not had the benefit of fire marshal inspections, building inspections, we do not know the current status of fire code, building code compliance, et cetera. So the proposed ordinance would essentially require all collectives to meet those state codes, and therefore, would improve the environmental situation that we have right now. And again, the ordinance allows each collective to determine the appropriate size of their operation, and then they would need to meet all the city codes. So then, essentially we would not have environmental impacts, because those codes would provide energy conservation, et cetera, California some of the toughest codes there. If it's the will of the council I know we do have staff in the audience who have empirical information with respect to grow operations so in the course of the conversation, if you're interested in that we can talk more specifically about potential size and what we've actually observed in the field. But from a CEQA perspective we do not see any environmental impact.

>> Councilmember Kalra: And is that also as part of that analysis the fact that these businesses would have to comply with all city rules that would also include you know park regulations as well?

>> Laurel Prevetti: That's correct. They would need to comply with the parking regulations set forth in the different zoning codes. Again we're looking at a zoning verification to make sure that the locations meet the appropriate zoning district and distance requirements. And then to the extent that a collective wishes to build a new building or put on an addition to an existing structure, then all of the regular planning discretionary processes would apply as well as building permits, code review, et cetera. So we're not assuming that businesses would just move into existing space but recognize that if successful they may wish to add on and we have processes for all of that.

>> Councilmember Kalra: And a final question on this issue, the traffic issues. Again regardless how many are paying business tax there are an indication of over 140 which is an indication of the demand. By reducing it to ten what about the environmental impact in terms of just the traffic issues they may cause? Even if they abide by kind of the distance requirements they still may be relatively close to busy intersections or relatively close to residences, residential neighborhoods or industrial areas where we have companies and what have you?

>> Laurel Prevetti: With respect to traffic, we analyzed similar uses to try and, as a proxy to understand what the traffic impacts were. So we took a very conservative approach. And looking at the U.S. standards for traffic generation, for things like pharmacies as well as medical clinics. The traffic generation rates are actually very, very low. So if we are talking about qualified patients using these operations, then we do not see any traffic impacts.

>> Councilmember Kalra: What, if you just remind me so I don't have to dig through, what were the hours of operation allowable?

>> Laurel Prevetti: Well again we're in terms of the hours of operation in the proposed title 6 ordinance.

>> Councilmember Kalra: Yes I know they're separated just in relation to the environmental impacts.

>> Laurel Prevetti: I think we're looking at normal business hours for the most part. Angelique will assist me but for purposes of CEQA analysis we were assuming the same kind of business operations that a medical office, medical clinic or pharmacy would have. As well as the traffic generation that's associated with those types of uses. Again we were looking for activities that are similar to a collective dispensing medication.

>> Councilmember Kalra: And so it would be more similar to I guess a pharmacy?

>> Laurel Prevetti: That's correct.

>> Councilmember Kalra: Pharmacies tend to have a number of different products they sell, how is that distinguished in making a parallel to this type of business?

>> Laurel Prevetti: Well in terms of hours of operation we're looking at 9:00 in the morning to 8:00 p.m. so a little bit smaller hours of operation than of course some of our pharmacies which as you know do operate in terms of 24-hour use. But again, if we're looking at just the qualified patient population, using these businesses, we don't foresee --

>> Councilmember Kalra: Is that the population of the county?

>> Laurel Prevetti: Again we looked at overall traffic generation for these uses. So to the extent that these uses have you know a variety of characteristics, we use the national standards for them. So whether they're concentrated in a particular area, et cetera.

>> Councilmember Kalra: Promised last question on this issue. If businesses wanted to expand and they have to comply with all city rules that would include traffic mitigation so they already exist on whatever 5,000 square feet

and created as much traffic whatever it is and now he they're doubling their size and double the traffic that may require traffic mitigation?

>> Laurel Prevetti: Correct. If they are proposing a new building, that may CEQA analysis that was conducted is for these particular ordinances. It did not assume or provide clearance for future expansions, new construction for these collectives.

>> Councilmember Kalra: Thank you.

>> Laurel Prevetti: Thank you.

>> Mayor Reed: I think that was it on the questions, just on the CEQA analysis. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Just a question. Laurel do we have any kind of reliable data on the qualified patient population whether by county or MSA or any other measure?

>> Laurel Prevetti: Refer to the chief for that.

>> Thank you Laurel. Councilmember Liccardo I looked on the Website for the medical marijuana identification card system. And since 2004, there are 1570 cards that have been issued through the county program. That the state administers.

>> Councilmember Liccardo: That is for the entire county of Santa Clara?

>> Yes.

>> Councilmember Liccardo: Well, that's certainly informative. I think you know, it's important --

>> Mayor Reed: Just to follow up on that, hearing murmurs from the audience I think that's because that's not everybody necessarily that has a card. So if you could just clarify that chief.

>> That's correct. This is just the medical marijuana cards that are issued through the county. So that doesn't mean that other folks haven't gotten other recommendations from their physicians. This is who has the cards. So it's very -- we've struggled with this, trying to determine how many people there are. We've worked with are there multiple people that are going to different collectives? There's all kinds of variables that come into here and it's very, very difficult for us to get a number of the actual number of people that are being serviced and what actual demand is.

>> Councilmember Liccardo: So we don't -- there's no reliable data out there about the number of lawful prescription holders? Well lawful probably described as being a qualified doctor wrote something on a slip that said that this person is entitled to --

>> I would agree with, yes, the original statement that it's very difficult for us to figure out what that actual number is.

>> Councilmember Liccardo: Okay. Yeah, I certainly understand the argument that folks make that with 140 dispensaries or however many we have now, I think we're losing track. It's certainly an indication of demand but not necessarily an indication of lawful demand and it's our job to accommodate the truly sick patients who create the demand for the medical use of the drug not to accommodate the recreational use of the drug and it seems to me that with ten well regulated dispensaries we are going to see significant drop in total demand. So I certainly don't have any problem with the negative declaration. I would urge my colleagues to support it.

>> Mayor Reed: Okay, we do have a motion to approve the negative declaration. I don't see anybody else who had any questions on that. So on that motion all in favor, opposed, none opposed, that motion is approved. Right back to the Vice Mayor to take up items B and C.

>> Councilmember Nguyen: Thank you, mayor Reed. At this time I would also like to move item B and C in the staff memo dated September 13, 2011 and I'd like to speak to the motion if I can get a second.

>> Councilmember Pyle: Second.

>> Mayor Reed: We have a motion to approve staff recommendations in title 20 and title 6 category of the ordinance. Vice Mayor.

>> Councilmember Nguyen: Thank you. Just a couple of issues I just wanted to state again which I've spoken about extensively in the past. But I just think that 140 collectives or so, it's just really way out of control. I think that I'm not sure 10 is the correct number. But in regards to the safety concerns that I've been hearing from deputy chief Hober and chief Moore actually talked about this extensively at the last meeting I'm very concerned about the safety of our community. So this is really not an all-or-nothing process as the deputy chief stated earlier. We have another opportunity at a later date if we find it necessary to increase the number of collectives. Or allow offsite cultivation, et cetera, I don't think that it's an all-or-nothing process and so -- but I would like to give the police department an opportunity to go out there and really work with these collectives and make sure that we have a safe community and make sure that our neighbors feel safe, that when they live around these collectives, that they feel that they can actually have a quality of life. And so I'm fine with the ten that we have right now, in the ordinance. I hope that my colleagues would support that. In regards to the registration process, we have been hearing a lot from representatives from the different collectives talking about we should go with the merit-based process. I think that we should stick with the first come first served registration process. The rigorous criteria that we have right now in place really will wipe out a lot of these collectives. And so I like to give that process an opportunity for these collectives just to go through and see if they can meet the criteria, and at the end of the day, I strongly believe that we will get good collectives to operate in our city. In regards to the offsite, onsite cultivation, I'm still going to support the onsite cultivation only. Simply because we need to allow the San José police department an opportunity to really go in there again to regulate and work with these collectives to make sure that these medical marijuana don't come you know from illegitimate places and we need to have some kind of oversight on these cultivation centers. And then I know that Councilmember Oliverio has a memo that come out if

you know when he get a chance to speak I'm sure he's going to make some amendments but I'm willing listen to that. But at this time I think what staff have in place in the memo dated September 13th, 2011 is something we can and should support so that we can have a sensitive regulation ordinance regarding medical marijuana in our city. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. So 23 months later we're here. I don't say that lightly because I think it's, you just look at the staff presentation of 30 slides, we're dealing with a fairly complex topic and one of those things where someone can find something wrong with any particular thing whether it's your personal conviction or how you view the interpretation of law. That's just it. We spent two years doing bail bonds and that was not nearly the issue of this topic and we're sitting here between the myriad of different governments and in the end the cities in California are finally the ones that have to manage the regulatory process in absence of the state managing this like alcohol for example or the federal government managing it like a pharmaceutical drug. So what I would say is, I could speak a lot to each individual site I could speak a lot to what a lot of the things in the staff report or people's comments but what I think is imperative is every time we've approached this subject we have looked at it from the boil the ocean methodology, an all encompassing 16 layers and when all bit off a little bit at a time, in retrospect that was the way to go. Because you're you know tackle the land use, tackle something else, tackle this. So my wish and desire is that the staff's recommendation, staff report is not perfect. It has issues. And we do have the ability to amend the staff report and staff recommendations and obviously the staff report actually has some of the council direction we gave you. So let's be fair. We directed you in some of this way. And that can be changed. And my guess, it will be changed just like any other law ordinance we do from the City of San José. However that could be changed beyond us. That could be changed as mentioned through state law being changed. That could manage from ordinance or pardon me lawsuits where a judge then interprets it for us or it could be what is mentioned before the, it's been mentioned before the referendum process we could get there but we should do something. If you look at Denver they have 300 smaller population but that's a different state law. Our other cities in the state have more than us less than us whatever. But in the in the end we want to make sure that those patients have safe access, that residential neighborhoods their concerns are taken care of

their fears are alleviated law enforcement guidance the way it is going now it is what it is. So Vice Mayor I appreciate the motion you've put on the table. I think you've stated it well where you're coming from but what I really like for the opportunity is for you to allow friendly amendments from anyone on the council and give them a chance to be voted up or down by this council. Bought otherwise I don't think we're going to get through it and I would just offer that you know we can have debate, it doesn't necessarily have to be vigorous, it can be what we want it to be but allow those amendments to be voted up or down. If the amendment gets voted down we are off to the next one but at least we would sort of get somewhere. Would you open to allow amendments where you would allow them to have a vote up or down on the amendment not on the motion?

>> Mayor Reed: Let me go to parliamentary procedure. City Attorney correct me if I'm wrong, you can request be amended by friendly amendment, times it gets incorporated sometimes not, if not you are free to make a motion to amend and then we would vote up or down on that motion, until we run out of amendments p.m. got it. .

>> Mayor Reed: In which cage one way or the other.

>> Councilmember Oliverio: First of all I will pes first.

>> Councilmember Nguyen: I'm going to stick with the procedure that the mayor just --

>> Councilmember Oliverio: Fair enough. I've put out a memo with just a few items. So I'd like to make a motion to amend. Number one we're talking about item number 1. We're talking about million cannabis, not recreational cannabis. Sizable margin for prop 19, the law of the land is prop registered nurse should have some role with each collective since this is medical cannabis. And I'd like to see that as part of what we put forward. Again this is medical cannabis. A licensed physician or a registered nurse. My motion to amend. If anybody would like to second?

>> Mayor Reed: I heard a second, Councilmember Herrera on the second. Okay so we will discuss debate whatever you want to call it these individual amendments as we go through them. So on this particular amendment, Councilmember Herrera, did you want to speak to it?

>> Councilmember Herrera: I have no problem medical situation we're talking about medicine. I think it's only, it makes common sense to have someone who has medical expertise on the board.

>> Mayor Reed: Okay I have a line of requests to speak and I also know at least one of the monitors is not working. If you want to speak on this amendment let me see a wave on this one. Okay, Councilmember Kalra and then Rocha.

>> Councilmember Kalra: Thank you and just in terms of I agree with the concept it mentions the board and I don't know what the structure is of these collectives, that's not a requirement for them to have some boards but some other terminology which allows a little bit broader, whether it be consultant, whether it be advisor, a little bit broader but still the same intent making sure there's connection with medical professional.

>> Councilmember Oliverio: I think it's someone who needs to be involved in the policies of the collective. Whether it's called board or director.

>> Councilmember Kalra: I agree with that. It says here to serve on the board, and I just don't know there are other capacities that are just as involved or maybe more involved potentially on the staff what have you as a consultant paid consultant or whatever it might be, if we could allow for that and then I'd be happy to support the --

>> Councilmember Oliverio: I think that's fine. Someone who has a stake advisory.

>> Councilmember Kalra: Compatibility.

>> Mayor Reed: Councilmember Rocha and then I've got Liccardo.

>> Councilmember Rocha: Thank you, I have some of the questions that Councilmember Kalra had. Have you had feedback from the industry on this?

>> Councilmember Oliverio: I've spoken to some but not the actual collective boards but people that feel that this is something that makes sense. You know.

>> Councilmember Rocha: Okay because we've heard quite a bit from patients or collectives maybe I've missed that, maybe I haven't heard that from the urgency from them.

>> Councilmember Oliverio: On the level of urgency from them I can't speak for them having a licenses physician or registered nurse you know being involved in this process is fair.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Regarding the concern raised by Councilmember Kalra could I offer language that would specify that the doctor or nurse needs to be a director officer or employee? And the reason why I offer that language is, I would rather have it be someone with some responsibility, consultants don't need to worry about D and O insurance, they don't need to be in any way liable for dispensing occasional advice, running away from the problem, I want somebody who actually has a stake in this. My concern, this may be something the industry wants or not, I think this is a good addition because frankly we don't have the medical expertise in the city and if we're expecting it to be there in the collective then it should be somebody with some real skin in the game.

>> Councilmember Liccardo if I could respond, Colleen Winchester on behalf of the city attorney's office I just wanted to call your attention to the health and safety code definition of who's supposed to be involved in a

collective. Really qualified patients, and with a state identification card and there's a state definition who's to be involved it's a little more complicated just saying board or employee and a broader definition that would say serving as a consultant or something along those lines may address the same concerns while not running into the definition in the health and safety code.

>> Councilmember Liccardo: Well my concern is I know how consultants can be used and I also know that consultants don't necessarily have to be responsible for bad decisions that organizations make. I'd like to have it be somebody who's actually involved.

>> City Attorney Doyle: Councilmember if I can just chime in. I'm looking at the section that deals with the owner manager or member who's actually involved in cultivation and then it lists the crimes. Perhaps what I hear you saying at least is a person in responsibility whether it's a director, if they have an advisory board or an actual board or a administering or group of administration, you would want to have licensed or registered nurse.

>> Councilmember Liccardo: Okay.

>> Mayor Reed: Councilmember Oliverio it is your moangs your language.

>> Councilmember Oliverio: At the end you can tell my council direction. I want this person this medical professional to be involved. So when we come back to the council three months six months nine months from now and we are having this discussion it would be nice to see this lined person or registered nurse speaking an behalf medical cannabis. So whatever the wording is, is fine. I just want to make sure that they're involved.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I think it also leeps the industry. I think it helps to some extent provide legitimacy by having these medical persons involved, I think it's something they would want to embrace.

>> Mayor Reed: Let me ask for clarification of the motion, we have language on the written document which seems to be modified somewhat but you've got the motion so you tell me what you want the language to include in the motion.

>> Councilmember Oliverio: My goal for simplicity on the memo make it one sentence. So I think we're just caught up on what the title is. So board director, you know someone who has a permanent position, a permanent position with the collective. Whether it's paid or unpaid or board or director, that's I think and then if that person leaves you need to find another person.

>> Mayor Reed: All right for purposes of the motion can the City Attorney give us some language so we know that -- this is the ordinance we've got in front of us and it's coming back for a second reading on the 22nd so we need to be specific or else we got to do this all over again.

>> City Attorney Doyle: I think I would suggest a line to the effect of one person with responsibility in the ownership management of the collectivings be a licenses physician or registered nurse.

>> Councilmember Oliverio: Perfect.

>> City Attorney Doyle: The problem is we don't know if their corporations, LL --

>> Mayor Reed: He said that's perfect I think he said, I'm going to take it as an amended is that okay with the maker? Yes it is. Further discussion on the particular motion ? Councilmember Kalra.

>> Councilmember Kalra: Thank you. Rick what about the issue of having a medical professional and with the federal laws as they are now, essentially the fear factor on the part of the medical industry, do you see that causing an issue?

>> City Attorney Doyle: I don't know. Doctors prescribe or give certificates to qualified patients. So I would think so long as it satisfies the state law requirements, I don't know if there would be a problem if there is we can certainly -- that would be a operational issue that we would come back and report back and see if we have to fix it.

>> Councilmember Kalra: Essentially the same doctors or nurses that are willing to write those recommendations could also be into that, thank you.

>> Mayor Reed: It may seem odd to they think that a nurse or a doctor could be a caregiver as defined under the law but that could happen. caregivers and I think would qualify to be in collectives so I don't think it's an unreasonable motion. I'm going to support the motion. Anyone who wants to speak to this underlying amendment to the motion? On the amendment Councilmember Rocha.

>> Councilmember Rocha: I'm going to go back to the concerns I had earlier, not hearing from the industry. I'm not sure we're weighing in mandates so to speak and included in an ordinance so thank.

>> Mayor Reed: All right on the proposed amendment to the underlying motion, all in favor? Opposed? I count one two three opposed, that would be Casms, Pyle and Rocha opposed so that passes on an 8-3 vote so the underlying motion is amended. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. My next motion to amend would be to allow clebs, actually Laurel let me ask you this question. We allow some medical office in commercial general but medical office also exists in commercial office the CO correct?

>> Laurel Prevetti: Right. The zoning districts that the council has provided, the four that I mentioned, all of them provide for medical office with the exception of light industrial. So essentially to capture the spirit of what I understand in your motion to allow collectives to operate in medical office buildings is essentially captured within the zoning district, the three of the four zoning districts that the council identified back in April. To the extent that

you want to open it up to other zoning districts, then, you know, that's a whole separate question. So if you want all of the zoning districts that happen to allow medical office then you're adding commercial office commercial pedestrian commercial neighborhood as well as some others. So I think you need to think about how broad you want to go. Because that is an enumerated use within all of those zoning districts. And again, medical offices are certainly allowed within the commercial general as well as some of the other districts.

>> Councilmember Oliverio: Is there a way in the way you know to implement that allows, you know, medical office in a particular new zoning that's not on the list today, but and that's it? So it doesn't open it up for other uses within the CO and the CN but just the medical office type?

>> Laurel Prevetti: Well our zoning code is structured really by use. And we identify what the intent -- overall intent for our zoning districts similar to the discussion that we had with bail bonds. So it's really what's the overall intent of commercial pedestrian or general commercial? And then what are the reasonable uses that fit within that. Our code isn't treasured of medical office first and then which zoning districts. So it would be very difficult to isolate one use without restructuring the code.

>> Councilmember Oliverio: Understood. I'd certainly like to see more of the options for a medical office that is within the distance requirements of the sensitive areas that we've set up. You've listed out more than I probably would want to do but I'd certainly be open to expanding it to commercial office. But I would sort of like the, you know the guidances that it's specifically looking at meme office. So again, so laurel if I were to make a motion to amend and say allow it in CO but the emphasis is really on medical office does that work? Are you saying that does not work for you?

>> Laurel Prevetti: Well from a zoning verification standpoint our staff would be looking at, is it in the CG or now CO district? Whether a building is official a million office building that's not something that we would look at from a zoning verification standpoint because again medical offices can be found in general shopping centers, they can be found in strip malls. They can be found in a lot of different types of locations. They don't necessarily have to be concentrated with other medical offices.

>> Councilmember Oliverio: Okay. I'm going to hold off on that one for a moment see if my colleagues have any other comments on that. I don't think this will be the only motion to amend. Number 3 where I asked Team San José hey, would you mind giving the finance department to the City of San José access to your general ledger and they said yes and that was qulemented. And now the finance department doesn't have to cul, doesn't have to ask for numbers they simply log in and look at the general ledger. So the same way what I'd like to see is that same access for the collectives. Because as Jewel yaf Cooper could staff up hire folks to do audits, it would be much easier if her staff can log in and see the accounts payable, accounts receivable, not the general ledger but just that and today's technology with a lot of local companies allows you to do that. So I'd like to make a motion to amend on -- the motion on hand is to throw transition to software of the view only access to the general ledger not personal confidential medical records.

>> Mayor Reed: All right, we have a motion to amend the underlying motion with a second. Do you want to speak to it? Councilmember Herrera.

>> Councilmember Herrera: I like the idea of having the access but what I didn't like in your memo was it felt -- it seemed overly prescriptive in telling them what kind of software. You were talking about cloud based. I know it will be ending up that way but do you mind not being so prescriptive.

>> Councilmember Oliverio: .

>> Councilmember Herrera: I probably wouldn't be that way but it ends up being too prescriptive.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I have two different feelings about this. We obviously have to audit and hold people accountable to the regulations we put upon them. But I think we're starting to get on a slippery slope if all of a sudden we start fining other businesses that we want access to their books on. And with Team San José, the

big difference is they are using -- they're 100% taxpayer funded doing government purpose work in operating our convention center. And while I don't necessarily disagree on it in concept, in this regulatory issue, I just wonder what door we're opening in other areas. Because we have other highly regulated businesses, in our city. It could be a liquor store or a -- someone who sells cigarettes or the card clubs or a massage parlor. And you can go on and on with the list and then where does the line get drawn to we're looking at the 7Eleven's books? That's a problem. I'm not comfortable going that direction.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I have similar concerns. You know, if they're going to be required to have busy license tax and comply with all other busy regulations, I think this is an onerous for this one type of business. The parallel to Team San José, although I think that information is valuable at the public entity. In this case if we're to get that information whether it be through cloud computing or some other mechanism that would make it accessible to the public as well, my understanding it would make it public information once it's been given to the city.

>> Councilmember Oliverio: That's not my intention, but if the finance department did an audit would the audit become public?

>> Councilmember Kalra: Yes.

>> Councilmember Oliverio: In a manual method? What's the distinction?

>> Councilmember Kalra: The distinction is the degree to which invasiveness of it of all times, cloud computing and if anyone in the city can access it, that means anybody can access it, I agree with Councilmember Constant with regards to the slippery slope argument, I don't see the justification to put that kind of business or structure on them. I think there are nufdz constraints written into the ordinance cluck the access to confidential information. I believe the way it's written now is that only member I.D. will be accessible and not all the patient information, Angelique, is that correct?

>> Yes, we've updated the regulations to reflect that a number will be assigned to each member and that's what's disclosed in the log.

>> Councilmember Kalra: I was concerned about that, the release of private health administration, I appreciate the fact that Councilmember Oliverio's rendition respects that overly invasive and not necessary although I do think that having access in general for the city to see the books is good but this kind of access I think is overly broad.

>> I just wanted to acknowledge the view but I want to say this councilmembers, that we can continue to stay in the manual method which is a manual method which requires a person to go do the audit or you can do it this way where you don't have to spend those hours doing the doits or you it could be a number of things. So I'm just looking at it from an efficient level. This is the efficient level. This is why I effort on our part and then we can save that money to hire another person.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. While I appreciate the intent I'm not going to support the amendment. I think this is over the top regulation. We're not providing any kind of financial subsidy to these collectives. We provide subsidy to Team San José and other nonprofits and we ask them to submit an audit by the end of the year. We're not really doing this for the collectives so it's not something I can support.

>> Mayor Reed: All right on this particular amendment any other questions or comments? Councilmember Herrera.

>> Councilmember Herrera: I think the idea of you know using technology is -- yes I seconded it. I think using technology is really helpful and maybe in the audits that we're going to do maybe there's other ways that we can

streamline it and create things down the road. Councilmember Oliverio, that will help us reduce the staffing on this so I appreciate your sentiment. I'm not going to support the amendment.

>> Mayor Reed: All right we have an amendment on the floor. To amend the underlying motion. All in favor? Opposed, I count opposed, Kalra, scant, Campos, Pyle, Herrera and Rocha so that's and Nguyen and I'm opposed so that's eight opposed,.

>> Councilmember Oliverio: On to the next one. This one has to do with first floor use many of the folks that are patients, I'm going to go back, sorry that's where I looked on the paper. This next one will be first floor use. This allows just this. We are dealing with people with a doctor's if we are going to have a limited number then just allow first use and that's my motion to amend.

>> Mayor Reed: All right, we have another motion to amended. We have another motion Councilmember Rocha, Councilmember Oliverio, you're done in terms of speaking? Councilmember Liccardo.

>> Councilmember Liccardo: I'm not going to support this amendment. I think the Planning Department has now confined first floor restrictions as I understand it to just two of the zoning areas. There is no question, we've been long enforcing ADA requirements in buildings for the last two decades. I think we've been very diligent on that issue and will continue to be very diligent about ADA enforcement. I hear all kinds of complaints from building owners and business owners anybody who needs to get access to an elevator second floor. I think the concern we have is certainly the concern I have is the impacts we see on the ground floor. Which are not easily regulated and frankly, you know, we see anecdotally every time we may wander down first street or post street we have a guy slit tinge customers, which is contrary to the notion of people needing to have cards and activities happening out in front which is just generally not appreciated by nearby businesses and the idea is we're trying to create pedestrian friendly commercial thoroughfares where people are comfortable bringing their grandparents or their children to walk without feeling surrounded in some way by activity that they find either undesirable or threatening. And so it is not uncommon for many cities to simply say, in those kinds of uses, let's keep them off the first floor of areas where we expect there to be a lot of pedestrian activity. So I think it's important that we keep

that in place, particularly in those areas which I mean frankly downtown is a very fragile retail area. We know that. I know I hear plenty of complaints already from people who feel that the presence of various businesses and activity happening in front of those businesses discourages them from being in the retail corridor and I think we need to take those concerns very seriously.

>> Mayor Reed: On this amendment Councilmember Kalra.

>> Councilmember Kalra: Thank you. I think it's restrictive, I think the restrictive is appropriate, I mean including the large shopping center the other component of that I definitely agree with that. But Laurel on this CP and and DC. Can you give us the other example of commercial pedestrian other than downtown core?

>> Laurel Prevetti: We have other location where we have commercial activity so originally we were thinking of our neighborhood business districts many of them still have the commercial general zoning, so that would be one location where this would certainly apply, we want to make sure we've got you know places where people feel safe and can visit all of the businesses, so that's why we also added the shopping centers, the larger shopping centers per the council direction from earlier. So I think actually, we may have a mistake in our presentation. Because the administration is not recommending commercial pedestrian as one of the zoning districts. So I apologize for that. So it would really be not on the ground floor of buildings within the downtown primary commercial and not on any floors of shopping centers of parcels larger than 40 acres.

>> Councilmember Kalra: That was my confusion.

>> Laurel Prevetti: I'm so sorry.

>> Councilmember Kalra: That is separate from this issue. This issue is simply saying allow ground floor use. Staff recommendation is ground floor use is okay restriction then I think that there is still other areas where they can operate in ground floor and it's not like they can't operate downtown, they just need to be above the ground floor. We need more activity on the ground floor especially in the downtown.

>> Mayor Reed: Anyone else want to speak on this amendment? Motion to amend, all in favor, opposed? I count a lot of opposed. Let me see, Kalra, urches Nguyen pile Liccardo all opposed constant not voting that loses by some count 2-9, 2-8 whatever, somebody's got the count, clerk's got the count doesn't really matter, motion fails is the important thing. Councilmember Oliverio.

>> Councilmember Oliverio: And before moving on to item 4 I'll go to item 2 on the medical office, I'll make a motion to amend to allow on commercial office and then we can get a discussion on commercial office, whether to stay or go, I'll make the motion to extend medical office to the CO zoning. If there's a second.

>> Councilmember Rocha: Second.

>> Mayor Reed: All right we have a motion to amend. Want to speak to your motion? Anybody want to speak to this one? We talked to it a little bit already. Councilmember Kalra.

>> Councilmember Kalra: I think this is reasonable, again given the other restraints being put on with the ten maximum if we go with Planning Commission recommendation, two or three per district there are enough places where we can find appropriate locations so I'll support the motion.

>> Mayor Reed: I'd like clarification from staff on what the motion means. I thought I was following it before but I'm not sure now. If this were approved as stated that there would be allowed in --

>> CO zoning.

>> Mayor Reed: In the CO zoning. Where is the CO zoning and what is currently allowed et cetera?

>> Laurel Prevetti: The commercial office zoning is found primarily near residential, so I think I'm not sure how many additional opportunities this would create for collectives, because typically, we've handled office uses as

being an appropriate transition between our residential neighborhoods and more intense commercial areas. So we do have some commercial office along North First Street which again is backed up by residential, we've got commercial office certainly by O'Connor hospital and other places really sprinkled out throughout the community. So if this motion were to pass, then essentially we would have five zoning districts within which collectives could occur. Assuming that they could also meet all of the distance requirements.

>> Mayor Reed: Okay, I think I understand it. Councilmember Constant.

>> Councilmember Constant: So I have a question. I know Laurel you and I spoke about this yesterday. Is there a way for us to distinguish some medical office uses from others? My concern is, there are some medical complexes that are geared specifically for children, like I know I have an area where I take a couple of my children to a specialist and there's a whole -- they're not unofficial group but they're grouped together specialists in one complex that are all dealing with pediatric issues. Or regulating how you wouldn't have a pediatrician with a dispensary sharing a common wall, where you have that sensitive use right next to each other. Because I think that is a little bit different than maybe some other office building or if we were lucky enough some day to get a Children's Hospital here in San José. And having you know the offices that usually have right around hospitals and having one or two right there. Could you address that?

>> Laurel Prevetti: Certainly, thank you very much. Probably the most effective approach to handle uses that affect pediatric care whether medical dental or hospital would be through adding a new distance requirement. That would probably be the easiest and cleanest way of doing it so you know if that's something you would want to continue to discuss later on after you've considered the medical office or the CO addition, we could certainly talk about how to add an additional distance requirement for uses that may be related to children.

>> Councilmember Constant: So that's my concern, in that area. I think that's something that is a significant concern, because, you know, as a father of a bunch of little kids we spend a lot of time visiting different doctors throughout the years and they do congregate together. That would be my concern if this went through with no changes.

>> Mayor Reed: I got to make sure if we've got clarity on the motion. So is the motion the language in your memo, or I believe it's been modified.

>> Councilmember Oliverio: It's been modified mayor just to be commercial office since we just can't do medical office blanket.

>> Mayor Reed: Okay. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I think exactly what Laurel was explaining is that the commercial office zoning district, that is the -- that's the transitional district, that's they're right next to neighborhoods. And the problem there is that, one, they're transitional, because they're not as an intense business, there's not as much traffic. You really don't want to bring that kind of traffic or any kind of traffic such as the general commercial or general pedestrian or neighborhood, commercial neighborhood. Because that does bring more car traffic, more pedestrian traffic. Exactly also what Sam had talked about is that you do have a number of commercial office buildings that have medical uses in there, one that I can think of out in District 5 has a collection of dental offices, children's dental offices, pediatricians OB-GYNs fertility clinics and you know it's just not the appropriate zoning district. I think that with the council direction, and with staff recommendation of general commercial, you're going to achieve what you want to achieve, with the zoning, to allow medical uses in the general commercial, I think adding one, we're completely going beyond what we should be doing in the commercial office zoning district. The intent was a dricial district. That's why they're next to neighborhoods. Thank you.

>> Mayor Reed: Anything else on this motion? Councilmember Herrera.

>> Councilmember Herrera: Yeah, I can't support it and for many of the reasons Councilmember Campos just said, it's too close to neighborhoods. And I don't think it's an appropriate change. I think we need to stick with the staff recommendation.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I concur with Councilmember Campos.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: The last one on this, would there be consideration of a distance requirement on this from pediatric or other medical services that provide care to children?

>> Councilmember Oliverio: That would be fine my only question is how do you define that? I go to my dentist and my dentist serves wide age range. I don't know how you would figure that out. Clearly some are definite, others are tough to pin down.

>> Councilmember Kalra: Yeah I think that may just be too complicated all in all. And the reality is most of these offices are, I know of a collective that's in one of these types of facilities or office buildings that is going to have to close because it is too close to residences anyway. They are all too close to residences, rather than create another complex layer I think it's better off to just let this one go and keep it the way it is as far as the staff recommendation, just on commercial office.

>> Councilmember Oliverio: To Laurel's point it may very well create very few opportunities because of the distance requirements to sensitive areas but my preference is that you know we had this originally only in industrial areas and maybe the medical office, so that's why I wrote that in here but let's just take the vote up or down and get past to the next one.

>> Mayor Reed: On the motion, all in favor? Opposed? I think there's one in favor, that was Oliverio. Rest were opposed. Unless I counted wrong. Motion fails. Councilmember Oliverio.

>> Councilmember Oliverio: Okay, this goes back to the cultivation. And chief Hober I did enjoy the graphic you did so thank you very much. With that said though, you know, I'm trying to make it so that, you know, to alleviate the fears from the police department and to manage it in a way that's not outside the city in various areas so my proposal would be as written on my memo is to allow onsite cultivation plus one additional offsite cultivation location for each collective, the offsite location must be located in San José, should provide you video surveillance and the ability to access it when you need to as a police department and that would be my motion to amend. If there's a second. you refer to item 4 on my memo but I'll read it again. Allow onsite -- do you want me to repeat it Councilmember Constant?

>> Councilmember Constant: No.

>> Second.

>> Mayor Reed: We have a motion and it is the language in the memo with no changes yet. So on the motion, anybody want to speak on this? I'd like to hear from our police department, one of the issues here has to do with their ability to manage this and if you have ten locations, plus ten more locations, now you're at 20 places you have to do so do you have any comments on that?

>> Yes, mayor so I see several issues with this. The issues pretty much that I've already covered. And one of those is yes, the staffing plan is now developed for having the ability to regulate. And I want to point out it's not just the police that are regulating it. It is many different departments. We did that on purpose so it was not just police doing this. We would bring all the minds together and get different perspectives on this. But if we do say we are going to have this other site, that things are being handled properly. The second issue that might even be more important is now we have the issues with security, any time that you're going to increase the number of places, that this product is going to be kept, you're going to have the potential for having more people that want to, the potential for having more places that people could go there to steal it, and that kind of thing. I think one of the speakers spoke to the fact of some of the issues, and what the violence is there and I think the chief spoke to the violence. We've had several collectives where we've had people come in and rob them and point guns at

them. There has been discussion at previous meetings that because we make these into just ten it makes them more of a target. But the analogy I like to use on that is if you look at big stores and I think if we looked at the statistics, usually it is not the big stores that are getting robbed, it is the mom and pop stores, the smaller stores. But the point is any time you increase the number of locations where you are having this operation you are going to double the possibility for having some sort of violence do go on there. In addition to that you have the problem of transportation. And now you're putting a transportation component in there from the point where you're in this other place where you're cultivating to bring it to the location or ostensibly you're dispensing it. And so we have now that other area where how does it get from one place to the other. And I think that when we look at that, that could create security issues as well. So do I think it's as secure as the way that we currently have it set up, absolutely not. Do I think there are other staffing issues that would be related to that, yes.

>> Mayor Reed: Thank you, Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, I appreciate the intention behind the proposed amendment. I think -- it seems to me that we've got a lot to learn as we roll this things out and we are making mistakes as we go. And it's probably good to make these mistakes in a smaller forum understanding exactly what we're dealing with than letting this genie get too far out of the bottle you'll although we recognize that the gena but I think given the letter from U.S. attorney Melinda Hogg from earlier this summer it's pretty clear that the Feds aren't too crazy about outdoor cultivation of any significant scale and until that position changes we probably would be wiser just to require this current scheme to go forward or I say regulatory scheme. To really minimize the kinds of risks, both the kind that were described by chief Hobe reservation as well as the kinds of risk that we may pose in terms of running croz wise with federal law it just seems to me that having a problem that we can actually see and understand where it is is always advantageous to compare to the problem we simply can't see.

>> Mayor Reed: On this amendment, comments, Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Chief I think you bring up several points. I think you bring up several points that actually are more in favor of it being in the method it is now right? Because then there's not a

central location that people know pr where they could for people that are of deviant manner could go heist. We open the Mercury News about two weeks ago and what was on the business section was a guy a security guard with a gun in Los Angeles. Because of the spiking of gold prices there's a lot of robberies going on of jewelry. So whether it's you know money in a cash register at a convenience store, jewelry cannabis, inevitably those are places that have a sense of value and people may do something. Understanding that the concerns for law enforcement of where is it coming from you certainly don't want anyone to benefit as they do in the black market for hundreds of years or a hundred years for you know contraband and funding organized crime. And so therefore you set up you say I'd like for it to be grown onsite which I understand. But these -- it's going to be pretty -- it will be an interesting discussion to see how they actually can provide it in those facilities and based on what the CEQA is each of these places will have to expand to accommodate it and you are definitely going to have the place where everyone knows where it's at. I'll stick by my motion to amend because I don't think I can provide safely and securely what you want which is to take out any criminal element which might be there as well as how you feel. But at the other side of the fence I think cramming it all into an onsite location is going to make it very difficult versus we have a lot of vacant warehouse space in San José that could accommodate this use and pay rent and those types of things. And they would obviously have to provide security for their regulations so I'll stand by the amendment.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I have from day one had issues with the requirement of onsite cultivation. I think it does creates lots of problems and concentrate the number of collectives we have to a very small number relative to what we have now. allows at least for the discussion and the ability to you know go beyond just requiring on site and requiring the collective to do on site you know cultivation, on site manufacturing of any ancillary products, basically going to create these entities that -- and not just going to be targets for crime. I think that we're looking at this strictly from a law enforcement perspective but I think also create neighborhood issues as well. And just in terms of traffic in terms of the kinds of activities they're going to be having. I mean do we want every collective that may be in an appropriate location next to office buildings what have you to also be going in there? I visited a collective that seemed to be -- obviously I was there you know so I'm sure on the best behavior

seemed to be operated very well. It seemed very order that they had plants growing there, we're required to we can do as much as we can but we larger facility grow even more and it was just odd just the idea that they had to grow it there at all. And you know there are always going to be issues with crime and I think that we have ensure a good management plan, good security plan. It's very difficult to account for intervening parties to commit crimes. I could walk out of the bank with \$200 in my pocket and get robbed. Doesn't mean the bank is going to stop dispensing money. I think it's a challenging issue. I think we have more work to do cultivation. I don't think we're there to a point where we have intelligent way of how we have the cannabis cultivated and provided to the patient in a way that we all could feel comfortable with and I certainly don't think that the staff recommendation as it is allows for that. I don't think this pleament allows for that. I'll support the amendment because I think it's better than not having 100% onsite. I think having at least one offsite is better than none. I think also the issues of having it in San José, again I understand that has to be able to verify being a closed loop system but still requiring everything that happened in our city and now we're going to have ten collectives, ten grows in our city while -- I don't know if that's the only way and I don't think that's the only way that we can have a reliable and safe system. So I will support the amendment only because it expands a little bit. I don't think it goes far enough and I think we're creating, if it fails we'll speak to the greater motion and speak more on this issue. Thank you.

>> Laurel Prevetti: Mr. Mayor, I'm so sorry to interrupt.

>> Mayor Reed: Laurel Prevetti.

>> Laurel Prevetti: If the council is serious about including any additional grow locations, we would have to modify our negative declaration because we did not anticipate offsite grow locations. So we do not have environmental clearance yet. You know, we're always happy to do additional analysis to accommodate the will of the council. But at this particular time, CEQA is not -- does not cover this particular motion. In addition, as much as the trend is more towards urban agriculture and how we can facilitate growing of regular crops in zoning districts other than agricultural, we would also want to explore the zoning implications ever the motion that's before you, as well. So just a couple of things to keep in mind. If the motion does pass, then staff will be happy to do the additional work necessary.

>> Mayor Reed: Okay so you're speaking to the motion to amend.

>> Laurel Prevetti: That's correct.

>> Mayor Reed: Okay.

>> And mayor if I may add the administration would need to come back with a new staffing model as well. The number and the onsite anticipate the staffing model that we presented before.

>> Mayor Reed: Okay. Ed was that the point you were going to make? Okay on this motion to amend, Councilmember Herrera.

>> Councilmember Herrera: Yes, I can't support this -- the motion to amend. I think that the police department has brought very important considerations in terms of maintaining the closed loop system. I think that's -- we are trying to follow the best we can the intention of the state law and to try to create a collective that has a closed loop system and provides cannabis for its users. So we're not -- to me that is how I'm looking at this. And it's the first step. I think that as Councilmember Liccardo said it's probably better to start off with something we could be vision in the future taking a look at this if there's some way we could have cameras and a lot more assurance and that the police department felt assured that we could regulate this with expanded growing sites but I don't feel like we're there right now so I can't support the amendment.

>> Mayor Reed: On the amendment anybody else wish to speak to the amendment? Councilmember Rocha.

>> Councilmember Rocha: Thank you. To your point Laurel, I was a little curious as to why we went in the order we did with the neg dec action. Could we have possibly done that at the end based upon probably the likelihood that council would probably be making some suggested modifications or did we need to do that first?

>> Laurel Prevetti: The negative declaration was taking the project description that you gave us back in April both for the title 6 proposal as well as the zoning code changes, so we did our analysis based on the direction that we were given in April. So I know our Planning Commission had a wide variety of other with suggestions, as long as they are not covered with the CEQA analysis.

>> Councilmember Rocha: We couldn't have avoided it either way?

>> Laurel Prevetti: No .

>> Councilmember Rocha: More with the the presentation really led me to believe that we are really going to for lack of a better word regulating these uses, these facilities. The intake of marijuana, the outgoing of marijuana to a level that I didn't expect. And we're going to be auditing I guess the marijuana confirming that marijuana was grown there confirming that marijuana was delivered confirming that that marijuana is the marijuana being sold. I'm really I guess struggling to believe that we're going to have that tight of an audit or regulation of these collectives. And maybe I misheard the description of it in terms of how far we're going to go in terms of what we're doing with the collectives going forward.

>> Thank you, councilmember. That raises actually a good question which is, the basis for our staff sort of looking at this as you know baby steps and figuring out how to come into this arena and not bite off more than we can chew. The intention is to, as best as we can regulate the way a pharmacy would regulate underring that the pharmacies won't regulate because it's not allowed under federal law. And so what we look at is the type of things that a pharmacy would look at how much medication is it being againsted to whom is it being dispensed where is it coming from things that would allow us to track for Public Health and safety reasons so yes that was the intent to look at those things not just for the protection of the Public Health but also for the protection of the users in the event as chief Hober said earlier that there is a bad grow that gets out there and we have to trace that to assist in figuring out who might be impacted by that. So the medicine that's disseminated we're actually going to go in count the amount of plants they've grown onsite, audit how much they got yielded from each plant we're going to confirm when that's dried how much that weighs and going to confirm closed system you're suggesting to me that

we're going to be able to assure that there's no additional marijuana going into that collective at all and all of it went out and is tracked that's the impression I'm getting.

>> A lot of the responsibility is going to be placed on the collective to log few moments ago. If there is a suspicion that the clefn is operating outside of the confines of the law then investigations will be performed and those are the type of things that we would be looking at. In terms of what is in front of us, versus what has been presented to us with logs or any other type of information or auditing that we require.

>> Councilmember Rocha: I'll be supporting the motion, thank you.

>> Mayor Reed: Thank you well I now know why many, many cities just decided to ban it altogether. That is certainly the easy way out but I don't think we're headed for that. That's not a motion, no. But I do know that the perfect ordinance is the enemy of the good ordinance. We're never going to get to a perfect ordinance. I agree with staff, let's get control of this figure out where we're doing and we'll figure out more locations for another day, fully confident that we have a regulatory issue we have to revisit after we know what we're doing works. On this particular motion to amend, I think I everybody on the motion to amend, all in favor, opposed, Chu constant Campos reetd Nguyen, 3-8 that motion fails. Councilmember Oliverio, you have one more on your memo?

>> Councilmember Oliverio: Thank you mayor appreciate the opportunity. The final one at this time would be about the post for selection. As I was watching the presentation and thinking as the terminology came up first come first served I was picturing our convention center filled with people in line because I don't think we can do it as the clerk's office. Maybe it was going to be like the amazing race to figure out who would actually get. My preference is the number is the number, the council's coalesced on that. But the principle should be the best versus first come first served. You may offer the option of submitting through Internet but I wouldn't be trustful that my application was taken in that certain minute. What's my guarantee, you know? I just feel that there's that sense of, there would be some underhandedness. I think that's what people would read out there so my preference would be a system where people pay a fee, we have a ranking process and then the best are selected. Of course they have to through the fee they pay for staff time to do that but then we get to the ten

best. Those that are paying both their measureU tax they are paying their state franchise tax, all those matters and then just select the best and that would be my preference and my motion would be then to amend the current motion to allow a selection process that's funded by the applicants. And would choose the best number that the council has deemed appropriate.

>> Councilmember Rocha: Second.

>> Mayor Reed: We have a motion on the floor for one more amendment. On that particular motion, Councilmember Liccardo.

>> Councilmember Liccardo: Yes, I recognize the problem we're trying to avoid, I don't think anybody wants to see a rush to City Hall. And I think we're certainly more than capable of figuring out a good electronic solution for that. Folks can send an e-mail. The reality is, is that whatever system by which we use to rank, whether it's, as Councilmember Oliverio suggests or otherwise, there's always a great risk, certainly of subjectivity entering that decision making if it's placed in the hands of city staff and there will always be complaints that somehow or another someone was not properly ranked. We see that with every cycle of the CDBG funding. What I would much rather be able to simply point to a computer, that was responsible for whatever ranking came out, and say, it was the machine. Than be constantly responding to accusations that, as if you know we're teaching school in Lake Woebegone where every child is above average, we can't really tell the difference very well between one dispensary or another in terms of who's good and who's not. We certainly have minimum criteria about they have to be paying taxes no criminal record and things like that, everybody has to abide by that. Simply being able to pick the winners with any criteria will have us here defining those criteria for the next 80 hours. Because I can't imagine we're going to agree with what those all are or for that matter the people who are here from the industry would necessarily agree with the same criteria we would. I think it's better simply to allow an objective measure however random that may be and we'll certainly do our best I think to allow the try to expand as we're able to regulate it.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I think we have to distinguish what the easiest way to go and what the right way to go is. Because in this case what is the best thing for our city? The best thing for our city is to have the best most well run establishments we could have. We do RFPs all the time. I trust our city could come out of an RFP. Someone help them in terms of the collective business but you know business models are business models I think in terms of creating a business we feel needs to have extra security or needs to have some sense of liability, that can be done. We do RFPs on issues that are far more complex and 100 page documents applications so if we can do that we can do it for this and so I don't understand how first come first served whether it's wait being in line camping out for 30 days or doing it online it's not providing the best of the best it's not providing even, basically providing the bare minimum and whoever was the fastest. The criteria we have now certainly is not exhaustive. It is a bare minimum criteria. And we want operating well operated other places well, there could be a number of factors that give us a little bit of sense of reliability in who we're choosing instead of judges having the fastest ones. We don't do this in any other process. It seems very odd to do it here, I think the Planning Commission was on the right direction they did a lot of work on this and you see that having if zoning administration followed by 45 milks that number could be moved around and then after that having an RFP process but at least they have a system where you are much more confident random person that just happened to be able to read an application and do the bare minimum come in and operate these collectives.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: I'm going to echo just from my colleague Councilmember Kalra I'm honestly floored that we would suggest a first come first served or even a lottery system to me this is chance and luck or who's the quickest or who's the fastest on an issue so important about a collective that's going to serve our community and this city. I'm really struggle with this last time and I'm struggling with this again. I mean the suggestion otherwise that a first come first served process is the appropriate way, really to me is the easiest way out as my colleague mentioned. There's so much -- there's so much implication here in terms of choosing the right collective that's going to serve patients and it's going to be a good neighbor in this city and we're going to go with first come first

served o first come first serve but again these both these options to me are the poorest choice we can go with
thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you just clarification if we go with first come first serve option collectives
have the opportunity to submit online, right?

>> We don't want this mad dash to a location everybody trying to physically get to that point so that's the goal.

>> Councilmember Nguyen: I'm sure that if we decide to do that then once they submit the application they will
get an e-mail back from the city saying your application has been submitted with the date and the time so they
know it's been processed or we actually received the application.

>> We'd have to work with it's to figure out exactly how that would go They would get confirmation where they
were in line very quickly within their submission of the application.

>> Mayor Reed: On the motion, Councilmember Oliverio.

>> Councilmember Oliverio: I just can't imagine each collective, one collective is on Comcast and AT&T Uverse,
are they waiting until 11:59 to submit. It's not recognizing who could be the best. As Councilmember Kalra said we
have an extensive RFP process, we know how to manage extensive Patrick project. My God we built an Airport
with an extensive RFP. We have numerous litigations from other cities and other people have provided. It is 23
months whether we have ten, that are by this process, first come first served determined in January or we have
ten that come from the best process in January, I would be better -- feel better if we did it by the best 10. And
again we're not asking to spend money. We're saying the application fee will pay about the proceed.

>> Mayor Reed: Could you talk about length before and the process that staff is recommended I believe is substantially faster than what it would take to do an RFP process and go through whatever that might be.

>> Thank you mayor yes. The last time we presented to council we did give an extensive presentation on what the RFP process would entail. In summary it would take about nine to 12 months for that process to be completed to even get us to the point of accepting applications. The cost to the city would be anywhere between \$520,000 and \$560,000 and that would be the cost to cover experts staff and other things that are associated with an RFP process mostly to retain experts and consultants to guide that process. And if I could just make another point, again the lottery the first come first served whatever approach the council decides to go with at this point is completely separate from the review process. Once we determine where you are in line then you have to go through a rigorous review process. As Vice Mayor said earlier and as she spoke to in April of this year and that process is not a minimum qualifications process. It's very involved it requires compliance with building fire codes things of that nature with the location but then it also looks at the individuals who would be operating the collective for criminal background checks whether or not they've operated collectives before what their history was with that collective so on so forth about. So it looks at not just the location but the facilities and operations that are operating as well and these are the types of things that we would actually put into an RFP for that review.

>> Mayor Reed: All right on this motion Councilmember Rocha.

>> Councilmember Rocha: So you're going to screen the first come first serve? In the sense you're screening the applications?

>> On a first come first serve they would come in and we would number them and then we would do our application review so the first come first serve is just telling them where they are in line.

>> Councilmember Rocha: And then you would screen those applications?

>> Correct correct.

>> Councilmember Rocha: I don't think it's ever been suggested for myself or Councilmember Oliverio for a full blown RFP for \$650,000. What weed out the ones that don't qualify so this notion that we would spend \$650,000 to me is one that I've never suggested and I don't think I've heard from anyone up here that we would suggest that. If we're awarding a contract for any kind of contract we put out to bid, maybe this is for the City Manager, do we spend \$650,000 to screen out those applications that qualify? Whether it's a construction project?

>> Ed Shikada: Well as a matter of fact councilmember members of the council depending on the complexity of the RFP it could certainly reach the order of magnitude. There was a reference to --

>> Councilmember Rocha: Again I didn't suggest an RFP. Screening any bids that are submitted. Do we do a full RFP for every contract that we bid out?

>> Ed Shikada: We typically have a choice between whether it be an RFP, in which there would be criteria for selection. Versus what I think is being described as more along the lines of a Public Works bid process. And in which there are qualifications and ultimately it's a pass-fail so to speak on the selection.

>> Councilmember Rocha: Where does the sole source award come from? The process we go through where we don't do an RFP or even a bid and we just select a vendor?

>> I think to a certain extent we're mixing a few items and I think the reference to sole source would be where there's a unique service that's provided by a particular service provider, in which it would be in the best interest of the city. Rather than going through a multisource competition in which a selection would be made.

>> Councilmember Rocha: Who defines the unique situation, staff? Not the council, right?

>> City Attorney Doyle: There's if I can chime in here, there's criteria in the Municipal Code that you need to follow in order to determine sole source. And so it's very restrictive. So it is very limited. I think the analogy I'd use

is a Public Works bidding process where there is you know it takes a certain amount of efforts to not everybody is responsive and so that is I think what Angelique is talking about is that people will submit their applications they'll be given a number of where they are in line and then you're going to see if they fit within the criteria to determine whether or not they are qualified or responsive in some respects and then sort of take it from there.

>> Councilmember Rocha: Okay then I'll concede, I clearly don't have a clear idea of all the work we do in this tot lot improvement for twontd,000 and it costs us \$650,000 to --

>> City Attorney Doyle: It doesn't cost that amount of money to process a Public Works contract like that.

>> I wouldn't be surprised but I would be surprised if it's three times the cost of the slides that we just installed at a park.

>> Sadly you might be surprised with the standard provisions that go into our Public Works contracts.

>> Councilmember Rocha: No I do know the -- I'm not going to go there.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yeah I just -- you know if anybody wants to look at a really extensive bid process just look at the BART project on the VTA board we've been wrangling and wrangling and it's still not done. Obviously we know this is not a \$6 billion project, we do lots of tot lots lots in this city. We know exactly what we're expecting. We don't know anything about medical marijuana, we're just learning. There's a lot to learn and we're just figuring it out. It's going to take opportunities and expense. If you want to go that route you lay off more cops to pay for it.

>> Mayor Reed: Thank you. Well we've had a lot of people during public testimony tell us over the past year tell us we don't know what we're doing. I guess we'll find out we're learning as we go. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor as suggested in the recommendation and the amendment by Councilmember Oliverio that I think we can come up with a system that prescreens including the zoning verification which should be something relatively easy to do, as a first screen that is going to knock out a lot. Then you jump into a lot of things that we haven't done before and there's plenty of talented people that do rm like RFP or RFP like processes and so we can come up with systems that don't just provide for the first that come in that qualify no matter how rigorous the process is so there are 150 feet 151 feet away from a residence but you can give points, can you give points if they are further away from since tiff receptors, you reduce the traffic flow there are so many things we could do to make these things better or make it the best of the best and we're not doing it we're choosing not to do it and that's the part that's frustrating.

>> Mayor Reed: All right on this amendment on the motion to amend all in favor, opposed, I count opposed constant Campos Reed Nguyen Pyle Herrera Liccardo so that motion fails on whatever that vote was. Councilmember Oliverio.

>> Councilmember Oliverio: I'm done with my amendments at this time. Thank you very much.

>> Mayor Reed: Okay we have a motion on the floor the main motion made by Vice Mayor Nguyen, further discussion, et cetera? Councilmember Liccardo.

>> Councilmember Liccardo: With regard to the memorandum I submitted I just ask that it would be included to be moved to the Rules Committee agenda tomorrow, I believe, is that correct Rick?

>> City Attorney Doyle: Yes, the Councilmember Liccardo has the -- his memo that's an item that eshould have added to the agenda, Rules Committee asked us to do that and we did not add it so my request is that we will take it back to Rules get on the agenda for next week.

>> Second.

>> Mayor Reed: The main motion I'm going to ask the maker of the motion if she's by friendly amendment.

>> Councilmember Nguyen: That's accepted.

>> Mayor Reed: It's okay with the seconder so we have a friendly amendment to refer that one. On the main motion further discussion, Councilmember Chu.

>> Councilmember Chu: Thank you, mayor I'd like to make a friendly amendment to punt the alternative delivery system to be determined by the county office. I don't know that we should get into the business of make sure those brownies are probably manufactured according to the state health and safety code. And I don't know if I wanted the PD or the code enforcement to get into the manufacturing and the selling of the edibles, ointments and oils for any product. So I think that will probably be an issue that the county health department be able to address much better than the City's -- the departments.

>> Mayor Reed: Is that a request for a friendly amendment I think? Vice Mayor Nguyen do you want to speak to that?

>> Councilmember Nguyen: I just wanted to hear from staff. Because I'm not really sure I understand what the friendly amendment is. It's Angelique can you clarify?

>> I think I understand what the councilmember is proposing and we anticipated because these are things that are typically covered by the county through the health department. We anticipated that they would have some role in this as well. So what we have done is we in the regulations included some language that in this entire process you still have to comply with all local regulations state and federal law. That would include county health department.

>> Councilmember Chu: Do they need the county health permit to operate?

>> I'm sorry?

>> Councilmember Chu: Do they need a county health department permit to operate?

>> If the regulations require them to comply with local regulations and the county health department requires a permit for what it is they're doing in this case he manufacturing food products then yes.

>> Councilmember Chu: Yes they would have to get a county permit?

>> That's correct.

>> Councilmember Chu: Thanks.

>> Mayor Reed: Thank you on the motion Councilmember Rocha.

>> Councilmember Rocha: I have a question and maybe a friendly amendment depending on the answer from staff. There is a reference here, depending on my notes I'm trying to wade through documents and can't find it exactly. If you could help me. Personal emergency 50 square feet --

>> City Attorney Doyle: That's been deleted. I should have mentioned that, we've delighted the 50 square foot requirement. I think Angelique did mention it's just an incidental use.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. So in regards to the part 9 the patient growing at their own home there is a reference to the fact that these regulations are going to be further restrictive. Are they more restrictive than what state law allows for? In terms of someone just not involved with the collective or anything someone that just wants to have the marijuana grown at their home and they have an adopted regulation and all that?

>> State law doesn't tell us how they can cultivate at their homes for personal use. They left that up to local governments to figure out which is why we're in front of you trying to come up with these provisions. So state law is silent and we included these provisions in the interest of protecting the individual that's cultivating from his home and also the adjacent uses.

>> Growing for their own medicinal need and those that are a member of the collective?

>> In the regulations there four or more individuals if you are not part of that collective, and you're a group of three or two or an individual then you would be subject to the personal use restrictions.

>> Councilmember Kalra: Okay there's a distinction between the two?

>> Correct.

>> Councilmember Kalra: In terms of how much square footage can be used or no?

>> For personal use regulations we took out the square footage restriction so now there is not one and the focus is on your primary use as a residence.

>> Councilmember Kalra: Okay, okay. You know, some of the issues that I've had and I've discussed them in previously you know that is has to do issue, I think that all of us seem to agree, that any other business we don't want it to unduly affect our neighborhoods and schools and all of that and a lot of businesses we put restrictions on and I think that's okay it's been done appropriately here as far as that's concerned the distance requirements

and everything I think that ultimately you know that will somewhat work itself out. Work itself out and I really want to thank City Manager's office and planning staff and City Attorney, I mean tremendous A work in regards to putting the document together and of course the police department in regards to all the regulations and as part of the ordinance I think that no doubt a lot of work's been done and I don't agree with everything in the recommendation but I do agree with everyone else that we appreciate all the work done on this and want to thank Councilmember Oliverio for raising this issue years ago and here we are today having something put in place whether it's something everyone agrees with or not. I do think that in regards to kind of the approach we take and there was a reference that's been made before that there aren't really sick people to need medicine to get it folks who have cancer HIV terminal illnesses we want to make sure they have access but the way prop 215 reads whether we like it or not it allows for any other illness for which marijuana provides relief between the doctor and the patient. That may be way broader than what we as individuals feel comfortable with. The demand is a so broad because the discretion is incredibly broad for doctors to be able to prescribe or at least recommend marijuana. And so that's why the reality is with any drug you're going to have issues in terms of being able to have appropriate law enforcement, prescription drugs right now are abusable to any kind of drug that exists and those are all legal so we're always going to have issues with being able to enforce the law especially before and after making sure doctors are being honest and ethical in making recommendations and after once the patient gets it and goes out and sells it e-it's very hard to monitor that cap someone doing that the collective has a critical piece in the middle and I think there are some really good things done here in order to put that in place. I do like the fact that the -- there's confidence in terms of -- confidential the patient's information. Do I think though that we're creating many issues in regards to the -- requiring onsite and I understand we're trying something new here but we've been at this for a very long time. And to still be here and discussing the issues with cultivation onsite or offsite, I think that given the fact that there are over 140 even though 71 are registered the reality is there are over 140. We can imagine that the demand is extraordinarily high to reduce that to ten and to require cultivation onsite really is going to require very large facilities. There aren't going to be ten facilities large enough that abide by all the regulations we're putting on the planning regulations. And so there is just not going to be enough to supply the patients we know are accessing medical marijuana right now. And so it's going to again cause some of the same issues of kind of having it go underground where really it's been for decades now and it's going to cause some of the problems that I thought we were going to try to avoid with this. I think the Planning Commission made a lot

more progress and we have kind of gone back and retracted all the work the Planning Commission did from all their work neighbors, collectives, patients from law enforcement and they came up with some pretty good guidelines and I think that the three per district 25 is probably more along the lines of what the county and this city you know demand is again with all those distance requirements so it's not near residences so it's not near schools or affecting places or you know parks and other places where we would not want to have an overconcentration for certain. Additionally I've already mentioned the first come first served so I'm opposed to that. I think that we made some good progress and I think that it will be good once it's in place because it will allow us to go somewhere. I just don't think that given the time that we have that it's comprehensive enough and that it is -- ultimately both fair to the neighbors as well as to the patients. I think that it's overly restrictive to the patients and I just hope that going forward that we have the opportunity as indicated many times, you know, to amend and take a look at this analyze this take a look coming back after six months after a year and seeing what kind of impact it has. But I think that a lot of the -- a lot of the discussion is based upon a lot of fear and I think the reality is that these are medical office providing something that our state and our citizens our residents have deemed to be allowed by people that are suffering and that suffering is decided between the doctor and the patient and not by us and so if we're going to respect the intent in the voters and respect the doctor patient relationship I think that we need to be less restricted than we're currently being.

>> Mayor Reed: I think that concludes council discussion we have a motion made by Vice Mayor Nguyen as amended. All in favor? Opposed, I count opposed Kalra, Campos, Rocha that passes on an 8-3 vote. Concluding our work for now. Staff thank you for your Herculean task trying to figure this out. We didn't get a lot of help from our friends at that time state and local government but we're going to muddle through and figure it out and others will learn from our efforts. Good work by staff. That concludes the business but we have the open forum. So as you're leaving please be quiet, so people can speak during open forum. When I call your name please come down. Again we're one minute rule. Mike Hann, Carol Krieger, Jimmy and Wesley Krieger. While we're waiting for speakers open forum is for things we haven't already talked about. We're not taking any other medical marijuana testimony. We've done with that.

>> Hi my name is Mike Han I currently have an open case with code enforcement office I've been working with code enforcement for the past year asking them to provide me prove of the allegation regarding San José civil provided to me all I got was ultimatums to comply or pay fine of over 2500 a day. I've requested an administrative appeal hearing since September of 2010. Every letter or phone call to them requesting has been ignored. As a result I'm here today asking the mayor and the city council to help me get an administrative appeal hearing for a code enforcement appeal. I don't understand why I have to comply with code enforcement ultimatum for providing any proof or evidence of me violating any San José city code at my residence. This matter has dragged over a year now causing me damage on a daily basis which prented me from selling it I reached out to my councilman in my direct.

>> Mayor Reed: Your time is up. I want you to talk to this person here Laurel Prevetti she will make sure you get due process under our statute. Care Krie gervetion rvetione.

>> Snatch for letting us come down and speak to us. My name is Carol Krueger and I'm a skating mom. I just want to thank Rose Herrera for finding the funding for keeping the park open so my kids could go to camp. I want to thank Paul Murphy. It's an amazing facility large easy in California it has per your newsletter that I read today it has the world's alarrest cradle tallest vertical wall and largest half pipe. Not only is it a fantastic facility it's clean and safe and there's great front line staff at that park that really cares about my kids and that's important to me and it's a community. There's people that drive from Hollister Santa Cruz, Oakland Berkeley just to skate with our kids. My husband has been skating with ours kids it's been a fantastic experience with our family and I'm so thankful that we've had the experience we have had because pretty small. So thank you for listening, I really hope that you can support Rose Herrera, councilmember Herrera to fieched the funding to keep the park open. Please don't punish my kids.

>> Mayor Reed: Jimmy and Wesley you want to speak?

>> Hi my name is Jimmy. And my age is eight. Please keep this skate park open. I made friends there and my mom says to make friends wherever you go. If I could choose playing video games and skating, at the skate park,

I would choose the skate park. And I love skating with my friends and my dad. If I could, I would live there. [Laughter]

>> Do you want to speak? Are you sure?

>> Mayor Reed: Okay, thank you.

>> All right that's it, thank you.

>> Mayor Reed: Gavin medical low and Jaden me low and mellow. .

>> My name is Dawn mellow, I have two kids Gavin and Jaden mellow. They had so much fun they learned so much we've been going once a week, so we go as a family they skate with their dad, I just hate I used to walk around and take pictures and videotape they're building memories with their dad that they are going to take with them for the rest of their lives and please don't take it away from them. If you take the staffing away then the night sessions will end too and that would mean my boys and my husband will not be able to go skating anywhere well, I'm never worried that when one of my boys goes around the back of the full pipe out of my sight that he is going to be exposed to drugs or inappropriate behavior I'm sure that if this park is not staffed that it will become just like all of the other skate parks in the area, full of graffiti, drugs, foul language et cetera. I urge you become self sufficient I think the citizens of San José and many other Bay Area cities that visit the scailt park especially the children deserve the opportunity. As soon as we are notified the park will remain open to staff I will be the first in line to buy passes thank.

>> Mayor Reed: Your time is up.

>> My name is Gavin mellow and I am almost nine years old. Please don't close the skate park, I go there every week with my family and my friends. My brother and I love to go skating with my dad. I love to go there every

week because it is so much fun and I learned so much at skate camp from Josh and Andrew and I hope I can go again next summer. I would rather skateboard than play video games. Thank you.

>> My name is Jaden mellow and I'm seven years old. I love the skate park and I love to go with my family and my friends every week. Please don't close the skate park. I love it there and I have so much fun skateboarding with my dad. I would rather go to the skate park than play my video games. I went to skate park with my brother and my friends this summer and we had a lot of friends and learned a lot of stuff. I want to go given next summer. Thank you.

>> Mayor Reed: Next speaker is Karl Kruger followed by Paul Murphy and Kim smallwood.

>> Thank you for your time I'd like to speak on subject of lake Cunningham regional skate park and the proposal to defund it and destaff it. Not only do children skate but adults and I'm one of them. We all skate together if the park was not funded and there was no night sessions with the lights and the music, I would probably not be able to skate there. Although I do skateboard I'm not active in the skate scene. It always surprised me as a resident that I never heard more about the skate park. It didn't seem to be very well promoted. I know there's a very passionate group of people involved with the skate park and Councilmember Herrera who are working on ways to increase its self sufficiency. I truly believe that that can be accomplished with such a world class facility. It's definitely something that San José should be proud of. Thank you.

>> Mayor Reed: Paul Murphy, Kim smallwood.

>> Hello, mayor and council. I sent you all an e-mail last week, pertaining to skate park and what it has meant to my son and what skateboarding has meant to my son. And my family. This park is and we travel all over the Bay Area to different parks. This park is by far the most kid-friendly, the most supportive in terms of older pros that skate there. I mean world class skateboarders come there almost daily and they help the children. They are kind to the children they are supportive, the staff there are supportive, there are other skate parks here locally that even staffed ones like Campbell there will be older kids who smoke marijuana and the staff doesn't do anything

about it. Nothing like that has ever happened at Lake Cunningham and we go there almost every day. My son had terrible discipline problems in school, and had no interest in anything, until he picked up a skateboard. And --

>> Mayor Reed: Sorry your time is up.

>> Sorry.

>> Mayor Reed: Paul Murphy.

>> Thank you for staying and listening to us after a very long day. I really appreciate your time and patience. My name is Paul Murphy. To my left is Coulson Wool Ford to my right is Gus Murphy. Gus is my son Coulson is a neighbor's son. These guys pitched in a winging 7:00 we will be going here to the YMCA basketball team that they are boat on they boat skate on Lake Cunningham. My older son Harry who is the passionate skater he had to skate today so he didn't spend the time to come down to the meeting. What I want to say is thank you to Councilmember Herrera. This is already a success. We've already found a way to bring the skateboard users, the park staff, Councilmember Herrera's office and the public together to highlight a great city resource. I think we've worked hard to recognize that it's not anyone's fault that the city has a budget problem and we all need to be part of the solution. So we've come up with a reduced staffing plan and we're really hoping for just some support during the rest of this fiscal year so we can wrap things up and make Lake Cunningham the cost recovery place it should be. Thank you.

>> Mayor Reed: That concludes the open forum, that concludes our meeting, we are adjourned.