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>> Mayor Reed: Good morning, we have a quorum, there is no labor update. We'll return into closed session. Back here at 1:30.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to get the San Jose city council meeting called to order May 15th, 2012. We'll start with an invocation. And Councilmember Campos will introduce the invocator.

>> Councilmember Campos: Thank you, mayor. Today we have a very special guest. He is no stranger to our city and to City Hall. I am honored to introduce to you pastor Jon Talbert. Jon Talbert is a speaker, writer and entertainer who has established a national reputation as a humanitarian, entrepreneur. He is the founder and director of beautiful day. Beautiful day is an organization that collaborates city leaders, leaders, educators and nonprofits together and tackles the City's greatest needs. This year's beautiful day reached into all ten council districts of San Jose as well as other cities here in the Bay Area. And brought one of the largest compassion efforts in our city. You may also know that Jon is a stand-up comic and has spoken and performed at clubs and universities around the country. Just last week Jon was selected to bring his comedy routine as the opening act for the national academy of television arts and sciences. Also known as the Emmys and I just need to remind my colleagues, never heckle a comedian. So please welcome pastor Jon Talbert.

>> Thank you. I would like to say to Madison or Councilmember Nguyen last time I was here I wore a black V neck and she thought I looked homeless so I wore this collared shirt to you today so I want to point that out. For you up there it is a reminder of why we live here. This is San Jose. I moved here in 1996 and I've been here for this is coming up on 16 years. I didn't begin to care about my city until 2004. In 2004 I began to recognize that in order to respond to the needs of the city it takes all parts, whether you're a student, whether you're a business leader, whether you're a nonprofit faith leader or government official, whatever that looks like, your role is to come to the table and participate in the City's highs and lows as our city goes through all kinds of things that we should be unbelievably proud of. All time lows that we struggle with, violence or graffiti or homelessness and the only way to solve the problems is to work together. For the council I want to tell you this: I pray for you guys all the time. And our church and our faith community holds you in the highest regard. And so we're pleased to be friends with you and want to encourage you in all that you do. You've got a tough job. Never want to do that. But let me just pray and just ask for a blessing pop the council time. And those that are here. So father we just come and we pray a blessing upon this city, and we're thankful that we get to live in this part of the country, and we have leaders that are working together collaboratively with others. We pray for the schools we pray for those that are

on the streets, that they would find homes. Those that are in need they would begin to find strength in community and hope in life. We pray all these things, that this council meeting and the council meeting that go into finishing out the school year and into the summer that it would be encouraging, there would be great decisions made and our city would be encouraged and blessed by that, we pray in your name, amen. Thank you.

>> Mayor Reed: Thank you, pastor Talbert. We'll have the pledge of allegiance, please stand and there are students here who are going to help us with the pledge. [pledge of allegiance]

>> Mayor Reed: I think Councilmember Constant knows all of these students. I'm going to let him tell us where they're from.

>> Councilmember Constant: These are thirds grade students from John Muir elementary school in District 1, one of my favorite schools. Thanks for coming, everybody!

>> Mayor Reed: Thank you for helping us with the pledge of allegiance. All right. The orders of the day, any changes to the printed agenda on the orders of the day? We have a motion to approve orders of the day. On the orders, all in favor? Opposed? None opposed, those are approved. Can closed session report. City Attorney.

>> City Attorney Doyle: Mr. Mayor, we met in closed session this morning, no report.

>> Mayor Reed: Turn to ceremonial items. I'd like to start by inviting Julie Edmonds-Mares and the Happy Hollow Park and Zoo and the individuals from the association of zoos and aquariums to join me at the podium.

>> Julie Edmonds-Mares: Good afternoon. I'm Julie Edmonds-Mares acting director of Parks, Recreation, and Neighborhood Services and I'm here for the presentation of the five year accreditation for the executive director of the association of Zoos and aquariums to the city of San Jose's Happy Hollow Park and Zoo. Continuing to hold the highest standards in animal care and management, involvement in conservation and research, education programs and the quality of staff. I'd like to introduce the recipients, Gina Anning, our recreation superintendents

of the zoo, Greg Owen, zoo manager, Heather Lerner, executive director of the Happy Hollow foundation, and I'll turn it over to Chris Beers, executive director of the ACA for the presentation.

>> Thank you. Mayor Reed and councilmembers, it's my pleasure to be here today. To award AZA, the association of zoos and aquariums, accreditation to your Happy Hollow zoo. I want to let you know that this is a major, major milestone. Accreditation requires a thorough review that includes a detailed application and self-evaluation and multiday on-site inspections by a team of experts from around the country. In fact, only 10% of the 2600 licensed exhibitors by the U.S. Department of Agriculture are AZA accredited and your Happy Hollow zoo is one of those 10%. They stand in very accomplished company and they meet the highest standards for accreditation for zoos and aquariums around the world. There are 224 accredited zoos, oceanariums and aquariums located in the United States, Canada, Mexico, Bahamas, Bermuda, Argentina and Hong Kong. You might ask yourself why would an institution in Hong Kong, pretty far away, why would they want to be a member of the association of zoos and aquariums? Because they too want to meet these highest standards in the world. AZA is dedicated to the advancement of zoos and aquariums in the areas of conservation, education, science and recreation. And accreditation tells your guest that they are supporting an institution dedicated to providing excellent care for animals, a great experience for the visitor, and a better future for all living things. So it signifies excellence in and commitment to animal care, professionalism, ethics, conservation and education. I don't have to tell you, I hope, that your Happy Hollow zoo is a great community asset and a treasure. It's a safe, fun place where animals can come together and enjoy themselves, it's a place of learning, and a trusted resource, and a place where people can connect to nature, and be inspired to take action to save wildlife, oh, we changed the wildlife. And wild places. I travel across the country to visit accredited zoos and aquariums and I want to let you know that you do have a treasure here. I was here in 1998 at a western regional meeting of the association of zoos and aquariums. And I'm thrilled, just absolutely thrilled, to see the advancements your zoo has made with your renovation. Being 100% green zoo, a green -- a green -- a LEED gold zoo, and amusement park, is huge. Every zoo in the United States aspires to be what the Happy Hollow zoo is. What makes your zoo a leader, you have divisionary leadership, of Greg Owen and Heather Lerner, a dedicated team of animal experts, a diverse and thriving collection of animals and again, you are nationally recognized as the first zoo to be gold -- LEED gold. Happy Hollow zoo is an example of excellence. Accreditation is a big deal. We do not, let me

emphasize that, we do not accredit every zoo or aquarium that applies for accreditation. In ten years we denied some 30 so it is not a slam-dunk. It's a big deal. I hope that every one of you here are proud of your zoo for achieving this major milestone. And let me end by saying yes, it took the leaders of Greg and Heather and the dedicated staff but it also takes the support of you mayor and the city council, as well as the Department of Parks, Recreation, and Neighborhood Services and the staff and zoo supporters such as foundations businesses or individuals. There has to be a will. And an unwavering commitment. Of the community to have a 21st century world class zoo. And I'm very proud to tell you, you have one in the Happy Hollow zoo. And with that, I would like to invite Heather and Greg to receive this plaque of accreditation from me, please. [applause]

>> Mayor Reed: Now I'd like to invite Alan Graham and Sonia Stanford to join me at the podium as we're recognizing the month of May as foster care month in the City of San Jose. In Santa Clara County alone there are nearly 1100 children in our foster care system and approximately 400 licensed foster homes to help care for them. Throughout the month of May hundreds of community events are being held across the country to help retain, recruit and support foster families. Those who commit to serve as a foster parent must apply, complete a background check, participate in training and meet with a social worker for home inspection and consulting. But serving as a foster parent can be an incredibly life-changing and rewarding experience, and we are encouraging our residents to get involved for children and families right here in Santa Clara County. There's always something positive you can do to help our foster children and Sonia Stamper has some more of the details.

>> Unfortunately, the foster parent Allen Graham wasn't able to be with us today. My name is Sonia Stamper, I'm a social worker with the Department of Family and children's Services and my job is to go out into the community and provide information and awareness about the need for foster care. As Mayor Reed just informed you, currently we have about 1000 children in foster care. And the reasons why our children are in foster care is because their families are not able to safely provide for them. So we have these incredible foster parents who step up and provide a safe, stable, nurturing environment for children until they are able to return home to their families. And so I would like to thank the City of San Jose for helping us to spread the word, and also, to give thanks to foster parents who give up their time and energy to provide a stable environment for children. And if you're interested in becoming a foster parent, I have left information with the City Clerk, a brochure that tells you

how you can contact me, and how you can sign up to help us champion this cause and provide care for our children in our community. So thank you. [applause]

>> Mayor Reed: Now I'd like to invite Vice Mayor Nguyen, Councilmember Herrera, Councilmember Rocha and representatives from Sound That Radio to join me at the podium. Today we're commending Sound That Radio for their advocacy and efforts to educate the community on issues related to the Vietnamese lesbian, gay, bisexual and transgender community. Vice Mayor Nguyen has some of the details.

>> Thank you, Mayor Reed. It really gives me great pleasure to recognize these folks, especially Vun Nguyen, founder and president of Sound That Radio. I have known Ms. Nguyen for many years and she is truly a leader in her place in the Vietnamese radio program in the nation. Sound That Radio is the only Vietnamese LGBT radio program in the nation. It is broadcast in Vietnamese on station KSJX 1500 AM in San Jose every Sunday from 7:00 to 8:00 p.m. Earlier this year, Vun Nguyen and Sound That Radio received the 2012 Phoenix Award. This award is given to an individual who has made outstanding contributions to the Asian American Pacific LGBT community. I wanted to take this opportunity today to publicly commend Vun Nguyen and Sound That Radio for continuing to educate the Vietnamese radio for continuing to educate the community on LGBT issues, issues such as AIDS, HIV and continue her advocacy work for the visibility and acceptance of Vietnamese LGBT. So at this time I would like Mayor Reed to present the commendation to Vun Nguyen and because she is typically very shy she has asked one of her colleagues Tanya Cook to say a few words. [applause]

>> We are very proud and honored to receive this commendation from the San Jose city council. This is a giant milestone for Sound That Radio program, and for the Vietnamese American lesbian gay bisexual transgender community and the effort to gain understanding, love and acceptance in the community. This is also a tribute to the City of San Jose for its openness and acceptance of diversity in the community. We sincerely thank the San Jose city council for giving Sound That Radio this honor. Special thanks to Vice Mayor Madison Nguyen and the councilmembers Rose Herrera and Donald Rocha for thinking of us and recommending this commendation. Thank you all. [applause]

>> Mayor Reed: Vice Mayor Nguyen and I want to invite some businesses to join us at the podium. Western Market, Comerica Bank, Western Market president of Comerica Bank, Laurie Clark, Kim Huang, Umbrella Salon, Dian Holt, Eleanor's Discount Fashions are going to join us I think, they're all here. We're going to commend them for their generous contributions to operation prom dress, Vice Mayor Nguyen will describe.

>> Vice Mayor Nguyen: Again, it really gives me great pleasure to recognize some of the generous local businesses who play a huge part in our highly successful operation prom dress drive that was held last month. This year we had over 50 businesses that supported this event, but only a few were able to be here today with us. I like to acknowledge Mike Fulton from Comerica Bank, Larry Clark from the Alameda Business Association, Kim Huang from Umbrella Salon and Diane Holt from Eleanor's discount fashions. Before we present the commendations to this individuals I just want to take an opportunity to share a little bit of background about this event. So in 2009 my office launched operation prom dress, a prom dress drive to encourage residents of San Jose to donate new or gently used prom dresses for high school girls throughout our city who might not be able to afford a dress for prom. With the economic downturn we knew that many families had to cut expenses to make ends meet. For many area high school girls, a reduction of family spending might mean that dreams might not happen. So at our first drive we collected 500 dresses and we gave away 300 dresses to high school girls. Each year thereafter we collected more dresses and each year the number girls who got a free dress also increased. This year we collected 1900 dresses and 100 tuxedos. At the event we had last month, we gave away 800 dresses and almost all the tuxedos went to the high school boys, we received the tuxedos from Larry Clark from the Alameda business association. We were really glad he was able to step up and make the contribution. In addition to the dresses and the tuxedos we also gave away 150 dry cleaning coupons. So if they receive a gently used dress they can go to any of the dry cleaners in the City of San Jose who partner with us and receive free dry cleaning services. 60 hair and makeup sessions, 20 gift bags, and four photography sessions, all these are free. I told the high school guys and gals that we can give you everything you can to attend the prom, the only thing we can't promise is a date. To all the generous individuals in the city, thank you very much and we hope to collaborate with you again next year. So at this time I'd like to ask Mayor Reed to present the commendations to the four individuals and businesses here and Mike Fulton and Larry Fulton to say a few words .

>> You just wanted to tell Madison how excited our customers and our employees were to be part of that great event and we intend to be part of it for many years to come. Now Noel gave me 15 minutes but I'm giving her 14 minutes and 30 seconds back to her. Thanks.

>> I'm Larry Clark . We donated tuxedos because we just didn't think it was fair, you know? Actually the tuxedos were donated by technology credit corporation a company I work for and it is a member of the Alameda business association and since I have my 15 seconds of fame here, I want to make solicitation and invite all of you to the rose white and blue 4th of July parade and also to see that everybody on the podium here has gotten their applications in so I can match you up with a convertible, the queen's wave to the crowd, it's a great time, it's on the Alameda and it's on 4th of July. [applause]

>> Mayor Reed: Next item is the consent calendar. Are there any requests to speak on the consent calendar? I think we have none.

>> Councilmember Constant: Well, Mr. Mayor, 2.6 for me.

>> Mayor Reed: Okay, we have a request to pull 2.6 for discussion. That's the liaison to the retirement board's report. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: 2.5.

>> Mayor Reed: 2.5 trip record. Councilmember Rocha.

>> Councilmember Rocha: 2.sen please.

>> Mayor Reed: 2.7. All right we have a motion to approve the balance of the consent calendar. All in favor? I'm sorry Councilmember Kalra did you have another one?

>> Councilmember Kalra: Sorry, just wanted to -- register a no vote on 2.16. Thank you.

>> Mayor Reed: All right. So we are pulling off for discussion 2.5, 2.6, 2.7 and there's a no vote from Councilmember Kalra on 2.16. The balance have a motion to approve the balance of the consent calendar. All in favor, opposed, none opposed, and one no vote.

>> Councilmember Campos: Mayor.

>> Mayor Reed: Yes Councilmember Campos.

>> Councilmember Campos: I too will register a no vote on 2.16.

>> Mayor Reed: Two no votes, on 2.16.

>> Councilmember Oliverio: Mr. Mayor since we're having no votes on that one can I just pull item 2.16.

>> Mayor Reed: Okay.

>> Councilmember Oliverio: Thanks.

>> Mayor Reed: For discussion is away you're saying. Item 2.5 trip report Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you, Mayor Reed. So on my trip to Washington, D.C. last week, I met with congresswoman Loretta Sanchez to discuss her latest bill HR 2934, which is to amend the internal revenue code of 1986 the congresswoman is pushing Congress to take action that would facilitate giving employees a choice of lower cost pension benefits. This piece of legislation is most important congresswoman Sanchez introduced this bill in September of last year and it was referred to the committee on ways and meantime means. Also as a board member of the Asian American and Pacific League of Cities I met with several members of Congress and or their

staff, including the office of Zoe Lofgren Mike Honda and Pete Stark preservation of funding for the community development block grant, the CDBG and the workforce investment act. We also discussed the importance of federal investment in our City's aging infrastructure by authorizing, asking Congress to authorize a comprehensive transportation program. All the Congress members that I met with were very receptive to what were being presented to them so that's the good news. So now we just have to wait and see how things are going to play out and you know will actually materialize or not since we all know the pace at which Congress works these days which is very slow unfortunately. That's my report, thank you, Mr. Mayor.

>> Mayor Reed: That concludes item 2.5. 2.6, retirement board liaison report.

>> Councilmember Constant: Thank you, mayor. I wanted to report on the Police and Fire retirement meeting of May 3rd. The retirement board has continued to express its concerns of some of the governance issues surrounding the operation and independence of the retirement boards as well as issues around succession planning for leadership of the retirement services department moving forward. To that end they created a new ad hoc personnel committee, that will work in both of those areas. Additionally they continue to work with their consultant, Cortex, on governance issues and have created a whole new set of policies and procedures that will help guide their operations. There was board discussion surrounding questions that the board feels they need to have answered when measure B passes in relation to how they will administer the plan. They have prepared that list, and either have transmitted or will shortly transmit those to the city administration for follow-up. The investment committee reported their flash report for earnings as of February 29th, 11, with their fiscal year to date returns being 2%, which as we know is well below the assumed rate of return that is used in their actuarial analysis but also below peer retirement funds and their benchmarks. Since that leaves only one quarter left in the fiscal year, there's obviously a lot of ground to be made up if they're to achieve their assumed rate of return. That's my report. Thank you.

>> Mayor Reed: Thank you. Item 2-- I'm sorry, had a question, Councilmember Herrera.

>> Councilmember Herrera: Councilmember Constant can you again repeat what that actual assumed rate of return is for Police and Fire?

>> Councilmember Constant: So for the current year, it's 7.75. It will be 7.5 for the next fiscal year. So -- and the return was 2% fiscal year to date as of that time.

>> Mayor Reed: All right I think we're done on that. Item 2.7, I forgot who wanted that, Councilmember Rocha I believe.

>> Councilmember Rocha: Thank you mayor expedient to engage a new under take competitive process at this time. It's a pretty strong statement and I'm wondering, how this is any different than any other competitive procurement that we may be engage in or not engaging in and how this can be any more costly than the previous one. Who should we be talking to?

>> Mayor Reed: I think Bill Sherry will come down and respond to the question.

>> Bill Sherry: Bill Sherry director of aviation, City of San Jose. Councilmember, there's really two reasons why we're recommending not going with the competitive bid. The lesser of the two reasons is staff resources to conduct a competitive bid. With --

>> Councilmember Rocha: Is that airport or City Manager? Who does that?

>> Bill Sherry: Airport. With losing about half our staff, our finance department has been taken down, I think originally there were 30 people and it's now down to about a dozen. So that's one reason. But the bigger reason is, continuity. As you know I'm going to be retiring in a year and a half. Our finance director will be retiring soon. And we've lost a great number of people in the finance department. And so we think it's in the City's best interest to keep that continuity because they're the only ones left that really have the understanding of all the complex financial issues with rates and charges, bond issuances, et cetera, et cetera. -are.

>> Councilmember Rocha: Okay, thank you. That's very helpful my one thought prior to asking the question was wondering if there was opportunity to save money. We talked about the pressures for staff and the cuts and should we be taking advantage of it. But I think the second point that you made spoke to regardless of the potential for cost savings it might be in our best interest regardless at this point in time.

>> Bill Sherry: To give you some comfort we did a pretty exhaustive list of rates and charges, there's a representative of condo, so that gives us assurance on, I rates and charges.

>> Councilmember Rocha: All right, I'll move.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. Item 2.16, that was a bill legislator Wieckowski.

>> Councilmember Oliverio: Thank you, mayor. Bankruptcy is not an easy process an option of last resort but AB 1692 would implement items that are strongly opposed by league of cities including the City of San Jose and would allow more state intervention into local matters. It would impose some troubling items and that's why the city management and the Rules Committee adopted a stance to oppose this bill so I make a motion to approve.

>> Mayor Reed: Motion to approve the staff recommendations. You've, opposed, I count one two opposed, Campos and Kalra. That concludes the consent calendar. We'll turn to the report City Manager, item 3.1.

>> Debra Figone: Thank you, Mr. Mayor, members of the council. I have one item, yesterday governor Brown released his May revision \$16 billion. This almost more than doubles the gap which was identified in January of \$9 billion. Although the governor's new proposals for closing this huge shortfall don't specifically mention what they might eventually do to California cities, I think we should all be prepared to see some potential adverse impacts flowing down from the state. Certainly we will see negative effects on the lives of many of our residents and on our schools and colleges as a result of the State's budget crisis. Depending on whether California voters

approve tax measures, in November, the ones being advanced at the state level, we can't expect further big cuts to state, county, and educational services that are vital to our economy and our future. And I'm mentioning this today as a reminder that although San Jose's proposed budget for next year is now balanced, we're always at risk when decisions at the state level add to our locality burdens or take away our local resources unfortunately as we all know this has been Sacramento's pattern for decades. As we saw again last year when local redevelopment agencies were dismantled with little regard to their value to the state as a whole. Although I remain cautiously optimistic about our strategy, San Jose's strategy to stay in balance over the next two years events beyond our control have the potential to derail our good work and the good work of the council. We therefore must continue on our course of fiscal discipline. We must stay focused on our long term goal of restoring services in ways that are sustainable and avoid temptations of short term actions that might feel good at the time but may make our situation worse and that concludes my report.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I would like to ask if there's a possibility if we as a city signed by all councilmembers could send a letter of concern to the state. I don't think the state has at this point even said to all employees there, take a 10% cut. Rts 5 I think but only for part of the employee group. I think whatever facts we can put together and I would like to be helpful in constructing a letter so I do offer that help.

>> Debra Figone: .

>> Councilmember Rocha: Thank you, councilmember. Maybe I could work with Betsy and we could bring something through Rules that the council may consider.

>> Mayor Reed: That concludes the City Manager's report, taking us to 4.1, actions related to the county children's shelter.

>> Councilmember Rocha: Move to approve.

>> Mayor Reed: I want to congratulate the county staff as well as our own housing staff Leslye Corsiglia and Jackie Morales Ferrand affordable restrictions on another property that will be developed and generate some funding for the county. So and that's the good news. We also get a new school campus for harker in district 9, congratulations, Councilmember Rocha It's a very good school to have in your district. And I'm sure they'll be great neighbors.

>> Councilmember Rocha: Not so quick on that, there are community meetings. Impromptu community meetings and there's some significant comments from the surrounding community about the future of that. I'm knoll suggesting one way or the other but I just want to give you a heads-up. Before you stick your neck out.

>> Mayor Reed: That will make it a little more interesting and a little more work for the councilmember to figure out how to resolve these issues.

>> Councilmember Rocha: I'll be sure to include you in all those community meetings.

>> Mayor Reed: Thank you, appreciate the invitation. We have a motion to approve. On the motion all in favor, opposed, none opposed, it's approved. That includes 4.1. 4.2, downtown high rise incentives. Before we get started on this let me just disclose that in preparation of this I had meetings with Dwight a few people of interest downtown including John Sobrato, KT properties, Terry rose and Tom Seiwart. So there's a lot of interest in this. Wee just hoping that we can push somebody over the edge to where they reach a point where they write a check for, let's say, \$100 million to invest in a new project downed. I know Councilmember Liccardo has spent a lot of time trying to into it folks to -- entice folks to make the leap of faith. Councilmember Liccardo.

>> Councilmember Liccardo: I met with all those you met including and I'm sure there were others. They were on my calendar.

>> Mayor Reed: Staff presentation.

>> Joe Horwedel: Thank you, mayor thank you, Mr. Mayor. As you photoed this is an important opportunity for the city. We have been looking to encourage a high rise residential building in downtown, residential and office. And as a part of that one of the things in talking with the development community we've very much heard is the economics for high rise are still not where conventional construction is. And there are some things that the city might be willing to do that would lessen the burden for a developer moving forward with a project and hopefully to encourage that \$100 million investment in our downtown. Staff put forward a series of recommendations related to this item that would help reduce those barriers and close the budget gaps. As noted in the staff report, staff had a tremendous amount of review debate about the issue of tax suspensions and reductions as a way to close that gap. It is one that, as we looked at this issue, it does have citywide consequences and we really felt that it was important for the full council to weigh in on the discussion. And so it's in part why staff did not recommend a suspension or reduction straight-out in our recommendation. But did provide that extensive kind of beyond-normal review in the memo itself. Staff estimated the cost in the memo for those construction taxes based on three projects that we did about six or seven years ago. The 360, the axis project and then the central place or 88 development. As a way to try and estimate what the potential impacts would be. One of the things it has changed since then is our building valuations have changed, construction costs have changed a bit and so we did going to back and look at our cost to development prototype, a high rise to look at a cost and our workup on that I did go back and look at that last week and in there the construction costs are about \$2.6 million as opposed to 1.2, 1.3 so it is one where there are some consequences around it. It's not that the tax incentives are -- should not be considered. Staff very much believes that those are really powerful tool about moving the economy. We've seen that in the North San Jose where we reduce the traffic fee and have a lot of interest of developers moving forward with office buildings. So it is one that we would really like the council to have the discussion around how much we really are willing to invest in this type of development. They said it is an important part of the city, and certainly downtown where we would leverage the greatest benefits from those types of buildings being built in downtown. So staff is asking council to move forward with the recommendations that staff has brought forward and then have the discussion regarding the supplemental memo from Councilmember Liccardo and the mayor around the construction tax. And staff's available to answer questions.

>> Mayor Reed: Thank you. Councilmember Chu.

>> Councilmember Chu: I think there's something wrong with this system. I keep turning it off and it keeps coming back on.

>> Mayor Reed: All right. Councilmember Pyle.

>> Councilmember Chu: It's on again.

>> Mayor Reed: Councilmember Liccardo has apparently got control over everybody's indicators. I don't know how he did that. He's got the master control. So Councilmember Liccardo.

>> Councilmember Liccardo: I'm sorry, Councilmember Chu we'll fix it over here. In any event, no, I just wanted to thank Joe and Nancy and Kim and all the folks who worked so hard on the underlying memorandum. And I know that this is something we've been working on for several months. And I just wanted to offer my colleagues a bit of an explanation of why we are taking this additional steps on the crimp tax, building and structures tax and other structures. We are in a window of opportunity in rising rents, rising faster here than I believe they are in any other region in the country. But oddly enough we're not seeing the construction and we're not seeing the construction because frankly the financing isn't there. The lenders are too timid and they're telling developers who are very eager to build that they simply won't lend on the pro formas they have because the costs are too high. We're hoping that by getting one or two developments off the ground knowing we're building into a strong rental market, not into a questionable condo market which we faced several years ago entering into the recession. We recognize here there's a need here to aggregate fees, to be able to build out transportation infrastructure, North San Jose or elsewhere and we recognize that reducing fees obviously limits our ability to build out those transportation improvements. But there's also recognition now that we're getting nothing and 100% of nothing is still nothing and I'm hopeful that 50% of something is quite a bit more and I think there's a recognition also that when Autumn Street, the need to build Autumn Street becomes really urgent whether the commissioner of major league baseball finally makes a decision. And when that happens I've been told by several developers

we won't have a problem getting construction going downtown, I'm sure we'll be pulling the incentives and going full speed ahead because we'll have a markets that's ready to build without those incentives. So I think we'll have no problem getting the fees together to make those transportation improvements we need as the need arises. With that I'll make a motion to approve the staff recommendation also the memorandum dated May 9th from the mayor and myself.

>> Mayor Reed: Thank you, we have a motion on the floor. I'm going to support the motion. I wanted to go back a little bit and talk about the previous efforts we've made to get some investment going. You'll remember a couple of years ago we met with the residential developers in North San Jose and asked them the question of what can we do that will get you to make the investment in North San Jose, and now we have -- and we did some things. Don't need to go into the details of that. It was mostly processing and working at the speed of business as opposed to incentives. But we have I think about \$800 million of investment under construction in North San Jose, hasn't all had the the tax rolls yet but it will. hasn't hit all the tax rolls yet but it is industrial developers asking them the question what can we do to get you interested in spending your money to invest in North San Jose and we now have several projects that are in the pipeline, not yet under construction. But have made application and are moving ahead. And so we had a meeting I think in January, with downtown developers and others interested in downtown, and asked them the same dining of question: What will it take to get you to open your checkbooks and take the risk of putting up a high rise? And high rises are difficult because you don't do it in phases. You have to pay for it all at the same time and develop it at the same time and sell it and lease it. There are some risks. Once you get over 12 stories, you get over eight stories it gets expensive and higher you go it gets a little more expensive. So we came one this list of things that we can do some, staff worked long and hoard on this, staff and D.O.T. staff came up long and hard to come up with this, Councilmember Liccardo has added a few more and we'll see how it works. In conversation with developers it's probably enough to push at least one of them over the edge and they'll take the leap. Maybe we'll get two, but one would be a lot. It would be nice to get some construction cranes and some construction jobs and ultimately some tax revenues. And I just want to remind everybody that since the state has killed the Redevelopment Agency we don't have that agency as a vehicle to help close some of these gaps on some of these developments but we will get the benefit of that because the tax increment that will flow into what used to be the Redevelopment Agency will benefit the city,

because we're millions of dollars below where we need to be in order for the successor agency to pay all the obligations of the Redevelopment Agency. So it will help the City's General Fund. And as well as creating a jobs and some additional excitement downtown. So that's why I'm going to support this. I think City Attorney wants to add one cautionary note.

>> City Attorney Doyle: Yes mayor. I just want to note the motion and I'm looking at your memo and Councilmember Liccardo's memo. To the extent you're looking at items B, C, D, those are if it passes just direction for us to come back. We'll have to do ordinances to suspend the taxes and come back with a revised resolution on the park fees.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I have a few questions. First of all, what does the math on this look like? From what I've read it's at least \$1.5 million. Would that be correct?

>> Joe Horwedel: That would be correct.

>> Councilmember Pyle: And then the other question I have is: Would this necessarily take away \$1.5 million from transportation? In other words, the roads that we thought were going to be paved, are not going to be paved, outside of the downtown area.

>> Joe Horwedel: I think it's a half -- glass half full, glass half empty. Answer it both ways. To the extent that there's a finite amount of capacity we can build downtown, this ultimately would result in less money coming to the city from taxes. Because once this building's built, it will be built and we will not have gotten full tax. It may be true that it is a way of accelerating money into the city because if the economics don't work for the next ten years we would not get any of that tax money until the economics work. And if our goal is to accelerate building a building faster which theoretically would generate \$1.5 million faster to spend on roadway improvements. But it potentially is a net reduction at the back end.

>> Councilmember Pyle: I bring this up because this is a really hard sell in other districts. We all want it downtown, of course we do. But 50% is a really tough sell. And how did that figure -- how was that figure arrived at?

>> Councilmember Liccardo: Perhaps I can speak to that, since that's in our memo rather than in staff's. First, I think it's important to recognize this isn't about money that would be used to repave streets. This is for transportation expansion. That is, for building new roads. So for instance, Autumn Street in the downtown would probably be the use of any crimp taxes that would be acquired from downtown construction. It's not likely that this money would be used for instance for street repaving which comes from other sources. Secondly 50% was arrived at frankly because it is a simple number to reach and secondly after a lot of conversations with a lot of developers about what we believe was needed to get a shovel in the ground and a crane in the air because right now we know there is no building happening and we can continue along the current path but we know that doesn't work. So we tried to reach a number that we believed would work and would actually get a shovel in the ground.

>> Councilmember Pyle: So there's an assumption that three new buildings I would imagine approximately twice the size as we we already have, twice as big as the ones we had last year that these are going to fill pretty quickly.

>> Councilmember Liccardo: The market today is rental. It is not home ownership.

>> Councilmember Pyle: Right, the question has nothing do with that.

>> Councilmember Liccardo: Our experience with 360 with very very high rents on North First Street, rented up to 100% occupation for bequeath some time. That seems to be what we see throughout the market in San Jose .

>> Councilmember Pyle: There is a corollary. The more people, and I mean, this is not something that we can ignore. The more people we have downtown the more need we have for upkeep, the more need we have for

downtown activities. Police, et cetera, et cetera, et cetera. We're broke. We are broke. So I really struggle with trying to forfeit a million and a half dollars for something that I wasn't sought out for any kind of input on this. And that's part of the Brown Act problem. But still, this is a lot to ask, just like that, boom, 50%. I know what the developers will get out of it. But I'm not really sure or not really convinced what we're going to get out of it.

>> Councilmember, Nancy Kline, economic development. In thinking through how we move the downtown and the general plan faster the opportunity to get high rise which can really contribute to bodies on the ground going to restaurants, going to the cultural facilities, really helping make downtown that much more of a place, plus, as others have already mentioned some once one crane is in the air others begin to see, it's possible. And our rental market as you know is extremely strong. And going back to the forgone revenue as Joe mentioned there's the consideration of big long term dollars. But in the short term, you never know what's going to happen with financial markets. If we get a building up, and folks are in, then there will be some money coming in to D.O.T. If nothing happens in the next two years, they wouldn't have gotten any money anyway. So the really -- one can argue is no loss to D.O.T.

>> Councilmember Pyle: Is there some way that instead of just saying, okay, great, you -- 50%, that's it, could some of this be deferred until occupants occupancy? In other words, as occupancy increases so will the amount I can't believe we'll say right off the get go we're going to forfeit the million and a half.

>> Councilmember, as you suggested this is something that staff explored very directly. And there are two reasons it didn't show up in the proposal to you. One is: We have a precedent of working on individual -- on programs rather rather than individual development agreements. Because of speed and because of the amount of time that we often engage in that kills projects. Just to get an agreement. And there's the ability of a fair, level playing ground for everybody who's taking care of a program where the incentives are known. So that's why it certainly was thought of. But that's why you have the proposal before you as it is.

>> Councilmember Pyle: I agree with everything on the proposal except for B. That's the one stickler for me. So with that, probably there are others that would like to express their viewpoints.

>> Mayor Reed: I'd just like to respond to a question Councilmember Pyle on the revenue side and the operational side. We did a study, I forget when it was, staff had it a while back about the relevant benefits to city on revenues, General Fund revenues and other revenues of high density over 100 units per acre versus lower density development I hate to say profitable. But the ones that generate more revenue for the city are if high density projects, more efficient way to deliver services staff probably remembers that study.

>> Kim Walesh: That's right, mayor. We did that as envision 2040 high rise pays for itself even factoring in the additional cost of policing and the additional costs you recommended it's fiscally.

>> Councilmember Pyle: I get that part. What I don't get is the figure you arrived at.

>> Mayor Reed: Okay. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I share some of the same concerns that Councilmember Pyle raise and at the end of the day, I'm asking myself does the benefit outweigh the cost and as you put it the cost really doesn't exist today but it's still at one point a cost potentially. I don't want to dismiss that. I have a question with the ownership in terms of rental for ownership. I remember the case this council and the Redevelopment Agency made some years ago about the projects that are now done and making the case that it was really important to have ownership. The discussion I have now is rental, whether there's a narcotic for one or the other that's a point to consider in the discussion but that doesn't mean that has to be the only point to consider in the discussion. I'm really interested in how I'm not hearing that discussion as part of this debate if you don't mind.

>> Market factors is the straight-up answer. There is very little that we can do that we can lever, as you have dealt with personally to make something go. The market isn't lending on for sale. And at the moment as you know markets might be getting more perilous. If we want to take advantage it's rental.

>> Kim Walesh: All the developers in question are talking about rentals in downtown. And they're looking at the success of the 360 and intending that -- and North San Jose and then think that the market is much deeper given the escalation and the shortage in rentals, moderate rate and high end rentals in San Jose they always think there's a deep market in the next several years especially.

>> Board Member Gage: .

>> Councilmember Rocha: That's good and again that's looking at it today. But as we talk about depending on the issue we also talk about long term vision and view and making sure we're making decisions in the best interest of San Jose and in the long term as well. As we continue along this path of pure rentals I'm concerned about what that means for San Jose. I have no idea, I'm not educated enough to know whether that's good or bad for San Jose. My gut is telling me it's better to have as much ownership as we can in any of the developments we're doing but recognizing we can't control the factors that you talked about we're left with this decision today. So that's kind of what I'm debating in my head. I'm sorry you were going to say something. So I did have one more question on the other item and that was, as far as measuring the success of the other projects, and whether or not the benefit is there, are we -- here are two sides of the coin. And one is, we're making this decision because downtown is not what it needs to be yet. And then on the other side I heard, they're working great, so we need to do more of that. So I'm trying to split the baby here and say, is this working or not working and does it depend on what the issue is we're discussing. I gets my question more or less is do we see the projects as a success for downtown, not just for itself but for downtown and are we comfortable moving to rental and sit getting to where we want to get to whatever that is?

>> Joe Horwedel: So from the city standpoint I would say that the high rises we have downtown today, both the rental and condos, are a rousing success in that we got cranes in the air. We got major capital investment to come in. We have people living downtown, in all of those buildings. Certainly, I think the developers would have liked them to have sold faster. But I think it is, as the mayor said, one of the reflections of that building type is why the risk is much higher than building detached houses in the suburbs. So I think it's really how do we go through and continue that in downtown. Because really our goal is -- you know it is we have a small footprint

downtown. And we really have seen the benefits of more residents in downtown. So we need to maximize the opportunity to get more people downtown. And that's really going to come from high rise. That we can only build so much wood frame construction downtown. But we really don't have the luxury of doing a lot of that. So I think that's where that incentive comes in that says of all the place in the city to encourage high rise for residential, downtown is the place that is -- we get the greatest benefit from it because it maximizes the other investments we've made downtown. It really goes through and takes advantage of our limited commodity of land downtown. So if you're going to make an investment in this type of development this is the place to do it. And this is I think the time to do it. Where we've got real strength in the rental market happening. From a land use standpoint, staff standpoint, city building standpoint, I don't get really concerned about rental versus ownership. At these types of densities. Because the reality is, we have a very fluid workforce that's here. We're trying to attract people from around the world. Many of them are very comfortable with a rental type relationship like this and it gives flexibility so that really, while homeownership is a great way of building wealth it is a way that sometimes chains people to places where they're not able to follow along with jobs and be able to move with their family as it evolves. I think there's real opportunities having more rental stock in San Jose certainly at these densities that we don't have.

>> Kim Walesh: And if I could add, I think we learned some lessons about January. Number 1 it was time limited. The strategic intent was to accelerate development into particular time period that might not southbound have happened except for their end of the future. It was time-limited it was meaningful enough that it sent a strong signal that we want this and it made a significant enough difference for proposals to start coming into us. And third, we approached it on a program level and we said here's the criteria, if you fit into here in the next two years you're eligible for this rather than all the time intensity and uncertainty of a one by one project approach. We are looking at this as similar time limited, meaningful enough to make a difference and a program rather than an individual project approach. That is what our thinking was in engaging on this topical.

>> Councilmember Rocha: Thank you, you thank you, Mr. Arnold for your comments. You had me early on, and when you got exclusively dot rental, my gut tells me is the strength of the market is build the strength of downtown and I get exactly what you're saying and I don't disagree with what you're saying but I'm concerned with long term

and I have to be sitting up here. With that said I will be supporting the motion and I want to thank the staff for their work on this and my colleagues for sticking out their neck on that issue.

>> Mayor Reed: On that rental issue my guess is that all of these would be built with a condo map in place, intended to be rental but preserving the opportunity for sale later, wouldn't that be typical? It is normal. Not all rental developers do it but we -- as staff we treat them the same.

>> Mayor Reed: Okay so we could get some for-sale out of it, it all depends on the market. The City Manager had a question I think about the timing.

>> Debra Figone: Yes, Kim, I think you actually opened up the answer to my question, is is this not time-limited as I read the memo? I'm assuming that it is. I assume that would get built into the ordinance so as it reverted back is that how it might work?

>> Joe Horwedel: That's correct.

>> Mayor Reed: Councilmember Liccardo did you have something on that?

>> Councilmember Liccardo: I think Don raises something em 2007 about having also of condo owners downtown and certainly we'd love to have more. I any the world's changing very quickly and what I an hearing from you amount of knew households that are formed in the Bay Area are going to be rental not ownership which is a dramatic change from the world in the past where about two-thirds of our home are owner occupied. And that's happening for lots of reasons partly because of what's going on in the financial markets with home ownership, because our households are shrinking so many, one out of four households are actually going to include children increasing size and demand and developers understand that and they are only building rental and so I am frankly thrilled to see more people, 000 downtown whether they're renting or owning. I think having a rental market expand in the downtown will mean more young folks who are going to be -- obviously got work here

in Silicon Valley and we know that's critical to drive so much of our innovation and our economy. I think the world is changing and we'll be changing with it.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. First I want to thank the mayor and Sam for this memo. I think this is definitely the right direction to go. The more we can incent bear I think the quicker and more positive results we'll get. and as far as the amount of the reduction and you know what we're losing, I don't see it as that way at all. Because we're getting activity much sooner than we would and quite frankly even if we were to assume that there was money in the bank we were giving away, the return on investment for our city is going to be huge compared to a lot of other places where we spend our money. This is definitely the way we should be moving and I hope to see more of this type of activity throughout our city, finding ways to incent people to correct, to act to the economic conditions and the market desires in our community. That's how we can be really effective so thank you for your memo. I'm very happy to support it.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I appreciate the discussion here and you know, these are in looking at the staff report and having the opportunity ore the last three weeks to kind of get a sense of where staff is going and now see there's quite an expansion of these incentives and you call them incentives or subsidies whatever you want to call it, the reality is it's a drain on city resources in order to encourage private development. And I wish we had an opportunity and I understand that sometimes things like this happen with the mayor and Councilmember Liccardo's memo, that we often sometimes don't have the luxury of having time to have full analysis proposals of what the council or the mayor would put forward. But it would have been nice to have a full analysis of all the expansionings offered in the memo. And I warrant to start with just simply the staff memo because you know I think the staff has done a good job of the analysis both of where we are and what would happen if we did as not recommended by staff but if we did have the tax reduction as suggested in the memo. And by reading on page 3 it looks like with the expansion of the number to a thousand residential units

assuming of course that all of them are built out, which is a heavy assumption in the short time frame but the same assumption what the maximum would be up to \$2 million based upon the expanded number that we would be giving up construction excise taxes with the memo not only -- how much is that in terms of -- if it would be for the thousand units how much is that in lost revenue for park fees? Roughly?

>> Joe Horwedel: In our estimates we put the cost at \$130,000 for each 81th, so approximately \$1.3 million, \$1.4 million.

>> Councilmember Kalra: Put in place a long time ago and I'm sure helped to encourage S development that's already occurred in the downtown. One of the issues that the City Manager raised which I guess I didn't connect the dots on the time line, because in B it doesn't give it the two years, as the staff alternative. But I suppose because of number 4 it puts an end date to it anyway that the shovels have to be in the ground essentially by 2013. Actually it's less than a two-year window in order to have these in effect. This is tough because the reality is if the market for rental is so good then there already is an incentive to build. I understand that financing is difficult on the bank side but to put a further burden on the city at this very delicate time and to push for a developer to build on what ultimately would be a very profitable enterprise and very profitable private enterprise, as indicated in the staff report Joe the money is coming out of capital programs. Capital programs are already needed in the downtown and would be further needed if there was a development in the downtown, that's the concern I see very well, very clearly expressed in the staff memo. When we were first giving approvals for Autumn Street extension, we were told it has nothing do with the stadium, if the stadium comes or not, we need it. Now the suggestion is, we don't really need it until the stadium comes and we'll get financing for it whether the stadium comes. They're counter to each other. Now we're on top of that giving up the capital improvement fees. And so I just have grave concerns about that. If the were semis like as indicated in nipple 3 which is employment serving use then that's a much easier pill to swallow, whether for residential use, whether it be residential or rental, current rates that the rental market is at, obviously, there's always a risk. And the City's already taken on some of that risk by the 50% in lieu fees park land dedication in lieu fees. Now we're taking on more of the risk. I'm interested in hearing, I don't know if there's public comment or further comment from councilmembers or staff. That's a trying to evaluate the impacts of some dramatic changes to what staff or at least expansion as to what staff is recommending which is

you know -- so that's why I'm as curious as to staff's position particularly in terms of the impact on the building, the building an contradiction tax particularly because part of the justification going forward is the fact that the rental market is doing so well. So we already have some incentives in place for the construction of high rise. Further you know can giving further of that some something that can be ultimately damage. I know you indicated Nancy there is knock happening right now. There's never happening right now. You see the rental market going through the roof now but it wasn't two or three years ago. If we don't even give is ourselves a space to benefit from these taxes, it's hard to say what comes first. If the incentive is there to build because of the rental market and we wait and knock happens in two years, you have to wait for the two years and say I told you so but it's impossible do know that ahead of time. It's kind of a guess. Obviously any developer is going to say of course we need it because that means millions of dollars in their pocket. They are not going to say no we don't want an incentive. Of course they do. The question we have to take from a balanced approach is what can the city afford to give as an incentive and is it really necessary to encourage that development? Obviously I've been one as many others down here that's wanted downtown to thrive, billions of dollars have been spent in downtown to try to get it in that place. We can always bring another incentive, this is the one that's going to do it, that is the one that's going to do it. Thinking through this rant you could say, by this suggestion by the memo .

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Thank you for the memo. Mayor Reed and Councilmember Liccardo. So I've heard a lot that it is a hot rental market not just in the Bay Area but in San Diego and all over that it's a really hot rental market. Why aren't people clamoring to build down here without these incentives downtown?

>> Councilmember, the challenge is the high rise construction type. Because it is not yet a solid gold market, we have have our three buildings We have our one rental building that has done well. The financial markets are hesitant. So -- but it is a difficult calculus. That's why it took staff a while to come forward. But what tipped it for us is because the mayor and Kim referenced when you look at high rise construction because it yields dollars to us greater than any other land use type and because you'll get the bodies that make downtown thrive then based on

that we solidly are in the camp of moving forward. And trying to impact the financial markets, as well as the example of a project or two can make.

>> Councilmember Herrera: If we still had redevelopment proceeding if it hadn't been eliminated how would you view this project and this incentive plan now?

>> Joe Horwedel: Five years ago we would have invested in the project, we would have just closed the gaff with redevelopment money. That was the tradition. And several of the projects actually had redevelopment money in them, either through parking-plus contributions or land assembly with discounted land, as a way to make the project more competitive.

>> Councilmember Herrera: So we're faced to do redevelopment without redevelopment so one of the only options is to kind of look at the private sector to step up and do the building as we see in other cities in other areas. As far as high rise how important is it to have more high rise activity downtown that densification?

>> Joe Horwedel: I think it's extremely important for the future of the city is to continue to find ways to bring that into the marketplace. For the South Bay it has been a very suburban form of development that we have not seen, the type of high rise development that even you see in the East Bay. It just is not been traditionally down here so I think we've got to go through and kind of teach the market that they can be successful here. Part of it is residents, businesses, to locate in it versus a more suburban you know garden apartment or office park. But for us to be successful in our future, about how we think about land use, and our financial sustainability, we need to go through and change of how we've done things in the past and so this is part of investing in our future is how I would characterize it.

>> Councilmember Herrera: Can you talk about the cost deference? We've talked about it, the high density, the cost of that high density resident the cost of services we have to delivery versus a single family unit? I think that is one of the things that is moving staff towards supporting this idea. Can you quantify it better? What would be -- do the math and give us the comparison between the two. If we -- give me back of the envelope then.

>> Joe Horwedel: If I looked at the chart --

>> Councilmember Herrera: In other words the discounts we're offering here if we were getting single family dwellings does it make up for that? How much does it make up for that?

>> Councilmember we would have to bring you that chart back, which we could do if John Lang is listening, he could be sending that forward right now but we could get that to you this afternoon. But it is I believe at least a threefold or greater value return on dollars per acre as the differential between low rise, less dense, to high density housing.

>> Councilmember Herrera: Okay. And there was another on the memo here on -- I guess it's on page 2 of -- no it's of Councilmember Liccardo's memo. Talks about transportation costs typically 20 perforates household budget. So there would be a lot less transportation cost are a lot less than with somebody in a high rise can go ahead and use transportation et cetera so that's another enabling part of this. I had one other question. What happens, what is the capability of these units to be converted to condos for sale and how does that affect our decision right now to give these incentives? Would there be some way to revert to something else to add more fees if things change and they're able to -- the market conditions change such that they want to convert to condo and is there any thought from staff open that?

>> Joe Horwedel: From staff standpoint when we review and put the projects, the requirements, we look at them interchangeably. Many of the developers build them as condominiums. They actually take a subdivision map and approve it with the site so 15, 20 years down the road if they wanted to they could sell the units off individually. No not all developers, for tax purposes, some of them will go through and always keep it as an apartment building for how it's structured they choose to do it that way. But we have not looked at a different incentive, from our goal was really getting a crane in the air. Getting residents on the street. And whether they were renters or owners, we saw them both mutually beneficial.

>> Councilmember Herrera: This is for a limited number I don't know if we will make that number but a thousand units right?

>> Joe Horwedel: A thousands units is in the mayor and the councilmember's memo. If we have a thousand units breaking ground by the end of 2013 we should have a parade. We would be extremely successful. That was part of our goal for North San Jose, when we talked about a million square feet. We are working on a million square feet for North San Jose so we're working on a parade. We want to celebrate that. We are certainly up to getting more than a thousand units but it is a constrained supply it is important on the incentive to put a sense of urgency.

>> Councilmember Herrera: And this would go through 2013?

>> Joe Horwedel: Correct.

>> Councilmember Herrera: I'm going to support this. I think it's important that we move forward with our plans for Downtown San Jose. We no longer have redevelopment, during this time we need to put together some incentives and these seem reasonable to me so I'm going to be supporting this.

>> Mayor Reed: Let me go back to the strength of the rental market. The rental market is strong so that's why there's some interest in it. The rental market is not strong enough to get people to build a new high rise residential project. They're willing to build what we're seeing in North San Jose but once you get above 20 stories it is more expensive. It is highly unlikely we'll get anything if we don't have some sort of incentive package. We are talking about 100% of zero without the incentive with regard to high rise residential in downtown. The market is different in North San Jose and South San Jose. My staff conversation with developers of high rise residential they're not enthusiastic of doing it at the current rental rates. They're not high enough to take a risk on a high rise project downtown. Unless things change dramatically and they might we're not going to see a project. I'm willing to say 50% of something is better than 100% of nothing as Councilmember Liccardo explained it. The market is good but

not strong enough to justify high rise at that cost. Councilmember Liccardo, did you have another comment? I'm sorry. Councilmember Pyle.

>> Councilmember Pyle: Thank you. Just a couple more questions. In reference to the current high rises about how many units do we have in axis and 88 and the rest?

>> Joe Horwedel: I have the information of three of them in front of me. The 360 residences, that's the one that converted to apartments is 213 units. The central place or the 88 where Safeway is at is 206 and in the axis was 330 units.

>> Councilmember Pyle: Okay, so you're talking about, hold on, 89 units. And those three buildings are completely full?

>> Joe Horwedel: The 360 is I think nearly leased up, the central place and axis are both for sale projects and are different levels of sales. They're 90% is what Nancy --

>> Councilmember Pyle: Oh I thought they had converted to rentals as well.

>> Joe Horwedel: No.

>> Councilmember Pyle: Oh, and they won't do that, okay. All right. The other questions I have, we have no rental caps do we? In other words we have no authority as a city over how much is charged by individuals in the city?

>> Joe Horwedel: We have rent control but it is for units that existed beyond a certain date so rent control is exempt.

>> City Attorney Doyle: Rent control does not apply to new construction.

>> Councilmember Pyle: All right so they're going to charge whatever the traffic will bear and that will be borne out as they progress I would imagine. I want to make sure I have this straight. The fact that it's coming out of other departments, in order for this to happen, I find very problematic. 1.5 would basically for all intents and purposes come out of the transportation department, would you agree with that?

>> Mayor Reed: Well, it's not in the department. There is no money in the department. It's back to the, there's nothing. It's money that's not there. We're not taking it out of the department.

>> Councilmember Pyle: But they would not realize those funds, or we would not get those funds. I mean it all comes down to the transportation department losing the money. And the same would be true also for parks. With the 1.3. So we're really talking about not 1.5 million, we're talking about a total of about 2.5 million, although the incentive is considered to be 1.5.

>> Councilmember, parks representatives are here. But the change, council already approved based on reevaluation or appraisal. So those differential dollars from parks is listed here because it's part of an overall package to developers. But we are not further decreasing dollars to parks. So that's set aside. Then again, it does, and I understand the seriousness of the calculus of the thinking. But it does come down to the notion of given the high-rise nature you're not seeing other high-rise development happening anywhere in the city. And so it is can we get a high rise and the very high value for the downtown if we can.

>> Councilmember Pyle: Okay, then the last question I have and I'm sure you're glad to hear the word last, the me too, in other words, as other departments -- as other developers decide, gee that looks like a great idea, how do you avoid the me too? In other words, if there's incentives for these, how do you separate that? How do you say well sorry, you can't get that, even though the other people did?

>> Joe Horwedel: That is always a challenge. But I think being clear about, we're doing these incentives for a specific reason, not to pay for everybody to do it. It's who's the leader. Who is going to be the first one?

>> Councilmember Pyle: I'm talking about the future, maybe people are going to be representing like crazy. If other developers when the time is nigh, want to do the same thing, what's their answer going to be?

>> Joe Horwedel: I think that's always going to be the case. We did a similar incentive downtown in 1985 for high rise.

>> Councilmember Pyle: I am talking about the legality. I want Rick's advice on that.

>> City Attorney Doyle: There is a rationale to set this in place so it's legal I think your question Councilmember Pyle is what Joe's trying to address. If it's similar in other parts of the city why don't we do this at Santana Row or Willow Glen or somewhere else in the city, it's the me too. That then, the council is going to have to deal with, your staff is going to have to deal with it. You don't have to do it, I suppose is the answer. It is the political pressure to try to do something similar if you want to encourage development in other parts of the city.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Campos. Just so the council will know, the speaking indicator lights are not necessarily working the way they are supposed to. So wave if I don't recognize you. Councilmember Campos.

>> Councilmember Campos: Thank you. I won't be long. Just a couple of questions. On the 2500 units that are under the preexisting downtown high rise incentive program, if these thousand units get build by the end of 2013, how close does that get us to that 2500?

>> Councilmember Liccardo: Joe, I think the answer is a little over 1800, if we get to radio full thousand, which is unlikely.

>> Joe Horwedel: I defer to the councilmember.

>> Councilmember Liccardo: We built over 800 units with those towers. We are 800 and change, 840 against that 2500 so that's how much space we have left.

>> Councilmember Campos: Okay, the reason I'm asking is part of this incentive, this preexisting downtown high rise incentive program exempts and correct me if I'm wrong, exempts the requirement for affordable housing. Is -- and is that in -- I mean is there a cap-date for that where that incentive goes away, or it's up until we get 2500 units, then that lifts the inclusionary requirements?

>> Joe Horwedel: We are operating for rental housing under the palmer decision where it prohibited inclusionary for rental housing. So it's kind of a little bit of an overlap.

>> Councilmember Campos: I did read that by the way, in the memo that did remind us.

>> Leslye Corsiglia: Councilmember Campos I might need assistance from the City Attorney but my understanding was that that inclusionary cap was for projects that were already under construction. So for the first four but that that cap is no longer there and the inclusionary ordinance that we passed says that they'll pay 50% of the inclusionary amount. But only for moderate -- or only for ownership housing not for rental housing which is exempt by plumber, that's correct? So if ownership was to go forward they would have to pay 50% of the inclusionary fee.

>> Councilmember Campos: Again so I'm understanding is that consistent throughout the city so anyone who wants to build rental, rental housing they -- and if it's in a -- well jeez what triggers the 20%? Nothing triggers the 20% anymore right because RDA has gone away or --

>> Leslye Corsiglia: Well right now that's an unclear concept of whether or not it has or not. [Laughter]

>> Leslye Corsiglia: They eliminated part of redevelopment not necessarily all of it so we're not really sure. That being said any rental housing citywide, regardless of the parquer decision would not be subject to the inclusionary and when our inclusionary ordinance goes into effect in January it would only impact for sale housing.

>> Councilmember Campos: Okay, the reason why I'm asking is we've created another area of the city that is for you know a specific person or family in a higher income bracket. You know I think the fact is that workers of all skill levels, you know, they should be able to live close to work. And a lot of those -- a lot of folks live, work in the downtown. And being closer to downtown, from an affordable standpoint, it allows them to save on you know, just light necessities and if they don't have to worry about transportation because they're living downtown and can walk to work and do all their necessary things everyday life things, then I think that's a better policy. And so you know, I would like us to not lose sight, that you know, we need to provide other opportunities for, you know, other income brackets, lower income brackets to be able to rent in the downtown core. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Follow up on some of the comments and questions. First of all, the item 3, as I indicated before, I have no -- parallel to my signing on to the mayor's memo earlier this year for incentives for economic development that for employment runs I have no problem with some of this, as what we did for that memo earlier in the year of eliminating taxes and fees, permitting process, taxes and jobs should be the highest priority as far as encourage and giving incentives. A couple of follow-up park fees, as part of the what the mayor and Sam put forward 7650 for the remainder of the duration of operation of this high rise incentive proposal. So that goes beyond even-d correct me if I'm wrong -- goes even beyond the shovels in the ground, based until the 2500 units that are part of the program are completed. So whether it's another three years, four years it caps at 7650 based upon the memo, that is right? I just wanted to make that clear. It is also a departure of the current policy of 50% of where the costs are so that's why I'm assuming it dropped from 8950 to 7650 based upon --

>> Councilmember Liccardo: Perhaps I can clarify.

>> Councilmember Kalra: Yes, please.

>> Councilmember Liccardo: What it does is council already approved, what you seize there, the 76.50. We did that last week, I think we did that everybody understands going forward as long as this exists which is basically about 18 months, exactly what the fees are going to be and we're not going to hike them up if suddenly there's a boom in the market. We already have the highest park fees per acre of any region in the city. And the goal is to try to create a clear expectation for developers about what they're going to pay when again they're financing and doing their pro forma and.

>> Councilmember Kalra: During the duration of the operation of the high rise incentive proposal.

>> Councilmember Liccardo: And that expires at the end of 2013 or the completion of 1,000 units whichever comes configuration .

>> Councilmember Kalra: Got Cha wanted to be clear.

>> Councilmember Liccardo: Sure.

>> Councilmember Kalra: The inclusionary housing, obviously the palmer decision we can't enforce it on rental the city. 2% 5% affordable at different rates so that -- is that something that was explored as part of moving forward with this program?

>> Joe Horwedel: Councilmember Kalra you are correct and as part of the palmer case, I did leave open other considerations, the cities do have the ability to still invoke inclusionary. It's part of the inclusionary requirement of \$20,000 or whatever that number is on one side and then you're offsetting it with park fees or transportation fees on the other side we saw it as really kind of doing nothing. So in this case we kept status quo on the inclusionary meaning not requiring it and then it put the other incentives on top by that.

>> Councilmember Kalra: And then now there's additional incentives through the memo and so does that change your mind at all with these additional incentives that are more than doubling the tax incentive that there be some kind of affordability component even if it's 5%?

>> Joe Horwedel: Not necessarily treated downtown differently than other parts of the city recognizing that downtown is important of how we think about housing differently that we challenges that exist downtown than elsewhere in the city. So that's probably why we didn't put that in, as a part of an alternative in the staff analysis about tax incentives about reopening that one.

>> Councilmember Kalra: Well, given the restrictions on enforcing inclusionary housing and affordable one of the very few times we actually have leverage is when we're giving such great incentives. I mean isn't that the case?

>> Joe Horwedel: That's true.

>> Councilmember Kalra: And an earlier point Councilmember Pyle made about trying to phase in if the rental market is as good as it is we would hope that they would be able to fill up these units but I understand there's great risk from the developer side or phased in in terms of the incentive such that whether it be a loan that's forgiven if the units are not filled up, if they're not making the profit that they expected or something along those lines, as opposed to a complete 50% give away without any affordable component at all to residential which is clearly not as important to incentivize as industrial and office and R&D, which is much more important for the long term health of this city. And so you know, I would wish -- I wish we had those components in there both of affordability and phased in so that if it is as successful as we hope it would be and we hope it all could be shovels in the ground by the end of this next year and there should be a parade if that happens that it's great, because relief if it doesn't go as well as if they expect. But to give it out right on top of in lieu fees, to give more than double the current incentive without using any of the leverage for affordable housing or any of the leverage to try to take back some of them if the profit margin is actually met, I think is unacceptable.

>> Mayor Reed: I don't see anybody waving at me, I'll take the public testimony. Please come on down when I call your name. Scott Knies, Eric Schoennauer already down there here, Mark Torcini and Henry cord.

>> Good afternoon, Mayor Reed members of the city council Scott Knies executive director San Jose downtown association. I think you're going to achieve your goal with these incentives, which is to get two or three high rises going in the downtown. This has been an extremely thoughtful and lengthy discussion. You've raised most of the points, I have not much to add. The first deform Mesa and the lender took a bath on that project, that's how it became rental. The financial markets are still very skittish. These incentives we think are going to again achieve the goal you want to get the projects out and underway. In terms of our urban objectives in town, it is not anything goes here. I think our staff is going to be mindful where the best sites are for commercial, to try to maximize our heights in the core not on the West Side of downtown. And then also, to think about the architectural review. With these incentives, the city has the leverage to hold the line for outstanding architecture. Maybe this is a chance to take a look at the architectural review committee, add a little teeth to that and benefit the city for a number of these high rises. Thank you very much for your support.

>> Mayor Reed: Eric Schoennauer.

>> Good afternoon, Mayor Reed, members of the city council, my name is Eric Schoennauer. I came here as a downtown resident, I came here for Happy Hollow but I was compelled to stay these extra almost two hours, to share my thoughts because it's so important for the city. Really, you have to compare what we have today and what we could have if these incentives are in place. Today you have zero construction of any high rise housing in the downtown. And you have zero traffic funding going into the polt. Because there are no projects. With these incentives we hope to have one, two or three projects and what that will mean is we have cranes in the air, housing being build to revitalize downtown and we have upwards of \$1.5 million going into the traffic fund of the city. So that's your choice. To me, there is no other -- there is no other way around it. So I would hope that you would support the incentives as recommended by Mayor Reed and Councilmember Liccardo so at a we can get the revitalization of downtown back on track. We have reached a period of stagnation, and urbanization is all about momentum and we've got to get something to bring the momentum back. Thank you.

>> Mayor Reed: Mark Torsini and then Henry cord.

>> Mr. Mayor, members of the council. I am Mark Torsini with KT properties. I wanted to be here this afternoon. I know I've had some interface with both Councilmember Liccardo and the mayor's office regarding incentives. But I think it's important to understand that builders are market-driven. And to a councilmember's previous comment, with the hot housing market of a hot rental market, why don't we just wait? Well, if the market was as hot as everybody thinks it is, we would be building today. And we wouldn't be looking for incentives to balance the pro formas that are necessary to attract the capital to build new projects. That is as simple as it is. We are not that bright of a breed as builders. We go to where the markets are. Whether or not they are in Sunnyvale, Mountain View, we'll build in Santa Cruz if the market's there. We'd love to build in San Jose. I'm committed as a builder here as KT properties. We've been involved with the project it was a for-sale project. We kept it as a for-sale product. I'll try to stand a little tall to make my mom proud but we're still standing today and we're still committed to build in Downtown San Jose and I really appreciate the council's support for this incentive going forward. I've been a proponent for more but I've been politely told there isn't any more. So we will continue to look at our projections going forward in order for us to get a project underway. I really appreciate Joe Horwedel's commitment to get us through the process within a four-month period of time. Our design team can do that and we'd love to be underway this year, with the project. I know we're in May, I recognize this is where we are put I'm committed to go forward now and so this is a very, very important incentive for us to consider. Thank you.

>> Mayor Reed: Henry cord.

>> Good afternoon. I'll make it short. Henry Cord. Downtown business owner. And been a member of the downtown association currently vice president operations at the downtown association. I'd like to refer to the memo from the mayor and Councilmember Liccardo, as a memorandum of enhancement for the downtown. It will go in a very positive direction to get the message out. I think that our eight to 900 homes that we have built, whether they are rental or condo, in the downtown, is an asset we have. And we can double our triple that asset potentially with these type of incentives to establish clearly a marketplace downtown. I think the message, if we

could get this message out, it would not only be local but it could be nationally because there's a lot of members to a development team. Builders, financiers, construction loans, permanent loans, individual loans, so I think you ought to get this message out, the downtown association supports this, the energy we can get from more housing downtown. And again, I define a home as a condo or apartment. For everybody I've ever dealt with in my lifetime and I've been both. So I think the last thing I would say that we haven't spoken to is the opportunity that this attracts jobs and may even attract some more corporate headquarters in this city. That's the key to economic development in this city, is to provide housing, make it energetic city, attract national firms here, get more jobs. So I ask for your support, and get a ballpark soon, too, will you?

>> Mayor Reed: That concludes the public testimony. Back for council -- further council discussion. We have a motion on the floor made by Councilmember Liccardo. Councilmember Herrera.

>> Councilmember Herrera: I was intrigued by Scott's comments with the opportunity of getting design excellence in this. I'm wondering if there is any way to add that into the motion? Just a suggestion. I think that's reality important.

>> Councilmember Liccardo: I think we were talking off line to changing architectural review as something more robust and I'm happy to incorporate that kind of recommendation.

>> Councilmember Herrera: Thank you.

>> Councilmember Liccardo: I'm not clear exactly or where specifically to do it, so avoiding doing that on the dais we'll add it to the amendment.

>> Councilmember Herrera: And in regard to jobs, we don't know how many crane how many does anybody want to hazard a guess of how much this might bring?

>> I don't want to hazard a guess but as we saw last week, construction is really the last sector in Silicon Valley to start turning around. So for us to get construction jobs going over the next year, 18 months is fabulous for the construction sector in this recovery and have I stalled long enough for you guys to come up with an estimated number of jobs?

>> Councilmember Herrera: Maybe Mr. Torsini has an answer. I don't know.

>> Kim Walesh: Any estimate.

>> Councilmember Herrera: Working on this project so I think we shouldn't overlook the fact that that's going to put construction workers back to work in our downtown. So I'm really supportive of that and I think the point about bringing a corporate headquarters here is a really important point because bringing that kind of housing especially the, attracting those headquarters. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I just wanted to respond. There were a lot of points that were raised that were important but I just want to address a couple. One was Ash mentioned the idea of phasing in an incentive and we had conversations I know I did with a gentleman who was representing a labor union pension fund that was interested in investing and made very clear to me that phasing and having triggers were just not interesting to them. They wanted certainty of having a clear incentive up front or their fund wasn't going to invest the capital into a particular project that was going to mean the incentive is now and that's it. And so you know we have to you know nobody wants to be told what to do by a bank. That's not the items here, there is clarity in financial markets, right? They either do or they don't and we have to be clear and transparent as well. Having a lot of bells and whistles certainly can obscure a certainly been a lot of studies about how to get affordable in a world where you have a palmer decision, with no inclusionary mandated next. So the only way you're going to do it is by building the rental housing in a place where people can afford to live, where they can significantly transportation costs are 20 or 30% lower than they are in other parts of the city in a world where

gasoline is going to five or \$6 a gallon those transportation costs become even more severe. So if you have a market rate world, the only way to build affordable housing is to build a lot of it in the downtown core and that is what this approach is about. And you know certainly, I appreciate the concern about other developers wanting a benefit as well, certainly we've granted those benefits in North San Jose. In terms of the me too concerns, this is the only housing that we can build that's fiscally net positive for the taxpayers of Young. Any building we do will be a draw to the General Fund. We can certainly hope in the future that we will get these fees, ten, 15 in a long rung world we're dead so, let's get something down now.

>> Mayor Reed: With that I think we're ready on the motion, all in favor, opposed? I count one, two opposed, so the motion carries, with one absent I think. Counting right? Councilmember Oliverio is absent. That's 8 to 1. I got the count right. The motion carries. That concludes our work on that. When are you going to start construction, Mark? Okay. I would just add we will have a parade if there's a thousand units. It would be a big deal if we get just one project so at least some confetti. Item 4.4 is our next item. 4.3 was I think deferred under -- to June 5th.

>> Debra Figone: Mayor.

>> Mayor Reed: City Manager.

>> Debra Figone: Before I turn it to staff to make a presentation, I want to disclose that I and Kim Walesh serve on the catalyst advisory team to the 1stAct, we have no authority no power other than our feedback to 1stAct. So we did though want to put that out on the record.

>> Councilmember Liccardo: I'd also like to make the same disclosure. Thank you.

>> Mayor Reed: On to item 4.4, actions related to the expansion and renovation of the Parque de los Pobladores.

>> Kim Walesh: New models to make project happen in a post-redevelopment world. So this is a public private partnership project that would be the first pavement to plaza project in San Jose. So few words about the history. This project is rooted in 2006, the work that 1stAct network the downtown association and many partners did to create the big deals and small wonders plan that was approved by this council to make things happen to position Downtown San Jose, continue to position Downtown San Jose as Silicon Valley's city center. In 2007 the downtown association 1stAct and the Redevelopment Agency began working with the team of leaders in the sofa district, the South first street district to create a plan for physical improvements and increased activity in that district. And at that time, the Redevelopment Agency contracted with Ken Kay associates to design these physical improvements which include things that you see now, the planters, the sidewalk extensions, lighting, also included an expansion and redesign of Parque de los Pobladores. So implementation of this plan for the park actually began in 2009. But because of decreased Redevelopment Agency funding the plan to improve the park could not be implemented though most of the other elements of the plan were implemented. So what happened was, last summer 1stAct competed for a national grant, from a new consortium of big philanthropist called art place, rockefeller foundation, Ford foundation, knight foundation and 1stAct was awarded a \$500,000 art place grant. Interestingly enough in the same inaugural round, ZeroOne was also awarded a half million dollar grant to help with their relocation into the sofa district. The grant was for the design and construction of the park transforming it into a an outdoor park a living room, that would per the terms of the grant, the project must be completed within 12 months of funding. And two other MACLA has an proposal in to help renovate their building and you're public art building has a proposal for the downtown illumination lighting the skyline project. So just a few words about the current -- currently this is the current park. It really has limited function ability as a viable urban park because of its very small size. Actually thought gore was a founding father of San Jose when it was referred to as gore park. Gore means a trying already piece of material. It's surrounded on all sides so doesn't have enough space to be usable for special events or programming it also has a long granite wall that limits views into and across the park and actually enables undesirable activities. So the renovation and expansion of the park and the proposed closure of first Street are really intended to reconfigure this park in a way that it can provide much more usable space for events and activities and also open the views and improve the safety of the park. So here is a picture of what's proposed. The proposal is to expand the eastern part of the park into the middle of first street . Close first street between Reed and Williams. The closure on Reed addresses safety of cars going very

quickly down first street and then it creates an access a new driveway to Market Street to service the enterprise rental right there. 23 on street parking spaces would be eliminated and the surface there which ends up being enough for one lane of cars and so you're creating the effect of one urban plaza, one integrated place for activation. So what it does is create on this side of the park for programming an event. The proposal adds power to this whole area. So that it can be used for events and art installations that granite wall is reused and converted into seating, with open views, so the police department has been coordinated on this and they're supportive of this reuse of the space. The trees are currently diseased. So the trees would be replaced with urban tolerant tree specialize that are low maintenance as well as native grasses. And there will be a partnership of enhanced maintenance of this with the downtown property improvement district. So as part of the project planning, we did do a survey to see to what degree those parking spaces are being utilized. And on a typical week, they were used a high of 30% of the spaces were used. So eight spaces. And and a low of 1% being used. So staff believes it is important to understand there are many parking options serving the sofa parking lot at the end of first street under I-280. We do recognize that, though that there is concern about the loss of the on-street parking spaces. So D.O.T. is evaluating opportunities to do more diagonal spacing in the district to create more spaces and add additional on-street parking spaces. There is a 12-minute loading zone right in front of the building that metro currently occupies. That can be relocated to Market Street which is about 15 steps away and D.O.T. is also installed better lighting in the underutilized parking lot under 280. So with that, Connie is now going to say a few words about the vision and partnerships for activating the park.

>> Good afternoon. Better? Okay. So yes, I want to focus on the activation strategies for the park. Share a little bit about the funding strategy that is in motion and the outreach journey that we've been on. So I think Kim did a great job of giving you a sense of what we want to do in that space. But just to elaborate, this is what we hoped that will do is to transform an historically dead space with the undesirable activities, open it up, create transparency and foster the activities aligned with sofa's quirky personality. I say that lovingly and for those of you who have gone to first Friday or subzero you know what I mean. We also want space for outdoor classes, whether they be art classes, yoga or dance. And that platform that we can use for permanent exhibitions. ZeroOne has festival in the fall and we want to use the new space to entice people to come into the sofa district and the park as well. We want food trucks to be there for lunches and also those who can come into

the park throughout the day and power up their laptops and enjoy the space. And as Kim said ultimately this is positioning this space for an outdoor living room not only for the sort of dedicated arts organizations that see tremendous possibility for using the space right outside their door, like ICA MACLA the stage and the quilts museum, but also for the entire sofa district and the surrounding neighborhoods. And the city at large. We know that in order for this to actually be activated, and by the way, the physical improvements are just half of the employment, you have to make it easy and affordable to program events, classes and so forth. So that's part of that was built into the design. We also want to demonstrate new urbanism, a of principles that other cities have been successful at implementing. And we all are trying, I know you are and city staff and the community at large is trying and wanting to move San Jose from a car-dependent city to a greener more urban environment. We think this project is a step in that direction. And then lastly for those who are curious as to why 1stAct is stewarding this project, we view this as a cap stone to a five-year investment journey that we've been on. And using other people's money, I know you're familiar with that strategy, OPM, to essentially invest over \$1 million in the sofa district. So from murals landscaping lighting and popouts, jazz jams and bike parties and everything in between so hopefully you've enjoyed some of those things that we've invested in. So our intention has, and continues to be, about building momentum in sofa, creating vibrancy, fueling commerce, and cultural engagement for the entire district. This is one piece but an important piece of the overall puzzle. So let me share a little bit about the resources and the financial strategy. I think Kim outlined it well, that we received the grant from art place. What we had in place before the grant arrived is leadership, partnership and a vision that actually had been in place for four years. So this isn't a new conversation. It's really implementing and growing into a vision that we've talked about for years. RDA funding was one in place. It's disappeared. So we took the opportunity to submit the proposal. And what may not be obvious is that we submitted a \$1 million request for \$2 million concept but we only got half the funding. So that made us essentially regroup and look at what we could do for that. And quite frankly we could not have achieved what the project that we're proposing without our private sector partners ofsteinberg architects and Garden City construction. They put a lot of sweat equity in so with the help of the San Jose downtown association and P bid's willingness to champion some of the maintenance, every dollar that we received is going directly into the construction of this project. So in terms of outreach, since last October, we've used the monthly San Jose downtown association meetings to discuss the progress, the final redesign was completed by Steinberg architects and presented to this SOFAC committee in January and March and over 100

hours and one on one briefings to local stakeholders have taken in place over the last few months. I think you all know very well that public-private partnerships are not easy. Very humbling experience to try to please everyone. Ultimately we believe this project balances the competing priorities within sofa, while holding the vision and working with the available resources that we have and we've worked hard to enjoy the challenges of that hunched street the drainage issues and the parking concerns. These are big challenges for this little project. We hope you believe this project is worth doing and that you'll share our excitement and stand with us at groundbreaking. Thank you very much.

>> Mayor Reed: Thank you. I have a few people that want to speak on this. I think we'll take the public testimony now before we get into the council discussion, if we can. Please come on down to the front when I call your names so you're close. Dan Pulcrano, Troy Curtis, Alexandria Dorian. Let's go with Dan first and Alexandria and then Troy. Troy Curtis come on down.

>> Thanks Mr. Mayor. I'd like to thank everybody who's put a lot of work into this project and for the fine work that they've done. The reason sofa became the coolest part of town is because it's authentic and because it was basically neglected by the city. Sofa was an underground movement that rebelled against redevelopment. It didn't come because there was money. There weren't PowerPoints or agreements or meetings. We talked to each other and worked things out. I think that's what we have an opportunity to do now. Sofa was a family, it was a community that watched people's back there's only a couple of us left. I think me original Joe's are the only people who have survived through these very tough times. And we need to preserve that special nature of sofa. And not jam something through. The name came from the street. It came from us. That's why it's quirky because it didn't come top-down. It wasn't pushed through with arm-twisting. And to consider everybody's interest I've got 70 jobs on the line. I need people to be able to come, drive up to my business. That's the public needs convenient on-street parking and I think we can work that out and that's what I would like to see done here. So we are in favor of seeing the park improved, of removing the granite, of improving and beautifying the landscaping and putting a stage in, programming it with events and supporting the arts organizations. And we'd like to see those groups support the small businesses of sofa as well. And support the land owners who have ridden through tough

times. So I'd like to see everybody work together. I'll be hopeful that we can work together and come back with a good plan for you. Thank you very much.

>> Mayor Reed: Alexandria Dorian, Troy Curtis, Allen Marcus.

>> Good afternoon, everyone. I'm Alexandria Dorian and I'm the owner of Emile's restaurant. If you hang on for a moment, there are a few things I want to address the high rise and the Gore Park and First Street. I think it's important that you all hear it at one time.

>> Mayor Reed: Only have two minutes.

>> Okay, I was born in the hospitality industry in the East Coast and came to San Jose in 1984, 28 years ago. I moved here because San Jose was not only the Valley of Heart's Delight but was Silicon Valley. I knew that San Jose would be the city that would lead the country into the future. Not only because of its technology but because of its diversity. As the granddaughter of a Holocaust survivor and a child raised by a young African American woman murdered in the civil rights unrest of the '60s, I was made strong by the diversity of its community. In 1986 I met and married my Lebanese American born husband and we chose to create our family and live here in San Jose. Although my husband graduated from Santa Clara University with his degree in electrical engineering, both careers in 1989 we left our careers and started the bottom of the redevelopment careers with the dream to one day build a beautiful high rise building with my restaurant overlooking the city in our adopted City of San Jose. In 2006 my husband and I had the opportunity to buy a piece of property to fulfill that dream. As we watched this to be a building of the community for the community. And approached our surrounding neighbors to join us in creating a much larger project. And they agreed. One that would be the anchor to the entrance of San Jose. Tentative approval, Tice Construction Corporation remarked that whoever hand prints on this building will go down in history.

>> Mayor Reed: Sorry your time is up. It goes fast.

>> Is that it?

>> Mayor Reed: That's it.

>> Okay.

>> Alan Marcus, Marlena Penn, Michael Dorian.

>> Thank you, Mr. Mayor, councilmembers, my name is Alan Marcus. I run the martial arts district located in the sofa district. I'm here major economic impact on my business. As it is, we are a destination. We have -- bring not only people from all over San Jose. But I have people who come from out of San Jose throughout the surrounding areas Cupertino and Fremont, the public transportation wouldn't be an option for and if the removal of parking does go I can't guarantee that these people would still be coming in. Again, the studies have shown that or if you go at 6:00 it's not only my business that's thriving there but the yoga studio, there's art galleries, there's the glass and the higher fire and things like that and we're all competing for parking right there. With the addition of more businesses in there there's pressure on parking certainly going to increase by a removal of a third of that parking, we're definitely going to have some issues there I believe. In addition I still have some concerns about the security of the area. You know 12 years ago it happened to be a much rougher area. I feel very happy to be able to have businesses in there right now where I can have spall children and families playing there. 12 years ago I was working at a job and I've actually been shot at in that neighborhood. Ten years ago I had a friend that was died up in a parking lot that was covered by the 360 area over the agenda, okay? I'm very proud to keep moving, bringing things into sofa and again I think it came from the businesses and it came from within. It wasn't something that was dropped in. All I really need to continue moving forward and making San Jose a better place is more available parking more security for the people that are there, better police interaction, and I think we can do great things. I've been very happy to be part of sofa so far. Thank you very much.

>> Mayor Reed: Michael Dorian, Marlena Penn.

>> Thank you very much, can you give me the first diagram, before that, before that. You see the picture right there the diagram the first street? They don't even have any consideration for the access to the parcel over there between the metro building and the museum. This was a very well-kept secret. For the last I guess they've been planning for several years, we only found out about it a few months ago. And our understanding is, they will go ahead and meet with us, cooperate with us, wait for our feedback, and that will happen. We waited and waited and they finally made a decision and last week found out construction going to start soon. They think that -- this land is part of one parcel there, it has two APN numbers access from second street and the other one facing first street. And no discussion whatsoever how I'm going to get in and get out of this parcel of land. Nothing. So we have a major structural problem, and design problem, that they should have allowed us to discuss and dialogue back and forth but it never happened. So I of course I oppose this without further information and without further discussion. Thank you.

>> Mayor Reed: Marlena Pennn, Gary Shoslin Pete Colstad.

>> Good afternoon. I'm the manager at 360 residences. I'm happy to see growth downtown especially for my residents, because downtown has been growing so much and this addition along with the San Pedro square market has been really influential withdrawing people to the downtown area. A lot of our residents don't want to go to Cesar Chavez park plenty of park in downtown. Just go to SJ parking.com there's plenty. There's first street parking there's convention parking not any issues for parking. That's all we have to say. We are all in favor of this project and we hope it happens. That's it .

>> Mayor Reed: Gary Shoslin Pete Colsted, James Rowan.

>> I'm Gary Shoslin many proposals to make the entry way to downtown more inviting but none of them have been a comprehensive plan, even those proposed by the Redevelopment Agency in 1985. The park was redone in 1985 but the area was never really completed. We've never had good sidewalks, security in the area and just signage in the area, to accommodate the entry way into downtown sofa area. I think the project has merit but I think closing the street for special events would be applicable but closing it permanently I can see has long term

problems. Parking on the east side of the park could be reinstigated with just eight or ten parking spaces just to give access for some of the building owners that are there now. Parking on the West side of the street, I've got that backed up. Parking on the building side of the street I think could be eliminated. The size of the park as projected, I think, is a good size for the park because it gives you larger space. Can you do more projects in the park. The last concern is safety in the area. We've had problems for the last 40 years, as long as I've been a building down there owner down there. Prostitution drug dealing I think the city needs to address that with better lighting better patrol and just general all around security. Thank you.

>> Mayor Reed: Peter Colstead, James rowan, Dan Avado.

>> I'm Pete Col Sted it will we're very small little inability neighborhood about 600 people. As it stands right now about 100 of those people are under 18. The rest of the babies being born right now. And we would love to have a park. We're very, very in favor of this thing. We're very tight-knit and we go out of our way in our neighborhood to make sure that there's an old-style neighborhood sense where you borrow a cup of sugar, where you pick extra lemons off of Larry's tree because they're there. We share. And so this notion of an outdoor living room really fits exactly where we want to go. We were the smallest of the old SNIs areas in terms of population and we've spent ten years really trying to find a place to put a park. We had \$1 million that we actually couldn't spend it because we didn't have a suitable location for it. All that time Parque de los Pobladores was here. We're excited where this thing is going and hope you are too. Thank you.

>> Mayor Reed: James rowan.

>> My name is James rowan and I'm a frequent patron of original Joe's a place in annal area that I've never thought of as quirky. The fact of the matter is, outdoor seating in an area that's built itself up from a former red light district to probably one of the most exclusive, interesting areas in San Jose, really shows I think that we have some new urbanists who really don't understand San Jose. If you look at Mr. Pulcrano's memo that was sent to you, it is not really an original document. Because it's born from Mayor Reed's own transition team in 2007. The types of things that Mr. Pulcrano was talking about and other people that want to save sofa is exactly what Mayor

Reed's own committee recommended to him. So it's kind of interesting that you would just basically rip it into shreds for some group that is not even part of San Jose. Now I'm going to end with a compliment to someone I rarely give compliments to. Councilmember Oliverio. Mr. Oliverio is a kind and sincere man. He wants you to adjourn this meeting on behalf of Randy Ritchie, a waiter from original Joe's, how can you do that that's going to eliminate a parking success? It demonstrates in my opinion a very poor understanding how this sofa built itself up from a place where there was outdoor seating, yes you did have outdoor seating in the sofa area. You know what it was? College kids in the district watching the prostitutes walking by. We need a vibrant area that built itself up from its own work and not from the thought of some people who are simply not part of the area, thank you.

>> Mayor Reed: Dan Vado. Angie Helstrip Alvarez S&P.

>> Thank youful Angie Helstrip Alvarez and I'm executive director of MACLA. We've been resident since 1993, day in and day out. Currently come and visit our space annually. Nonprofits live and die by their attendance numbers. We have to report on this in our grants. So we're about bringing people to the district. We're excited about the transformation of the park. It builds upon the assets of our neighborhood. The creative local small businesses. To create MACLA and our neighbors, in the sofa district but also to anyone interested in producing events in Downtown San Jose. We need to remember that art increases vibrancy and in the local context generates economic opportunities. While we give up 23 parking spots that are tethered to our suburban origination we gain this great open space for people to come together, to have shared experiences, and to create community. I encourage you to join us in making this transformational project a reality. Thank you.

>> Mayor Reed: Chris Esparza Joel slayton Chris Jeffers.

>> Good afternoon mayor and the council. My name is Chris esparza. in San Jose a lot of them also are free of city grants and tease. We're one of the few that produce events that doesn't live off the grant system. We -- I wanted to thank the folks involved with this at 1stAct and the city first of all for a process that they've involved me in for the last several months if not a year or so. It was nice to be a part of a process that involved activating a park that would use folks like us and that we were actually included in those discussions. But also, wanted to say

that I'm very much in support of the project, especially we put together a gathering of about 25 to 40 promoters, dish crawl, bike party, San Jose made, all kinds of events. We invited 25 and we got almost 100 folks that came out to that, that were producing events all over the urban core and all over San Jose. And just this kind of activity shows them that we're ten years ago there might have been about five of those people producing activity in the downtown core, today we see almost 100 of them producing things in fashion, culinary, music and film. While those folks are excited to see this kind of activity and this is in a sense a big show of support that you guys have leveraged from all kinds of different funding sources to come together and play on on a very big strength of San Jose which is producing outdoor activities with our beautiful weather in our community. So again I applaud you for the effort.

>> Mayor Reed: Joel slayton, Christine Jeffers, Rob sandburg.

>> Good afternoon, Mayor Reed and councilmembers. My name is Joel slayton. I'm the executive director of ZeroOne. ZeroOne is the organization that's responsible for now what is the largest contemporary biennial in the U.S., here in San Jose. Concurrent with this year's biennial, ZeroOne garage at 431 south first street. We've signed a ten year lease and are making substantial building improvements via the art place grant that was mentioned prior by 1stAct. Foundation grant of \$500,000. We selected this location precisely because of the huge potential represented by the emerging sofa district. We are firmly committed to this project. For the 2012 biennial that opens in sept ZeroOne will present over 100 artists representing 21 countries. Many of the artworks will be experienced as public art along south first street. This inclusion plants for a site specific lighting designed specifically for the park. As new -- as a new and permanent resident on south first ZeroOne views the park as an important platform for ongoing programming for which we will continually contribute. Important to all of us is the goal of enabling the a vibrant arts transition contributes to the submission. On behalf of the ZeroOne board of directors and myself please accept our endorsement of the project. Thank you.

>> Mayor Reed: (saying names).

>> Mr. Mayor, councilmembers, I'm Christine Jeffers, I'm the new executive director for the San Jose museum of quilts and textiles. I want to compliment you on the exciting space. If chambers are beautiful. board are supporting and as an arts organization where we actually own our building we will be forever at 520 south first street. In the six months I've been there I look out the second floor window often to see who's parking on the street. Very few people park on the street. I can tell you this. When they do park sometimes it's after 6:00 p.m. it's very sporadic and often the street is very empty. I've called the police about six times. A man beating his dog a young girl being beaten up by her boyfriend and two drug deals. This is really not the type of image that I would hope that the city would want to promote to visitors to sofa. And it's not really the iml want to promote to the visitors my museum. To my members to my donors so I support this project whole heartedly as does my board. The sacrifice we make in giving up concrete and metal parking meters, to gain a beautiful space that will allow us to engage with our community, engage with our visitors, encourage other visitors from a small town up the road called advance to come and visit our arts district, this is a sacrifice worth making so I really really would urge you to think about the project seriously. I know you will give it serious consideration and I thank you for your time. I do also want to commend 1stAct and Connie from having sought the funding from private funders to support this project so that the city wouldn't have to pay for it. That's pretty tremendous. Thank you 1stAct.

>> Mayor Reed: Rob Steinberg, Kathy Kimball Scott Knies.

>> Good afternoon. Mr. Mayor, council. In 2003, the Almaden market and sofa neighborhoods through the strong neighborhood initiative identified their number one goal was to create a place to gather and to be together as a neighborhood. Gore park offers that opportunity. Unfortunately, the current park is a glorified street median. By default, the park is not part of the neighborhood. But rather, is owned by the street, and by people passing through. It's the capital of Silicon Valley I don't have to tell this council about innovation or risk. But we all know when opportunity presents itself El we want to take a chance and try to improve. The opportunity to revitalize gore park has tremendous opportunity to advance our urban agenda. By creating a destination in sofa. Enlarging, engaging, activating the park is going to create an outdoor room for the neighborhood as well as all kinds of community events. What the design is currently doing does not permanently or irrevocably close the street or make significant physical changes to the current conditions that are there today. So as the largest contiguous land

owner adjacent to the park as a local architect involved in urban design in many great cities in the world, is someone who along with a number of my colleagues today, have given up a tremendous amount of effort and time to try to make a contribution to our neighborhood and city respectfully we ask for your support today. Thank you.

>> Mayor Reed: Kathy Kimball, Scott Knies.

>> Mr. Mayor, and councilmembers, thank you for the opportunity to speak in support of this very exciting and transform tiff urban applause that happens and I'm the executive director of the San Jose institute of contemporary art. I'm also speaking on behalf of my colleague Kathleen King who from the San Jose stage company who is not able to be here this afternoon. With all due respect to metro newspapers they are currently renting their building month to month and therefore have no more than a 30-day interest in the district. The ICA has been in the sofa district for nearly 32 years and in 2006 we made a \$3 million investment in the district by buying and renovating our building at 560 South first street no small feat for a mid size nonprofit. We are committed and dedicated to the success and growth of not only our gallery, but the entire downtown core. The gore park urban plaza will provide a much needed boost not only to the many cultural organizations that are speaking this afternoon but to the burgeoning residential and small business communities that are developing throughout the district. Gore park will provide a defined space and a destination for the community to gather, engage, participate, and contribute to the arts organizations and the businesses that already exist in the district. We envision live music Improv theater, food trucks and other social activities that will we stand ready to fully activate this new plaza. Many of us have been waiting for morn more than a decade and now we are closer than ever before. This is the right time at the right time for the right reasons. Let's do it.

>> Mayor Reed: Scott Knies.

>> Good afternoon, Mayor Reed, members of the city council, if you didn't know it, already, now you know why sofa is the most awesome district in the city. There is so much passion there. And so many enlightened self-interest although at times we think there is more self-interest than enlightenment. But we all agree that gore park

does not work the way it is today. We want action, we want to seize the opportunity with this fabulous art place grant. And we want to create a memorable public place that has the greatest good for sofa, and the city. And we're certain that we can do this. I look at gore park now or Parque de los Pobladores and I don't see it the way it is. Like Gary says it is way on the southern edge of downtown and you look there and you have to imagine development on the enterprise car rental site the Polly cleaners site folks taking their dogs there this project may be ahead of market a little bit. We're ready to roll up our sleeves and work with our partners at 1stAct and the city and make this work.

>> Mayor Reed: That concludes the public testimony. I think there will be some council discussion. Councilmember Liccardo has a memo out that I'm inclined to support. But I think there's some questions that I would certainly like to have answered during this period. There's some risk to this project. There's the risk of failure. We spent \$860,000 on gore park between 1984 and 1987. And at best, best described it as a glorified street median. Now we're going to spend another \$500,000 on it and what if it doesn't work? What's plan B or what's the alternative? I'd like to consider hedging our bets a little bit on some of this. Because there's the Rick that it doesn't work. There's also the risk to the businesses which have been described today to some of the businesses that perceive it a risk, and I'm interested in if there's a way to do a proof of concept, a test, or something, temporary closures as opposed to permanent closures, something so we can be a little bit more confident that it will work as intended. And the roadbed preferential was one of those interesting points -- preferential to putting it back to a street. So I'm curious if there's a way to do this, test it implement it proof of concept whatever you want without having to destroy the capacity to have it open to traffic if we decide later on some other council in the future decides that we really need to have access to it, assuming that we can get past the current problems and objections to access. Then I had a question for the City Attorney, is I don't know how we can get to a permanent closure without a whole bunch of rigmarole that I have seen if the past. That's legal talk that I've seen in the past when we were talking about closing streets around the urban market on San Pedro, and so I thought there was a big difference between a permanent closure and a temporary closure. And do we even have the capacity to do a permanent closure?

>> City Attorney Doyle: Mr. Mayor, there's actually two different laws that will allow you to close a street permanently. One is contained in the streets and highways code. And it requires the rigmarole. Requires publication of notice, usually vacating an easement . There is a more streamline process in the California vehicle code. That is before you today. If the council can make a finding that the highway or the street is no longer needed for vehicular traffic, I think there's criteria set forth in the staff memo concerning vehicle trips, the different -- the grid system being able to handle the traffic. I know Manuel is here to draisines specifics but the short answer is legally there is a way to do this, it is before you it is a more streamlined process and it isn't the more traditional process that's in the streets and highways code but this is perfectly appropriate under the California vehicle code.

>> Mayor Reed: And is there a distinction between a permanent closure and a temporary closure?

>> City Attorney Doyle: Yes, there is. You also have the means to do temporary closures. That is typically done to accommodate special events or if you want to protect pedestrian traffic. It's less of a legal issue how you get there and more of an impact to the project or how that can be handled from a project standpoint.

>> Mayor Reed: Okay, Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you and I wholeheartedly agree with Mayor Reed's comment in regard to the temporary closure versus the permanent closure portion of first street obviously. There are a lot of concerns which have been raised by a lot of the speakers and I have similar concerns as some of those superior courts. I think that the elimination of the parking spaces is really going to hurt the businesses on first street. I know that some folks indicated there was enough outreach meetings that are being conducted there are also others that said they never even heard that this project is coming to the council at this time. So I was wondering if staff could speak to that. What type of outreach was done? Did you outreach to all the stakeholders and how many notices went out and what was the outreach like?

>> The primary outreach was beginning in October and then there were one on one meetings with the majority of the land owners or the building owners and the business owners.

>> Vice Mayor Nguyen: So on a monthly basis that means they had at least 12 meetings per year?

>> In February there wasn't a meetings but all the meetings from October up to the very last meeting which I think was a couple of weeks ago. So it's been on the agenda every meeting.

>> Vice Mayor Nguyen: And these meetings were notified via e-mail, paper notice?

>> I can testify to that, it is the San Jose downtown business owner sofa meeting, that happens on a monthly basis. Downtown association does e-mail all property owners and business owners. It's been specifically agendized five times since October of last year but being someone that attends those meetings regularly it's been a discussion point every month. In addition to that committee a number of one on one and small group meetings happened between the Office of Economic Development, 1stAct and businesses really since December of last year.

>> Vice Mayor Nguyen: And also Lee I have questions about the process in which we have a partnership or a potential partnership between a private partner and the city, as part of an agreement, do we also ask for an operation agreement, meaning I guess I'm asking about how many events, programs will happen, do we know that you know, by supporting this project we know that at least we'll have you know one program or one event per week or per month, what is that like? What is the operation agreement like?

>> Kim Walesh: The agreement with 1stAct is essentially a construction agreement for them to finance the improvements to what essentially remains a public park. So because it was designed with a lot of input from the organizations that are committed to activate the park as part of their organization strategy to grow and thrive in the sofa district, that is the only firm commitment that we have. But I think you've seen from the event-producing

community that there's really a need for more event space in the downtown. So our belief is that it will be used and we will work in partnership with the event producers to make it easy and deep use a park, that's the goal.

>> Mayor Reed: Before you go on City Manager.

>> Debra Figone: And Kim and Connie were there any commitments or proposed outcomes as part of the grant application process?

>> Not on the activation. We're simply a vehicle if you will to create the physical improvements on behalf of the entire district. so think of us as more of that vehicle. The activation is really embedded in the district itself and beyond.

>> Vice Mayor Nguyen: Thank you. And let's just go back to the potential permanent closure portion of first street. If we were to go down this route I assume that we're going to go back out to the community especially with the businesses on south first street and conduct at least countless feedback we're going to have in terms of what effect it's going to have on this business. I assume it's where we're going to go forward if we permanently decide to close a portion of first street, right? There's got to be some kind of procedure, right?

>> I think the way it is designed is, the park has expand into east first street and bull infrastructure for the other lanes to close is really bollards for special events and we had talked to the business community and the nonprofits in the area of doing a three, six, nine, 12-month check in to see how it's impacting mayor business and if there's a need to reopen that line or keep it closed.

>> Vice Mayor Nguyen: That's actually raised a lot of concerns for me, because obviously this is going to have really negative impact on these businesses. We're doing by faith which is type. But you know, not for businesses not having the ability to provide input, or to the extent that you know would make comfortable size, that's a great concern for me.

>> Yeah, and I would just like to -- just to say that the businesses have had a chance to outreach, since October of last year. It isn't something that we're coming forward, with, without the outreach, I think there are a small numbers of businesses that do think it's going to be impactful and I know Councilmember Liccardo more than likely have a recommendation for us to work with them and staff is excited to work with them. But I certainly wouldn't want council to believe that outreach wasn't done, because it's been a very important part of the project, the outreach.

>> Vice Mayor Nguyen: And just briefly, Councilmember Liccardo has a memo out on it and I'm sure he'll want to speak on it. I may have more comments later. My concerns is there were a lot of issues raised, we might have to relocate, it's going to cost us a lot to relocate if these parking spaces are eliminated due to the construction of this project which I wholeheartedly support the bring all these big deals to the City of San Jose. I remember when I was a part of the delegation going to Chicago to visit the millennium park we were really excited about some of those big deals and we were hoping that San Jose would have some of those big deals in the city and Connie has been a trooper making sure that happens. But also, the concerns that we've heard you know from the businesses I just want to make sure that we include all the stakeholders we've doing in in a balance approach where when we come out is a win win situation and people peek like they're not having \$500,000 great, but if we're going to construct this park and we're going the to lose sales tax revenues that's good going to triple the sound of that, that would not be a good public policy for us to consider. Those are my concerns. Obviously we're not giving the City Manager the authorization to execute this agreement at this time. So I'm more inclined to support the memo put out by Councilmember Liccardo, but when we come back I'm not sure if I'm willing to support the execution of the agreement if my concerns are not fully addressed so thank you very much.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I wanted to thank all the folks who have been working so hard on this and certainly I wanted to thank Erica Justice and Connie Martinez. 1stAct. Frankly we're not an easy sell for national funders who are interested in cities that are urbanizing at a quicker rate and we recognize it's a challenge to get out in front of the pack. And so we appreciate the fact that this is a place that art place is looking at for

millions of dollars of investment and we want to continue to be one, where they look to when we are thinking about big deals and small wonders. I want to thank folks like Rob Steinberg who have donated their talents for free, to design this, and the many business owners who came out here who are very concerned about the survival of their often fragile businesses. It's tough to do business here, we recognize parking is a serious concern and it's one that I'm certain we're going to address and very serious about addressing. I think there is a momentum building in sofa. I think that as we see businesses such as hero's martial arts, succeed very well there, are yoga studio, climbing gym moving in in the last few months, that there's a certain momentum building, and we want those businesses to succeed north of the district. I think it's fairly described where it's not an area that is much of a park problem today. There may be specific times during the day when there is high use of if onstreet parking out in front of the yoga studio or hero's martial arts. But for the most part there is very low usage of parking on the street during the daytime. It's really more of a nighttime phenomenon and I think the staff memo describes that pretty well. I look forward to the day when we're going to have a parking problem in sofa. We're a long way off right now. But nonetheless we recognize that proximity matters and for that reason I wanted to ask that the council approve a motion that I've crafted that contains recommendations that I'd like to amend slightly. On paragraph 1 I've asked that we authorize the City Manager I'd ask that they return by council staff return to council by no later than June 12, to seek final council pursuant to been a design charrette among key stakeholders, I want to emphasize the worth all should be in there as well. I don't want to exclude any stakeholders. I think we recognize there are concerns of those woodpile who they feel they haven't been fully outreached to and we want to make sure this charrette includes everyone. So that we can work it out and then of course, the recommendation includes returning to council with a set of options to address some concerns about on street parking lots. We recognize whatever we do there will be loss of onstreet parking. There is no way to do this project without losing onstreet park. And so some of the options include converting the south hall tent to public parking upon the completion of the convention center expansion, I know something that Bill Sherry has been parking on adjacent streets under installation of some more parking meters on Market Street and allowance of signage in various places near or in the public right-of-way that may enable any businesses who feel they are impacted to ensure they have clear visibility to folks driving and passion by. I ask that this matter be returned to council for full council evaluation no later than Jan June 12th. That would be the motion.

>> Councilmember Campos: Second.

>> Mayor Reed: We have a motion on the floor. Do you agree, councilmember? Thank you, Councilmember Constant.

>> Councilmember Constant: Thank you, mayor, the majorities of my concerns are already down. Sam, I appreciate you slowing this down a bit.

>> Abi Maghamfar: But I ask myself what can we do in such a short time period that's meaningful and that's one of my big concerns. My question to staff is, is there only this design that came up, were there other areas that we could preserve parking or access or anything like that ?

>> Kim Walesh: I think there's an option here you can preserve access in terms of one way street potentially being open either all the time or certain times of the week or certain sometimes of the year. We did have a lot of extensive conversation about having a smaller park. So that you could preserve parking and one lane of traffic. However, there's two problems with that. One is, the park becomes so small again that it's just not usable for the purpose of case and events. The second is a problem, a cost problem. The street that is a big hump in the center, the crown, if you extend the park out from the crown you have a, drainage problem, you have a much, much more expensive problem with finance. The conclusion was if you need to shrink the park too much, the budget doesn't pay off and we're better off returning the money and not doing the popping. I do believe there's an option that provides the access to the road but there is no option that provides the on the road, worth spending the moan on.

>> Councilmember Constant: So you don't have any diagrams of potential possibilities? Because what I'm wondering is, if there's a way to preserve limited one-way access that you could then temporarily close off when you want to activate for a full event.

>> Kim Walesh: I think absolutely, that's an option we can look at by Rob Steiner and others who will make themselves available to us.

>> Councilmember Constant: If you look at the top of the drawing which I believe is the Eastside of the trees or the Eastside of the park in this case, you can have one lane of traffic there and perhaps, law schools the area where you saw those trees, not sure why you couldn't put parking in again there like you have at Santana Row, all throughout the main center area, you 92 where Yankee peer and sign-onment where you could use it when it is open and it is activated as, I'm just not sure you know if that is the thick you guys have thought at yet.

>> Kim Walesh: We'll cost it out and see what it does to the usable space on the park.

>> Councilmember Constant: I also had a lot of questions about the street closure, because I had asked, in our areas we explored a incumbent of areas and threw our hands up and set, it's a tremendous project. I understand this is kind of a permanent-temporary thing, or a temporary-permanent thing depending on how you look at it. But when you look at the recommendation under part B it really is a permanent closure. So because we're exercising a closure under the vehicle code section 21-101A 1. What does it take then if, as the mayor set, this doesn't work and we decide they will reopen it to automobile traffic?

>> Manuel Pineda deputy director of traffic. One lane braid way north by the fact that we do have two options in the vehicle code and this closure is too long to be called a temporary closure. The fact we are not vacating the street formally, the street could be reopened in the future if it was desire to do that. The one lane road convey northbound, in addition to that we are not going to the permanent vacation process because we could keep our easements or rights over the roadway and ultimately open the again. So that's the reason for it.

>> City Attorney Doyle: Manuel if I'm not mistaken we own the fee too, this is not an easement.

>> Yeah, I believe the real estate department has run a title report and I believe they're.

>> Councilmember Constant: And I know I've been to other cities where they've had street closures but they still have a limited amount of traffic. Buses or cars that just are accessing those businesses, but not in a through-street. Has that been contemplated at all? Because isn't there a bus stop right in front of enterprise rent a car?

>> Two answers. We did coordinate this with VTA extensively, we have coordinated a relocation of the bus stop as well as a route to take so that has been coordinated. With regard to the closure and allowing some vehicles to go through, I will ask the attorney's office to answer as well, my understanding from a legal standpoint if you are closing a street you can't select certain people that can have access to that street. If you are going through a closure you are closing it to all traffic, you can't select certain traffic to access that road and some traffic can't access that road .

>> Councilmember Constant: Didn't we do that though at some point through the St. James park area? Didn't at one time about ten years ago, we had the one road, and I forget which street, it was a bus-only or transit only traffic through there? It was second street, thanks, I was a bicycle cop riding through there we had that decision at that time, something different?

>> City Attorney Doyle: I'm not familiar with that. We'd have to look at whatever options are. The general law is though that you can't -- the streets belong to the public and you can't limit it to private use only. Whether you can restrict it for public transit purposes only is a separate option but that's something we would want to explore.

>> Councilmember Constant: I'm sure there is a way to vacate. If we could make it a driveway instead of a street. I'm limited amount of cars come and you have a 30 minute drop off zone so the people who need to come in and transact business can do so quickly but it is not a through-street. I'd like to have some that explored and I'm wondering if we could explore that much in a four week period.

>> City Attorney Doyle: This is the intent of Councilmember Liccardo's memo and from a legal standpoint we certainly could.

>> Councilmember Liccardo: Pete, I don't think there's anything we're taking off the table but let's be clear about a couple of constraints we have. One is the funding deadlines. Ultimately the arts place grant is time-restricted and as I understand we're going back to them to ask for more time now as it is to get in this design charrette and get through that. The other concern is budgetary, in terms of moving. I've been through a lot of these questions and they are very good question and believe me I appreciate all of them. But to be able to figure out where drainage goes and where you move things around, unfortunately becomes expensive, we are relying on other people's money particularly in a world without redevelopment. Within the budget we've got agreed, everything should be on the table and it should all be explored.

>> Councilmember Constant: I think Madison might have said I'm willing to support this going forward because we need to continue to have the discussion but we need to address a lot of these issues and make sure we've looked at it from every possible angle and that we've had extensive discussions and I know we may have had agendized meetings and stuff like that and maybe people did or did not participate, but when you have a limited number of enterprise that can you count on one hand there's no reason we can't go and one on one and really engage so I hope that happens. And my final question is, and I know I've been talking too long and taking Ash's title away from him, I don't know that I did. Maybe the metro will count the words this time. There were several issues brought up by Dan, the openness and transparency and the availability of documents and so forth. I don't want to get into all of that, but I'm hoping as part of the follow up with staff we will sit down and fully address all of those concerns so nobody thinks they're in the dark. Thanks.

>> Councilmember Pyle.

>> Councilmember Pyle: I agree that parking is certainly a must. And I wondered if you look at the diagram which is on the screen, the part in the middle where there's empty space I can't read what those buildings are. I don't know the area well enough to know but is that something that could possibly be a parking situation or is it already?

>> Kim Walesh: That currently is a parking lot. And that's where Emil's is located.

>> Councilmember Pyle: Okay, well, that takes care of that. That is completely maximized at this point, is that correct? Okay. Thank you. That's the only question I had. I don't know if high rise parking or two or three level is even a possibility.

>> Kim Walesh: Yes, this is also about budgets. With all due respect, we have extraordinary limited resources. So we think in the whole parking area, in sofa, that we will be able to create additional sufficient parking in the district.

>> Councilmember Pyle: Thank you.

>> Vice Mayor Nguyen: Councilmember Campos.

>> Councilmember Campos: Thank you, Vice Mayor. I think if you -- if you have an opportunity to go to Los Angeles, a city that's actually very, very similar to San Jose in terms of being very dependent on our vehicles, they actually have done it right. If you have ever gone to what's known as el pueblo did Los Angeles historical monument, that's connected to Alero street. It is a big plaza that used to be streets that vehicles used to use, they are blocked with bollards, permanent bollards. On one end is a historical fire station which is a fire museum. On another end is a Mexican Chicano art museum. There's a number of restaurants, historical buildings there. Right in the middle is a big gazebo in the middle of the plaza. And maybe in the beginning, whenever it started, there needed to be special events to bring people there. But now, every day is an event. And if we keep tying our hands, and not allowing the opportunity for, you know, vigor to happen, and synergy to happen and to happen it will never happen. If you never ever get anyone to spill out of the museums, the theater that's right kitty corner after performances into the park to allow that interaction. Really, if you're talking about a missing piece of a destination zone, you know, this really is it. And I think that when -- yes, we do need to continue the outreach and get feedback and so forth. It sounds like a lot of feedback has happened but really this is an opportunity for us to really make a destination spot for folks to get to that part of the sofa district. And no one goes down there right now unless you're going to the museum. But if you've got folks that are going to the museum, you want to create

an opportunity for them to stick around, and you know, and spend a Sunday or spend a Wednesday, whenever they have, just to be out there and absorbing this sofa district. So those are my comments.

>> Vice Mayor Nguyen: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Even if people are going to sofa as they should for all the events and no one's going to Gore Park and I think that's something to keep in mind. I think everyone can agree that is kind of a wasted space now. If you can use OPM other people's money to do something about it that's even better. I think that's what this opportunity creates. Just by virtue of the different speakers we have now, how eclectic people are in Sofa both including those business owners that are concerned about losing parking as well as the restaurants and the art museums and what you have that are there. It is a very interesting place. I think we can make more interesting. And I want to thank Councilmember Liccardo for, you know after being here for almost three and a half years allowing me the opportunity to use the word charrette. I'm not sure that would ever arise during my council tenure but I think it's appropriate in this case. Regardless of whether there was some lost opportunity. To bring everyone to the table or not or whether there's some folks that thought they were left out. I really would encourage everyone to take the opportunity that now presents itself to be part of this short time period to see what we can do so that everyone's interest to the best of our ability are taken into account. And you know I think that certainly I've had the opportunity to talk to Dan from the Metro and I think he and the other business owners have legitimate points. I don't think Metro can claim that they are not trying to be part of the art scene downtown, success or continued support of music in the park and some other events there's an opportunity there where we can create a win win where Metro and others can help activate this park as we do some kind of expansion. But that's only going to happen again if we really use these next few weeks of very constructively and in a way that everyone feels their concerns are being addressed as much as possible. And the loss -- whenever parking always becomes an issue. When we had the item about the high rise one of the items I didn't raise was the parking. Because at the end of the day, in any urban environment it's bittersweet, now not to the detriment, of businesses. That's where we have to be very cautious about how we go about it. I think the memorandum very clearly states, potential options, but that's only I think a few. There may be some that we haven't even thought of yet. And so the reality is that we have a space, we have a space we can do something with, that hopefully gets

usage out of it, that hasn't existed. I agree with the concern with the mayor and others that you know, we pour more money into this and what if we don't get the intended result? What do we do then? That has to be part of the discussion over the next three four weeks as well, do we forever change this park with a lot of money even if it's other people's money it's coming from somewhere it's an opportunity to do some, to be very thoughtful with what we do. Currently Gore Park with the walls and the dark is just not being used for the good reason. There's an opportunity for us to find an option that works for everyone. I understand why some concerned or express dismay over the process. I think that those who are very excited about this project looking forward to it have to understand that we have to be concerned about that process as well and we have to be certain that everyone has their voice heard even if they can't get all their interests met. And so I'll support the memo and I look forward to coming back to see what the end result is with all the stakeholders at the table as Councilmember Liccardo very clearly stated. And I think that we can find something here, we have a lot of creative people, people that love San Jose both for the project as well as those that were concerned about there's no doubt that I think we can find something that works for everyone.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. How large is the park now? Looking through the memo. We don't know?

>> Kim Walesh: I don't know offhand.

>> Councilmember Rocha: Looking at it. How large would it be later?

>> Kim Walesh: I can show you. There's the existing park. And there is what it would be afterwards.

>> Councilmember Rocha: Just so I can have a vision of this prior to the meeting you might not have had it ready at the time. I'm trying to understand the scale of the increase. And this is an extremely small park, if it can even be called a park. And even looking at this, this is an extremely small park. If you can even call it a park. And

then I've heard about this pent-up demand for potential space for events and we've got a large park in Cesar Chavez, we've got another large park down the road. If there's this large pent up demand for events why aren't they using the other parks? If I'm trying to understand that a small little slice of park is all of a sudden going to open up for events that are just I waiting to happen. It's going to be an active space then and not a dead zone even though generally everything around here is not the most active uses, generally speaking this is not the heart of downtown where you have night clubs immediately around it and large employment centers, I know PWC is a little bit down the road, but they are a little bit down the road of all of this. Help me paint this picture of how do we expect this to be more active.

>> Kim Walesh: Thank you, councilmember. One of our challenges has been the overuse of Cesar Chavez park, everyone wanting to use that park. One of our strategies has been to try to create a space like activating St. James park or creating spaces where we can for concerts and movies and foot truck events and that sort of thing. So the space, the big room of the living room is this space here. Which again working with arts organizations and event producers is deemed significant enough to have concerts and movies and things especially combined with the street closure and then there's the secondary, basically kind of a smaller room here. So the existing park, this is the edge of the existing park, it ends here. So we're adding all this space along here and extending it. There will also be a bike corral for parking for up to 20 bikes here. So it also makes it bike-accessible. So this is the main space here.

>> Councilmember Rocha: So why wouldn't they be using the larger park that's not constrained unless these events are exclusively specifically just the sofa folks who are putting on events? Unless we are going to make them exclusive or do our own events? I don't understand, who is going to do these events? Why wouldn't they use a site that is bigger?

>> Not every event is meant for a different site, you wouldn't put anything in the California theater. Think of it as different sized venues that have special spaces for different kinds of venues in this case it is outdoors, it's increasing the opportunity for venue opportunities for outdoor programming. Not much can actually program an entire park.

>> Kim Walesh: So the organizations that have committed to program the parts, the institute of contemporary art, the institute of quilts and textiles, and Chris esparza, his colleagues, the opportunity to do things here, Team San Jose has expressed interest, this becomes a space for small meets meetings and conferences can spill out and can use that space. So they're an example.

>> Councilmember Rocha: You said committed or something we could consider?

>> Kim Walesh: That is something very attractive to them. I confirmed that in a conversation this morning. Especially when there's power and it's a good looking space, it louse people to get out of the convention center and have small gatherings.

>> Councilmember Rocha: Trying to picture, I really am, I'm sorry. So the grant expires when?

>> Kim Walesh: Connie can kind of -- technically they're supposed to use the grant my understanding by July. We think we can get extension to complete the project by September we'll ask for an extension.

>> Councilmember Rocha: Okay. We expect \$500 K for hard and soft costs for these improvement? That's the budget amount?

>> We already had that in place. We would have to give it back if we couldn't meet their basic need to have something done within a certain period of time. Once again we will extend it hopefully. At some point we're going to, I want everyone to understand, we're going to run out of time and we're going to run out of money. Okay, I share, I know this is weird, weird for you me to say and weird for you to hear it, I share some of Councilmember Constant's concerns about having the time to actually come up with anything significantly different and as much as Councilmember Kalra is excited about a charrette, I [Laughter]

>> Councilmember Rocha: I'm also not sure why we would not have done that work prior and not today, and I'm glad the changes in the motion and the direction I think it's an improvement that I really, really struggle with this becoming an active space when there really is no major active potential uses except the one -- I understand you talked to me about some, I know I guess I'm repeating myself, I'm sorry. I'll support the direction but I'm struggling with this especially since we're going to come back we'll have an opportunity to speak about it further. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. A lot of my questions have been asked. First of all I want to thank Connie Martinez and Kim Walesh and all the people who have put the work into bringing this forward and for having the vision to take this space and turn it into something really special. I also want to thank Dan Pulcrano and the other business folks. It's interesting to hear the history and hear where the word sofa came from. It's interesting, we are considering a charter. I can tell you, the people in my area cringe when they hear the word, it's not French by the way. I have questions that Vice Mayor and others have that I'm going to need to get answered before I can make final support for this. A lot of them have been brought up. I had the VTA question but I think that's been answered already. The permanent road closure is a concern for me you know if we are going to close it permanently and we're going to take out the road if we later decide council later decides that that's the direction they want to go what kind of options do they have? That is a concern for me. Also, who's going to be -- who's going to be operating this space? Who will be operating this space? Who will --

>> Well, PRNS will maintain the space at a basic level. The P bid will provide augmented maintenance and the office of cultural affairs which is part of the Office of Economic Development with it permit and coordinate use of it as a park plaza like it does already in the downtown.

>> Councilmember Herrera: Okay and so what impact if any ongoing to the General Fund would this space have?

>> Kim Walesh: Zero.

>> Councilmember Herrera: Okay. In other pavement to plaza conversions and this is our first one in San Jose that we're looking at, is it typical that you take out the street? Is that a typical way of handling it that the street is removed?

>> Kim Walesh: There's a very wide variety of models and if you go to Manhattan you see all different models like literally closing down streets in times square. So most often you want to safeguard the people that are hanging out there so there's usually some kind of closure involved.

>> Councilmember Herrera: But I guess the pavement being removed is what I'm asking is that typical?

>> There are different designs from pavement to plaza depending the type of pavement you have, from San Francisco and New York, you maintain the existing treatment and do you have a color treatment. In this case since we have a higher level of funding, you can go beyond that so it's different manners of getting to what you are trying to achieve.

>> Councilmember Herrera: I express concerns for the existing businesses, the businesses who have been around for many, many years and have survived in spite of the tremendous odds against them. So I look forward to having them involved in the process and I'm hoping that there can be a win win that happens out of this. And I hope when we come back to look at it that some of these things have been answered. So I'll support going forward with, given my concerns and hopefully these things will be addressed. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. If any of the charrettes are public, other than that I wanted to say on June 1st when I'm at first Friday's I'll do my best to walk in the middle of the street to picture it. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Follow-up based on the comment made. Because it was mentioned that we have since we have extra funding that we'll kind of tear up the street and go that instead of street treatment, but at the initial -- earlier there was a comment that we were seeking a \$2 million. Why don't we use that money to enhance the project rather than tear up the street?

>> I think what we ran into was that when we actually got into the real design it's the issue that, brought up earlier, where because of the shape of the street, it's hard to keep it safe. And trained free, without going all the way with it. And if we don't do that, the very folks that want to program don't see it as the viable space that they would use. So it was a tradeoff between cost and functionality.

>> Councilmember Kalra: So it was an infrastructure issue --

>> Yes.

>> Councilmember Kalra: Okay, so it's really an engineering issue that you can't simply just move part of it and leave the rest in the same surface that it is?

>> Not without damaging the very reason for doing a larger space that is safe and can be activated by the folks that have spoken today.

>> Councilmember Kalra: Okay and I appreciate all the work that have been done by everyone. I part of the problem is we have a lot of pressure based on having to use this grant. Why couldn't this have come to us a little bit sooner in terms of making this final decision knowing that you know this has to be before the fiscal year starts we have to have shovels in the ground?

>> We'd intended it to come to you earlier. We've been meeting with the business owners for the last three months trying to work on a design that would meet all needs and didn't achieve that goal so that's why it was coming to you now.

>> Kim Walesh: And are there was a very compressed timeframe. 12 months to take a \$2 million project and redesign it to a \$500,000 project that can work. I need you to know that we made every attempt to do outreach and outreach needs to be a two-way street so we felt like we spent significant time in group meetings and private meetings and reaching out and as you know that takes time. We got it as fast as we could and given existing concerns and where we're at, it made sense to get direction from you. I think 1stAct is clear, the other option is to return the money. If we want get consensus here we return the money and we leave the park and the district and the road exactly what it is. That is a real option here. We can -- can't go on forever and ever.

>> The hope to that is we could have the installation for the ZeroOne instigation in September. It turns out the funders of this park are coming to that ZeroOne event. So that's additional pressure.

>> Councilmember Kalra: And Connie is there greater or lesser or indifferent sofa in the future based upon whether we accept this grant or not?

>> It's hard for me to believe that the funders will look at the opportunities in San Jose with a different eye. I certainly would.

>> Kim Walesh: I mean they've taken a bet and given us a very sizable grant. It was one of the largest grants given National and now we have two others in the hopper. So I do think again we can do what we want here it's our community but you got to believe there's interdependence between successful execution of this grant and the one that ZeroOne got it's the reality we're dealing with our decision but I'm somehow there would be consequences by not successfully delivering on this project.

>> Councilmember Kalra: I'll also be keenly seeing what happens and coming back to the next meeting and making the final decision by then. I know there's a lot of work to be done in the meantime. Thanks.

>> Mayor Reed: Chelsea.

>> Councilmember Liccardo: Implied in the suggestion was that we actually had more money than --

>> Councilmember Kalra: That wasn't the -- the question really had to do with you know, if we first had a potential to have a certain amount of money it got cut down to less than we expected, based upon the engineering that we had to do it.

>> Councilmember Liccardo: Just wanted to clarify for the public record, we had big eyes in \$2 million in redevelopment days, that money went the way with the dinosaurs. We are in a postredevelopment world where we are chasing grants in every direction and the real question is are we going to be able to make a go of it in the future with reliable grant giving foundations, particularly a national scale of the size it's going to take to actually get anything done. We know how it takes to chase 15, \$20,000 grants here and there. Those aren't going to get much done in the downtown. We have can got to be careful with a strategy that allows us to move forward with these larger grants.

>> Mayor Reed: I think that concludes the council discussion. We do have a motion on the floor which is based on Councilmember Liccardo's memorandum with a couple of word changes and the date changed to June 12th. On that motion? All in favor? Opposed, none opposed, the motion is approved so we will take this up again on June 12th after the charrette et cetera. Next item on the agenda, hey, another street vacation. Wow, how lucky could we be to do two in one day! Item 4.5 and 4.6 we'll hear together. 4.5 is a public hearing to vacate a portion of south Monroe street. And 4.6 is sale of a portion of city owned property on South more than street.

>> Move approval.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you for the council's vote to office building a viable office building that hadn't been done in the months before. Nothing signed in ink but I think there was a stronger potential than if we had just approved it. And most importantly we had a developer here that owed the City of San Jose \$1 million in fees that were unpaid. Because we paused, we had paying helping us make some progress on a couple of projects. With this and we do want to disclose that in preparation for the meeting I metropolitan with representatives of Barry Swenson builders, and KB homes. So we have a motion. On both 4.5 and 4.6 to approve the recommendation. On the motion, all in favor, opposed, none opposed, the motion carries. Item 7.1, commercial solid waste fees and maximum customer rates to be followed by 7.2, amendments to municipal code, administration of commercial fines and commercial trash fees and 7.3, actions related to the issuance of commercial solid waste and recyclables collection trash agreements for the nonexclusive collection and transport of residential cleanout material and construction and demolition debris. .

>> Councilmember Rocha: If we can do them all together, Councilmember Herrera moved approval, I'll second.

>> Mayor Reed: All three. Let's take the testimony at this time in the milk. Terry Benedict and Brock Hill.

>> Hello mayor and city council people. I just want to say I'm with firma construction and demolition. We've been in business since 1965 and we have been doing recycling for the last five years. Spent probably close to \$5 million on transportation, trucks, and a beautiful recycling center in Redwood City. We have a nonexclusive franchise agreement with the City of San Jose. And the only thing I've been looking over all these contracts, but one of the things that has been brought to my attention I think you guys all need to think about this, is the yard waste clients like all the clients that have yard waste. They have all been calling me because we go in and we pick up their yard waste winds for about \$300 a pool. And looking at the new pricing and it's almost going to double and it's going to put out all these people that have yard waste one-source Diablo, you know a lot of my clients spend \$100,000 on us hauling their yard waste and if they're doubled they're going to see like \$200,000. I think that should have been put in the C and D and not excluded because it's not solid waste and it's really not a

commercial product and I think you're going to lose a lot of businesses are going to go out to the Santa Clara and into the peninsula. Because some people figured out they're going to spend \$30,000 a year more on their disposal so I think this was overlooked. I was wanting to have I reconsider the yard waste clients that could basically be put back in the C and D. I've had a ultimate tremendous amount of people calling me they are so shocked this is actually coming up in July and didn't think they were included in that commercial property. So I thought you guys might want to reexamine this because you're going to lose a lot of business out of San Jose. They've all been telling me they're going to have to fold up and they were the most hit with the recession. People that lost their houses don't pay for gardeners so they've already taken the big impact. This is going to completely put them out of business and they actually are concerned moving to red womb city.

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

>> Thank you very much.

>> Mayor Reed: Next speaker is Brock Hill.

>> Want to say thank you honorable Mayor Reed, standing firm on this together. On April 29th I received a chilling letter from republic services saying we are reaching out to inform you of the San Jose franchise change and to work with you to on a smooth transition for your current customer base. We want to be sure that all customers have been contacted and transferred to republic prior to July 1st. This obviously would frighten anyone doing business in the City of San Jose was the city trying to take away business? Can the city give your -- excuse me can the city give your customers to a competitor any time they want? The new construction demolition material holings rules are horribly written for recycling companies that have always complied with these regulations. Council voted on the exclusive agreement with republic in 2011 with an exclusion that any certified hauler could transport material if the generating business had a valid permit. Rebusiness permer lice. To mean building permit for construction. This makes it illegal for us to recycle in a manner the business originally wanted. This language also makes it illegal for us to recycle machine shops landscape shops carpenter shops et cetera. by the city zone admission over 10,000 businesses will be prevented from choosing how to recycle their

because of a city mandated monopoly. You have a responsibility to top they generate money for the General Fund but at what cost? How many jobs will be lost before San Jose finds a why to regulate every single one to the brink of closure. These new rules effectively eliminate 50% of our business alone completely gone. We have over 55 employees most of write live within the city. To put this in perspective will be like telling Apple computer that they can no longer have Apple stores in malls because the city believes there should only be Windows PCs. Work with the 21 haulers to come up with a compromise and amend the exclusive agreement with republic. The benefits are tenfold with San Jose --

>> Mayor Reed: Sorry, your time is up. That concludes the public testimony. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. Staff, can you address the concern that was raised by Brock Hill regarding you know lumping everything together and I guess they were unit the impression that they were going to be exclusive, if they have the appropriate permit but seems like there's some kind of misunderstanding.

>> Yes, Jo Zientek deputy director, environmental services. We've been meeting with premier extensively since we began this process. They received a notification that we were going and in 2007 I personally and my staff have met with premier on several occasions to make sure that we were able to meet the cities objectives with the exclusive system plus meet premier's objectives and needs for their business. The intent of the system was that permanent solid waste collection ongoing regular collection would be part of the exclusive system with republic. And temporary service like construction demolition waste would be part of the nonexclusive system that premier is in. We gave premier a copy of the draft franchise in March and again in April. They had some concerns with the April language. We met with them at their office for an hour and a half on April 30th and agreed to some modification that they said went in the right direction, and we think still upholds the intent and the requirements of the exclusive franchise with republic so that's what we went forward with. And we think we were able to walk the line of making sure they were able to get the temporary business, but still keep the intent of the exclusive system, to be the permanent business.

>> Vice Mayor Nguyen: So in other words, let's assume they are had a relationship with their, you know certain business Adobe or some other companies in the City of San Jose where they go and recycle construction and demolition debris and so on, so forth. Moving forward with this agreement with republic services, they -- haulers such as premier and others would not have the ability to maintain those relationships with some of these companies in the city, is that -- is my understanding correct?

>> If they're doing a construction project and they pull a construction permit that waste can be collected through the nonexclusive system. So it's just a case-by-case basis but that would be most of the construction business is business related to a permit.

>> Vice Mayor Nguyen: Wow, okay. I guess when I voted on this I didn't really fully understand how this is going to hurt some of the haulers here. You know, primarily recycling system in my district they've done tremendous work provided hundreds of jobs for local residents. I would hate for a small recycling company like this to lose, potentially lose the business that they've worked so hard to build. So I'm really torn because you know, I voted for this hoping that we will have a system in place where it's a lot easier for the city and for the company that we chose which is republic services. But at the same time, losing opportunities for small businesses to continue to do business in the City of San Jose is not something that I can support. So I'll just leave it at that. I don't think that I can support moving forward with this. Because again, the potential of losing some of this business is just really detrimental.

>> Certainly I understand. I just wanted to clarify. Premier is not a small business, they're a large recycler. They work in several cities in the Bay Area, most of Santa Clara County. They also do not pay AB 939 fees or franchise fees to the city that the republic would be paying. They don't pay any of those fees. So there is a difference in that component of their rates.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wondered you could address the yard waste issue that was brought up and the concerns of residents, could you address that?

>> We are currently looking at the rate-smoothing process that we talked about at the transportation and environment committee meeting to make sure our rates are, just to look at what the rates currently are and see what the new rates are and come back with changes if we need to. We did award organic waste collection, waste processing to zero waste for the new facility and the yard waste is not a large portion of the material that we collect in the commercial system and we do have a lower rate for that in the system. And businesses pay extremely varying rates for yard waste. So you know, it's very unique compared to the deal they're currently able to negotiate with their current hauler and also, what the material -- how the material is recycled, where it's recycled, how close or far it is to San Jose, where that material is processed so there are a lot of variables. There is no really standard to the typical rate one paid for yard waste but we will be looking at the individual case-by-case basis in the rate-smoothing process.

>> Councilmember Herrera: Yeah, if those rates she was talking about are anywhere near that's going on, that concerns me, so --

>> Certainly and we did send a notification to all businesses in the city that are changing services to have them call us directionally. We've taken a lot of calls and walked customers through the rates over the last couple of weeks and we've been able to resolve most issues. So most businesses will have the opportunity to call our staff and several of them have already. But we've set a separate invitation for them to do that and make sure they're looking at the chart correctly and we're looking at all their options and we have been doing that for the past couple of weeks now with the new system coming online.

>> Councilmember Herrera: Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Jo, in terms of our rate structure compared to the 16 jurisdictions around us I have seen on page 5 the chart, are we the lowest or very close to the lowest?

>> Yes, most city in the bear have a exclusive system of waste and we are the lowest of the cities that currently set the rates which is most of them.

>> Councilmember Liccardo: And that's under the republic contract?

>> Yes.

>> Councilmember Liccardo: Can you tell us where you drew the line between permanent and temporary hauling contract?

>> We wanted to come up with a system where we could set up efficiencies and routing efficiency hes, which can you only do when you are serving the accounts on a regular basis. That's why we divided it to be able to capture those efficiencies in the new system. And temporary service is residential cleanout service largely and then construction and demolition projects that have a permit.

>> Councilmember Liccardo: And did you make that distinction apparent to all of us, I won't say all of us, I mean the milk both the rate haulers, council -- public both the rate haulers,ons 2011 is when we voted?

>> Yes.

>> Councilmember Liccardo: Was that distinction being made at that time by staff?

>> Yes.

>> Councilmember Liccardo: And I assume some haulers talked to you about that distinction and where you're drawing the line?

>> Yes, we reached out to every single hauler and asked if we could meet them individually and we met them in several group meetings and including premier on several occasions about that decision.

>> Councilmember Liccardo: In making the businesses lost business, that is several haulers lost an awful lot of their business as a result?

>> We -- I mean of the 17 franchises that we're bringing forward, only two are here today. We've -- we -- four of the -- we originally had 21. We're down to 17. Three of those were the haulers that sold their businesses to republic that currently have large residential solid waste contracts that still have a significant amount of business in San Jose. And two of them no longer or three of them no longer needed permits in the new system. They could just collect without a franchise from the city. So we really did not lose any nonexclusive haulers with the new system.

>> Councilmember Liccardo: Okay, great, thank you. I'll support the motion and staff recommendation. Thank you.

>> Mayor Reed: We do have a motion, motion for recommending the approval of all three items. On that motion: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Mayor sit possible to bifurcate this and just take it separately? I'd like to vote on two of them.

>> Mayor Reed: Okay. On 7.1 then we have a motion to approve staff recommendation. That's the fees and maximum customer rates. On that, all in favor, opposed, none opposed, that's approved. Sen.2, amendments to the. Code administration of schedule of fines and commercial franchise fees. On that motion, all in favor,

opposed, none opposed, thps. Sen.3, actions related collection franchise agreements et cetera. On that motion, all in favor, opposed, I count one opposed, Vice Mayor Nguyen is opposed. So that motion carries. Completing our actions on section 7 of the agenda, we have open forum. No requests to speak. So we will recess until 7:00 p.m. we'll take up the evening agenda and whatever got deferred to the evening off of the afternoon agenda.

>> Good evening. We'll call this into session. This is a continuation of our meeting that's been going on all day. We're going to take up the evening agenda and some things that were on the afternoon agenda that we specifically set for this evening that we're going to start with some ceremonial items and then we'll have the hearing on the proposed operating capital budgets, the social host ordinance, rezoning and then land use regulation regarding payday lending. It's a short agenda, but I know a lot of people want to speak, so we may be here for a while. I would like to invite the Vice Mayor Nguyen, and Danny Sanchez to join me at the podium.

>> Today, we're commending Danny Sanchez for being recognized as champions of change by the white house in honor of their work to prevent youth violence in San Jose. San Jose is a national model for youth violence prevention as a result of the work of our prevention task force which I didn't invent, I didn't start. Susan Hammer gets the credit for that. We've been at this for a long time and we've figured out how to do it better than anyone in the country. So we were in Washington recently as part of a nationwide collaboration to help other cities learn how to do it the way we do it and with the success that we've had and Danny was selected as a local leader from across the country recognized by the white house as champions of change for their dedication in preventing youth violence within their communities as part of the national quorum on youth violence prevention. So Cora and Danny are role models for the model. So we appreciate the work they've done. I'm not sure about Danny, but both have been very active and engaged in the community program and the coalition of San Jose. So we are very happy to have had them recognized. We are very proud to have this opportunity to recognize them in their hometown to keep residents safe. And I think Danny is going to have a few words. Cora never has a few words. But Danny will.

>> You know, on behalf of myself, I'd like to say it was an honor and a privilege to represent our city in Washington, D.C. All of these wonderful people that we're working with together to make an impact on our community and these people are very passionate. I'd like to thank Mayor Reed with the city council for their efforts. From the mayor's office. These men are very pashal to see our city transformed. I'd like to thank my pastor for all the prayers, love and support and my wife, also, without this I wouldn't be able to do what I'm doing. I'd like to thank my Lord and Savior, Jesus Christ. I would like to thank you, the people of San Jose, Cora and I would. But me, because I was a part of the gang lifestyle. My faith in Christ and care and people, I went from a

gangster to hopefully a giver to a burden to hopefully being a blessing to our city. Thank you for giving me a second chance. [applause]

>> I'd like to represent to join us at the podium as we commend the San Jose chapter of Jack & Jill and bring awareness to the problems that are presented and help stop the cycle of violence and bullying.

>> Thank you, Mayor Reed. With us here tonight is Lorinda Alexander, Brett Johnson, Chriton Hammond, Jocelyn Ashton, and Shanta Pierre. And I'd like to tell you a little bit about why they're here. Jack & Jill of America Incorporated is a national nonprofit organization initially organized in Philadelphia, Pennsylvania on January 4th, 1938. By 20 African-American women who wanted their children to develop leadership skills and perform social network in the extremely segregated society of the time. Since 1938, Jack & Jill inc. Has evolved into one of the most well-known women's organizations and continues to improving the quality of live for all children which will stimulate growth and development of -- and provide children a constructive educational cultural, civic, health, recreational and social program. Recently, for if community service and community family development series program, the San Jose chapter of Jack & Jill of America held an event called bullying beyond the playground. Awareness, strategies and solutions. Mayor, tonight, we'd like to recognize these wonderful women and we hereby congratulate the San Jose center of Jack & Jill of America. [applause]

>> Good evening. I'd like to thank council member Pile, thank you so much. And thank you, Mayor Reed. And good evening to the rest of the members in the chamber and our distinguished council members. The mothers of Jack & Jill of America, Inc. are honored to receive this word tonight. The members behind me, we have Brett Solomon and Chirsten Hammond. They actually led this effort for the first in our family development series, bullying beyond the playground. We hope that the congress members join us going forward and continuing to provide developmental programming for family ins the San Jose community. We're about building and supporting strong family ties and making sure that we provide the very best for which children in our community with additional programming. You can look us up on the internet, Jack & Jill of America San Jose chapter and join in our fight to make sure our children stay safe. Thank you.

>> And we brought with us a recyclable bag and a button that says don't standby, stand up to the bullying. Thank you.

>> We're excited for the proposed operating capital budgets for fiscal year '12-'13 for the City of San Jose. This hearing is part of a long process that we go through in our budget-making starting back in January with the surveying of our entire community with the values and priorities of the community are, going through multiple meetings, setting priorities, multiple hearings and meetings and council districts and many hours of discussion by council and study sessions. We will not be taking any action. That action will be taken in June. That's after the council has a chance to consider the public testimony. Everything else we've heard in the budget process, hopefully on June 19th, the council will be making a decision on the budget. So tonight is an opportunity for the hearing. This is the first time in 10 years that this hearing didn't come into face of a looming budget gap in the following fiscal year. So last year at this time, we were looking at over a hundred million hole in the budget that the council had to decide how to fill. And we did. We balanced the budget. We had to balance the budget with real dollars affecting real people, real programs and real services. We did that. It was a difficult thing to do. As a result of the work and the difficult decisions by the council, we were able to close the gap. And we saved hundreds of jobs of people that would have been laid off because our employees took a 10% cut in pay, everybody did. Including the mayor, the council and our senior staff. It also saved a great deal of money and hundreds of jobs in this next fiscal year because we managed to slow the growth and retirement costs for at least a year. What we are facing now is good news. A modest cushion of about 1%. That's not a big cushion, but it's so much better than having a big hole to fill. And so we're having this hearing with a little bit of optimism, but a great deal of caution because we know that in the following fiscal year out there in '13-'14, we're facing another \$22 million deficit, primarily driven by another large increase of about \$47 million in retirement costs in the following fiscal year. But we're enjoying the fact that we have a little bit of a cushion. So much better than having a big hole to fill. And we've had a lot of hearings. But tonight is a chance for the public to come out and speak. We're going to take that public testimony and move onto other business because we will not be taking action tonight on the budget. If you wish to speak on the budget, now is a time to get your cards in so that we can hear you. There are a lot of people that want to speak tonight on a lot of different topics. And so we're going to limit testimony tonight on all matters to one minute so that everybody gets a chance to speak. And we get our

business done in the time that we have. So let me call your name. Come on down close to the front when I call your name so that you're close to the microphone. John Max Rieger, Alicia Ginsburg, Joe Kenmy. Please come on down.

>> Good evening, Honorable Mayor, members of staff. My name is John. One of the things I'd like to see in the operating budget instead of using \$6 million for potential litigation, take \$2.9 million of that money and use it to open the four libraries that have never been opened. Use another 2 million to save the police substation and save 1.1 million for emergencies, rainy day fund. Another item I would like to see is fully staffed systems that are enterprise funded. Money in the enterprise fund cannot be used in the general fund. Those positions should be fully staffed in addition with the savings that you have that can add another 11% of those positions. So those positions would include environmental inspectors, waste water treatment operators and mechanics. And, lastly, budget analytics, look at your federal and state funding sources. See how those can be leveraged. Thank you for your time.

>> Lisa Ginsburg, Joe Kenny.

>> Good evening. I appreciated the mayor's remarks that were here in slightly better times than we've had in other years. My name is Alicia. I have lived in San Jose for 13 years and have been privileged to be in the working group for the last five years. As we talk about the budget this year, what I've been hearing is while things may look better, there's still a need for urgency. There's still seniors who can't get to their nutrition site for lunch. There's still students who can't go to their library on Saturdays. How do they complete a homework assignment to keep up at their level? In urgent situations, you look everywhere for a way to solve it. You overturn every stone to see if you can find a solution.

>> I'm sorry, your time is up.

>> Thank you.

>> Joe Kenny, Tom Weinburger, Emily Gatfield.

>> Good evening. Thanks for having this public hearing. I wanted to speak to the budget and really encourage you to open up all the libraries that haven't been opened and open up the days the libraries aren't open. I write grants for schools. I know a lot about what's happening with the income gap and the education gap among the students in this district in this city. Right now, you're looking at students of color and poor students not graduating, being able to go to any kind of college because they don't have a place to do their homework.

>> So I really encourage you to look for the money to bring up full funding for the library.

>> I'm sorry u your time is up. [applause]

>> Tom Weinburger, Emily Gatfield.

>> My name is Tom Weinburg. I want to agree with sister Kenny. The libraries are very important. We do need that funding. Unfortunately, the federal government and the state government has failed us and we are looking to fund services. They're all important programs we hope you can do your best to fund as much as possible, especially the libraries and the senior seatings. Thank you so much.

>> Emily Gatfield, Shauna Nixon.

>> Hi, my name is Emily Gatfield. I live in district three. I'd like to acknowledge first of all that it's a hard time to be a council member here. And right now, if you're doing your job well, pretty much everybody is angry with you. It's a lot easier down here to say oh, this is what we should be doing. None the less, I really think it's important that we restore the hours to the existing library before we open up new ones. The most dangerous period for children are the hours from about 3:00 to 6:00 p.m. The time from when they get home from school until they have parents at home. We need libraries open so that they have a safe place to be. Particularly if we're looking to reduce gangs, we need something healthy for the kids to be doing. We need Saturday hours. We also need

that police substation down in district ten. I urge you very much to look at ways of increasing those services. I thank you for the opportunity to speak.

>> Shawn Exton?

>> Hi, there's two things that I've noticed about our hard times. One is the libraries. And just the hour just being shortened just means that I'm less able to just kind of hang out in the library in the evening when I want to. And, you know, I know it's horrible for kids to not be able to have the library to go to. I think that the former speaker was right that it's much more important to increase the hours in the libraries we have than to open up new ones just to get those library hours back. It's really important. You can walk to a library that's a little far away, you know. But if the hours just aren't there, then they're not. The other thing I've noticed is that the city employees, like especially in the lower wage bracket are really, really hurting from the pay cuts and the increases to their -- the money that they need to put in the money for the insurance and the pension and stuff. So if you could spare the city workers, that would be excellent.

>> Your time is up.

>> All right. Thank you.

>> Good evening, council members. I live in the southern trees area. And with the surplus that we have right now, we're asking that we put a police force back and also to improve the traffic area. The seven trees is one of the bad neighbors hoods in our area. We're trying to get a bit more police force and do try to prevent a lot of the drug dealers that are appearing in our blocks right now. And we're not getting any help. And, hopefully, you know, if we can bring in a little bit more policing in our area, we can get a lot of the bad out of our area and create a better community for us. Thank you.

>> John Cartwright?

>> Maybe you guys share the burden that we're sharing. So I'd like to see that. And I'd like to see that we stop -- that we put people first. That we have -- where all of us are sharing the burden more. So you guys get a pay cut, we're all getting pay cuts. All of us are, like, losing jobs out here. All of those things. Let's save everything that we can. Get volunteers going. Get more people involved. We've got the tame. Time. We've been laid off. We've lost our jobs. Or we're about to or our pensions are getting cut because you guys are doing it. So maybe we have everybody involved and we work on that. And instead of sitting here and always looking for ways to cut things, let's look for ways to get people involved to save things. I know, I was on your lawn, you remember. I can hear it. So let's try and look for things together.

>> I'm sorry, your time is up.

>> That's fine. I'll be back later! That concludes the testimony on the budget. This, of course, is not the last hearing on the budget. There will be other hearings as well and the council will make a decision as we always do in a public meeting. I just wanted to let everybody know that the proposed budget that the manager has put together, of course, is a balanced budget. Hard copies are available in the libraries and the full copy is available online if anybody wants to have a chance to look at the details of it. There was a March budget message that framed up the budget and the manager delivered that budget to us May 1st. It's pretty detailed. Lots and lots of pages. Looking at the information, it's all there. But this budget is not capable of rebuilding everything that we've lost over the last decade. We have a 1% cushion that allows us not to cut our departments again as we have in the last year. So that's a good thing. But it will not restore the \$30 million to restore services to what they were just a year ago in January. It won't restore the 2,000 jobs that we've cut out of the work force. Up is so much better than down, even though it's only a tiny bit of up. We're cautious because we're worried about the future and we're slowly proceeding to hopefully begin to rebuild the system that the council has approved. The matters that are in front of all of us and some other things that we have to do will allow us to begin to rebuild. But this budget will not do that. But up is so much better than down. So with that, we're going to turn to the next item on the agenda. Which is item 5.2, the social host ordinance. We'll take a minute for our staff to change positions.

>> Thank you, Mayor Reed, members of the city council. I have the deputy city manager with me this evening and assistant chief of police. In the past several years, concerns have been raised by community member cool administrators, nonprofit organizations and young people themselves about the dangers associated with gatherings where underage drinking occurs. In response to a presentation by voices united, a local nonprofit and resource on substance abuse and addiction to the San Jose Youth Commission, the Youth Commission agreed to work with voices united and holding on public forums on this issue. As a result, five community forums were held beginning in 2010 in council districts, 2, 5, 7 and 10. Voices united also presented information on the potential social host ordinance to the city's neighborhoods commission on April 13th, 2011. In August, 2011, the city council added the social host ordinance to the set of ten priority ordinances for staff to work on. Staff then held another round of outreach meetings with the Youth Commission on February 29th, 2012 and the School Cities Collaborative on the morning of March 14th and then ending on public outreach efforts with the Neighborhood's Commission on the evening of March 14th. Before I turn it over to Kip for a brief overview, I would like to take this opportunity to thank the following individuals within the city organization for their work and support on the development of this ordinance. From Council Member Pile's office, her chief of staff, Cathy Sutherland. And last, but not least, Kip who has taken the lead to bringing this ordinance with you. With that, I'll turn it over to Kip.

>> With that, I want to walk you briefly through the ordinance itself. First, the ordinance prohibits underage gatherings which are defined as taking place in a private property where four or more persons are gathered and at least one of them is an underage person who is consuming alcoholic beverages or under the influence. It allows the city to issue citations, including those who own, rent or lease the property or anyone who is 234 immediate control or who is organizing or supervising or conducting the gathering. There's also an exemption in terms of government agencies. Their property use for governmental purposes. The primary reason for this is as a state university to clarify that this will not apply to the university and it's on campus residence halls. We had this with San Jose State PD. They have indicated they are in favor of the ordinance. They do have primary jurisdiction on enforcing some of our laws on the fraternity and sorority houses nearby. The ordinance sets fines and I'll let the police department opine on the level of the fines. And it's at a cost recovery of the cost of the providing the emergency service. And that's it. With that, I would open it up to any questions we might have from the councilmen.

>> All right, we'll certainly have some questions and comments from council members and some public testimony in a moment. But I'm going to recognize the city attorney first.

>> Can you bring back that first slide? I want to point out, this is sort of a last-minute change. I have some concern about state branch on possession of alcohol. And if you take a look at the ordinance, initially, it's -- it addressed alcohol beverages were being consumed or are in possession. Here, we're really getting consumption. We're getting drinking. The ordinance will be modified to reflect that. We're not talking possession, we're talking consumption.

>> And that is a good distinction. I'm glad that you caught that. I would like to recognize some people who have been very involved in this and perhaps let's start with Gabrielle who is here. There's a big smile on her face because we're near the end of the light here. Gabrielle, would you like to come up and tell us more about your organization and how we wouldn't have been able to do this without the help from that organization? So while she's doing that, let's give her a big hand. [applause]

>> Thank you so much. What we've noticed is the alcohol industry over the years has infiltrated every part of our community. Not only are they advertising in magazines that young people read, but they also make sure that you can buy alcohol where ever you can buy liquids. And it's not just your corner liquor store. It's almost everywhere. And even some gas stations. So it has become so normal to see alcohol everywhere. Not just on a billboard. The other thing we noticed is where do you get your alcohol? The biggest place, the most common place is underage drinking is in the home. So when you get this social norm that alcohol is not that bad, it's not like shooting heroin on the street, drinking at home is being safe. That is very shocking to me that this has crept into our society. So what we have done is we've looked at what can contain or what kind of tool can we use to change the environment because we know when people have a alcohol problem, they have to deal with it themselves. However, we look at the environment. What can we do to change it. So one of the environmental prevention tools is the social host ordinance. And the reason why we support it is so that we have a reason to go out into the community and get adults and teenagers to talk about alcohol. And there are a couple of reasons for that. The

new research shows that the brain does not fully develop until you're 25 years old. And we know that during the teenage years, you're supposed to be experimenting with, you know, you get stressed and how do you deal with stress? You experiment with relation shims. And what do you do with that? And school and the possibility of working. All of these things. It's all part of an experimentation. Sports, music, you name it. Unfortunately, alcohol and drugs have become part of that arena that teenagers are experimenting with. And because of the vulnerability of teenage brain, because it's not fully developed, we realized that adults need to be more responsible to make sure alcohol and other drugs are not there. We're not saying it's the answer, but it's certainly the beginning of a conversation we can have with adults and they are starting to talk about, hey, maybe we need to have rules and consequences. Maybe we need to lock up our alcohol and maybe we need to talk to our neighbors and say our neighborhood will not have underage drinking parties. So that's where we're at.

>> I'm very grateful. You've put a ton of hours into this and I am very, very grateful for you for that. [applause]

>> Yes, thank you. A great start with that. Good evening, council members. I am district ten commissioner and I am a freshman at San Jose State. I am here tonight in representation of the youth commission. I stand before you to support the social host ordinance. As stated in the social host ordinance memorandum, the youth commission worked to hold forums, as you've heard from ms. Pyle and Gabrielle, where we discussed how it could help San Jose. And since then, the youth commission has affirmed that it is extremely important for not only youth to be held responsible for their actions but for adults, as well. Although the argument stands that adopting a social host ordinance may not make any difference, if it does save one life, which may not be measurable and if it saves one person from harm, it will, in turn, make a difference by freeing loved ones from pain that they might feel and in doing so, it is worth adopting.

>> Thank you, Layla. Appreciate that. Give her a big hand. And with that, Mayor, I'd like to open this up to public testimony.

>> I'd like to put a motion on the floor first. I was going to do a wrap-up which I will do after this. But I can get a motion to approve our social host.

>> Okay, the motion, please come on down. Josh Howard.

>> Good evening. I wanted just to take a brief moment to thank council member Pyle when she brought this to the department association, feels like two years ago, but it was probably less than that. We had some concerns about the liability that would be imposed on property owners if they are unaware of gatherings taking place in units that they owned or managed but did not have direct control over. It's very difficult to control what happens in the unit at 3:00 in the morning when you have four 18-year-olds. We look forward to working with your city staff to implement. Thank you.

>> Good evening, Mayor and members of the city council. I'm a prevention program analyst with the Santa Clara county department of alcohol and drug services. And we're in the business of trying to come up with ways of reducing the incidents and prevalence of alcohol-related problems in communities. This is clearly one of the mechanisms we've utilized along the way. It's been implemented throughout Santa Clara county. In fact, the county undertook the mechanism of putting in place. We've been kind of waiting patiently for San Jose to, you know, get some momentum on this. And I commend you, you know. This is clearly something that has the potential of reducing some of these problems giving law enforcement some extra tools and as Gabrielle was talking, it's a mechanism by which we, people that work in the health and human services arena, can go out and start talking to parents and schools. You know, I commend you

>> Bobby Marilla?

>> Good evening. My name is Bobby Marilla. And I have been working with young people for over 10 years, actually, in the field of drug prevention, alcohol prevention. I would like to thank a lot of the young people that have been working on the outreach portion of the social health ordinance in the different communities, especially with the youth council. Also, there is a perception that all -- or that many young people drink alcohol. But that is not the case. The alcohol industry makes under-age and binge drinking a social norm with their tricky advertising. And they target teens because they know that they can be manipulated. This has been on going battle for years.

To make a positive change with these norms, having a socialist ordinance similar to many other cities in the bay area, is a beneficial environmental prevention strategy. Also, around alcohol access at parties at their house.

>> Thank you.

>> Mary Macisis? Cecilia Lopez?

>> Good evening. My name is Mary and I am a senior.

>> In most cases alcohol from most parties is a cost. This is not an individual problem. It really affects many.

>> It is so easily accessible at home. Passing this will make everyone more responsible. Thank you.

>> Cecilia Lopez, Shawn Cartwright.

>> Good evening. I'm a senior. I am also president of the club. Not many people know why teens shouldn't drink at an early age. The research has shown that the human brain is not fully developed until the age of 25. The teen brain is something vulnerable to all of us. And as a young person, we are four times more likely to get addicted to alcohol, especially if it is easy for us to access at home or in the community. So I believe that as a community, we should put a limit to the underage drinking. Thank you.

>> I think this is a great idea. I really do. Totally for it. I would probably remember a lot more of my youth if this was enacted back then. It was funny, see. My only question is this. Is the last one where it says one of our persons, under-aged persons are under the influence. So an honest question. If I went, you know, say my kid calls and, mom, I was drunk and what do I do? And I pick them up and their friends at some party and they're back at my house and I'm taking care of them. They weren't drinking, what happens then? Let's say there's some incident and the police come and it's totally unrelated and I've got this drunk kids at my house and there's no alcohol. Then what? That's my only concern. That you get caught in some loophole.

>> We'll answer that right after the testimony is finished.

>> It is the end of the public comment. So, staff, you want to comment on anything else that came up in the public testimony?

>> Sure, from the -- it's a civil ordinance as opposed to a criminal ordinance. So there would be discretion for the officers obviously to find out what happened, where the person had been drinking, if they had been drinking at that party and, obviously, a lot of time for them to get to the bottom of that. But I think the important issue is just the civil ordinance as opposed to the criminal. So they wouldn't be criminally cited.

>> All right.

>> We have a motion on the floor made by council member Pyle.

>> I was going to give you the last word.

>> Oh, whatever way I can get the last word, I'll go for it.

>> Hi, I want to start by commending council member Pyle. I know it's been a couple years. As often is the case with something like this, it starts with the tragedy and whenever you can, you know, create something positive out of the tragedy, I think it's commendable. And I know you served the city well for so many years. I'm happy to see you here. With the few months let here that you're doing things so positive still, to your last day, having a strong impact. So I commend you to this. I want to support you and thank Gabrielle as well.

>> There's a lot of public meetings, a lot of questions. I think it's a truly collaborative effort. I really want to, you know, salute Layla representing the youth commission so well. I know the youth commission played a huge role in getting this forward. And so I look forward to voting for this. And I know that it will save lives and the reality is

we hope that we never have to use it. We hope it gets the word out there so adults get more responsible in regards to how they monitor the youth and monitor their children. It's not necessarily a bad thing if this collects dust.

>> Thank you, Mayor Reed. Chief Coty, today, if a police officer comes upon a home and let's say the parent is not home, what happens?

>> Well, there's several -- from a criminal standpoint, there's a lot of different law that is when things are being committed in our presence. We'd probably go down that road first. And I would completely agree with council member regarding this is a tool for ordinance that they can enforce and it is a civil penalty in the fact that we can see that there's consumption of alcohol going on or even alcohol is being provided to under-aged drinking being done in the house in the presence of the officers. So in today's world, if the police officer comes upon a party, it's got 50 people, somehow I know they've got alcohol someway or the other.

>> Well, really, it depends on -- it truly depends on the situation, what's going on, how many officers, if they're seeing people drinking. Remember, if they're seeing under-ageing drinking, they're taking action on it. It's an administrative citation as a fee, so to speak, to allowing that. And, really, where I see the social and council member Pyle and I were talking about it, we can see this situation where kids throw parties where the child was out of town.

>> And then today, if they come upon the same party and there is a parent there who's knowingly having whomever in the house, what happens today?

>> Keep in mind we have a disturbance. So what happens is they'll get a disturbance card. And if we have to come back a second time, then there's not only administrative and civil penalties, then there's civil actions. So we have a whole section that deals with what you're talking about. It wouldn't even be used in that situation. So in today's situation, it would be assumed to be criminal at that point?

>> Absolutely.

>> And this is dealing mostly with alcohol but there are obviously other things that people abuse in society, whether it be marijuana, cocaine, whatever. What's the legality of that type of thing?

>> If we're going to be bringing in drugs and marijuana, then I think we have another problem. That's something we want to look at very closely before we go there.

>> I know there's some defenses to marijuana enforcement.

>> And I would just add to that that you're talking about just as the city attorney says, alcohol in and of itself is not illegal. So to try to marry the two would be muddying the waters. It probably is best to be kept separate.

>> Okay.

>> The county has a progressive system. They go 357, 50, and then a thousand and a thousand. It's all within a 12-month period, I believe.

>> We have a concern -- we have the preemption issue. That the alcohol beverage control act preempts local jurisdiction on regulating alcohol we do have some land-use authority. I think we've got the planning that works very closely. You also have the over concentration issues which, typically, address the major concerns because then the city council can speak and say yeah or nay. So there are limited circumstances when you -- in which the city can regulate alcohol land use. On payday lending, for example, we do have a -- there are certain preemption issues. But we're regulating the land use of it.

>> Well, there is in so far as -- well, it depends on the circumstance of which you're trying to talk about. If you're talking about things of that nature, yes.

>> Thank you.

>> Thanks to your team for your continued advocacy for this ordinance. And last but not least, and probably the most important would be the youth commissioners.

>> They were smart who ever that was.

>> Well, I will not repeat anything after that comment. But I just had two questions just so that everybody understands. I'm a strong believer in personal responsibility. And I think you should hold people responsible for their actions. For the city attorney, when someone is ultimately cited, a civil citation versus a criminal citation, what avenues do people have? I think it would be good to explain it

>> It actually goes through the police department.

>> Okay.

>> And then I know the state law has an exemption with parents and their children.

>> When state law allows for parents to allow their children to drink with dinner and there's some cultures where that is a typical event. And I see no exemption in this ordinance for that type of activity. Now, one of the folks had brought up, I forget what speaker, a responsible parent doing something and picking up kids who had been doing things they shouldn't and I know that there is discretion but people sometimes don't use discretion when they should. What do we do when there's no delineated exceptions when it's very clear there's delineated discretions.

>> Well, this is complaint driven.

>> Well, for example, I'm at home, I've got four kids -- five kids, sorry. I always forget one of them. I saw a four on the screen, it throws me. So the cops come out and this is an easy way to solve the issue. Sometime there is the path of least resistance taken and discretion sometime social security not utilized. We don't have any exceptions in this. I just want to be careful like we have the one person brought up a hypothetical situation or a family cultural type situation.

>> But you're in the privacy of your own home. Unless someone is complaining about that, unless there is some kind of a nuisance that's been created, that fosters the complaint, that shouldn't be a problem. It is a complaint-driven issue. So the practical reality is not going to happen. So technically, there would be a violation of the ordinance.

>> You still have all of your constitutional rights as far as, you know, whether or not we're in your home, you invite us into the home, we see that. But I think for the most part, we are talking about a civil as opposed to a criminal. I think officers are more apt to take action on actual criminal violations than what you're describing. If I were to cite you for that, there should be discretion. You have the right to ask for a supervisor to come to the scene if you don't agree with that officer, which I would hope would happen. The next part is the appeal process in which you would talk to the deputy chief and have a chance to state there's going to be reasonableness to this. Could it happen, what you're saying? Absolutely. But I think there's plenty of things that will not get to that point.

>> Look at the exception provisions. To the extent that the beverage control act, and I'm thinking of religious purposes. There would be an exemption.

>> Maybe it's because mine doesn't go up to 1032. It ends at 103250.

>> As long as we're thinking about it. I want to make sure that you know, you get the Hatfield and McCoy situation where the neighbor calls up and says my next door neighbor is doing child abuse because I saw their kid drinking wine. The cops come out. You know, there's some crazy stuff that goes out there. And I just want to make sure that we don't box people in a corner.

>> We're going into uncharted territory. It's going to be something that we look at and continue to evaluate in six months to a year. That's the things that we can take through later to your committee.

>> Okay. As long as we're thinking about it, like I said, they took a lot of time when they did the state laws to make very tightly crafted exceptions.

>> They mentioned a house where the parents were mentioning that there's under-age kids. Do we use the alcohol blood test? Or any breath test to verify that the kids have exceeded that alcohol level?

>> You'll see it used at schools sometimes if somebody is called at dances and whatnot, the kids have been drinking. But the pas devices can be used, the preliminary alcohol screening devices. The one that the constituent brought up here that they know they're drunk. They're taking a responsible act. So, I mean, I think it could be done. But I just want to make sure no one gets trapped.

>> But my question to the staff is regarding to the education, the out reach effort can somebody describe that a little bit to me?

>> This would be a great time to ask every youth commissioner who was here tonight to please stand. Are you the only one? I thought there were others that were here, as well. I'm sorry. You represent all of them tonight. But we have one in every district. And every representative was a part of this. So every single district has had some education and reference to this. And education will be on going.

>> I know somebody in the audiences.

>> Sure, come back down and talk about the out reach. Part of the contract is to do education in the community. And we made a commitment while this was happening because we believe this would be a tool to make it even easier than it has been up until now. We have made it our job to, you know, you pass the social host ordinance,

we will take that message into the community and let people know that San Jose city or the council members, and the youth commissioners are supporting this and then we will all work together and you will hear from us to see if you're willing to put it in your newsletters and your e-mail out reach as well.

>> I would urge to get the information out and thank you very much.

>> Can I also just mention the office gave us an opportunity to speak to 500 parents and freshman and he, himself spoke about the social host ordinance. So we're not just organizing specific events. We're also seizing opportunities to speak out. And that was -- thank you so much, ash. That was really wonderful, easy gesture. And the school principle was very supportive about that.

>> And the euphoria coalition, that's part of the mission out there in the community.

>> Thank you, mayor.

>> I do want to commend council member Pyle and the great passion. You've seen it all. I'm sure you've seen it all.

>> I can't tell you one of the most disheartening things is to see a teenager high or drunk. But the fact of the matter is that this is prevalent in our community. You know, alcohol has destroyed in all communities. So I think this takes great leadership to be able to finally stand up and give more tools to our law enforcement officials and to also send a message that we're serious about being responsible for the actions that are happening inside, you know, your own residence.

>> And I commend the youth position. My youth commission has kept me very well informed of the progress. And Gabrielle, I know you're going to get the information out.

>> I know one of the things, you know, food for thought, Gabrielle several years ago, and you can correct me if I'm wrong, I think it was a sober new year's where, you know, you have teenagers going to a youth center, at that time rchts it was my youth center. And they go in at night and they dance and there's food and they come out in the morning and you know that they were very well protected. Those are some of the types of activity that is we need to be doing more all across the city to let the youth know that there are a lot of other ways to have a good time without being intoxicated.

>> I'd just like to extend my kudos. I thank you for your create work. I just had one quick question.

>> It's the bureau of technical services which is Dave Hober. He has all of the discretion. It's his decision to make.

>> Okay. So he can dismiss even if there's a technical violation. Okay. Great, thank you.

>> I'd like to commend councilwoman Pyle on her work and relenting and not giving up and pushing this issue. Residents are well served. Thank you.

>> Boy, my head is spinning. Boy, this is great. I ought to do other things more often. I do want to tell you a bit about why I did become so interested in this.

>> About a year ago, I stood with George Curiana, I think that's his name. And we were at a medium where about 20 kids were gathered. It was dark and they were there with the candles and flowers and lots of crying, lots of holding each other, trying to bring, as was I, some sense to the situation. You may remember that particular one. It was a situation where two young men set out -- I don't know if both had been overdrinking, but certainly the driver was. It was an investigation to see where the alcohol came from. I can tell you this, one of those young men died that night. Even if you're not driving, you can be incredibly affected. He was an only child. So his family now has no children. The other driver left the scene. The car blew up. It hit a light pole and the light pole, apparently, had some effect on the electrical conveyances and it just absolutely blew up. . He was later picked

up by the police who later took him back to where his car was which was parked in front of the liquor store. So this will not be a panacea for every over-drinking young person. And death is not the only thing that I'm worried about. I am worried about liquor poisoning. It can happen very, very easily. I have to tell you it's been nearly every year where there has been a death. And I remember almost every one of them. I couldn't go another year without doing something to bring some sanity to this situation. Will this be the answer? Will this be the final tada? Absolutely not.

>> We're going to be tweaking and polishing and paying attention to it until at least I'm out of this office and probably beyond that. One of the things that we haven't addressed are the fines. We know that the county has -- has a \$350 fine for the first offense, \$700 for the second offense and a thousand dollars for the third. I have to ask you. Who would be insane enough to have three chances to be caught serving children liquor. To me, that is one weak answer to the situation. So I want to spend more time. I want to get much more input from the youth commission. And from the neighborhoods commission. I think this is something they would be extremely interested in, as well. So that we can come up with some violation charges that really have some teeth in them and that really make people wake up and take notice. God knows we need to give our police officers all the help they can possibly get. They do an outstanding job. They see things we would never want to see. They were at the scene of the accident far before any of us. And I'm sure there's a lot of very, very uncomfortable memories on the part of our police officers. So with that, now you know where the passion came from. And I have to tell you, I will thank everybody a million times if we're able to pass this tont. I would like to thank profusely, assistant city manager Roberto. You're our hero. The youth commissioner, of course, the neighborhood commissioners who also had some thought about this, thank you so much for taking time out of your schedule and, ovk, Gabrielle, we've mentioned you quite a few times and we should. I hope I didn't leave everyone out. We are filling the gap, the county and nine cities have already come through with a social host ordinance. Finally, I hope we do what we need to do and we are trying to keep kids safe. So with that, I would say thank you very much for your patience tonight. And with that, I offer the vote.

>> All right. We have a motion on the floor as made earlier by council member Pyle on that motion. All in favor? Opposed? None opposed? Motion is approved unanimously. Congratulation, everyone. That concludes our

work on that item. We have a few more things to do. Those of you who are here for this item, please exit quietly, although you're welcome to stay. We won't be offended if you leave, that's okay. We will not be hearing 11.2. So we move to 11.3. --

>> Mayor? Mayor? If I may, you just spoke to the item I had requested to defer. May I ask when the rules committee goes through the agenda for that meeting to request the item be heard first, possibly? I've had a question from the applicant, Dinapoli company that he another event that evening. But they were willing to defer this. So, again, as early as we can and the agenda will be appreciated.

>> Okay, staff will make a note of that. That's for the 19th. So we'll take up item 11.3 now. That is establishing land-use regulations pertaining to payday lending establishments. I know that the clerk wanted to let us know that the clerk received some 350 letters or so for the record?

>> Yeah, about 350 and they're printed out right here.

>> Yeah, they're printed out right here.

>> All right. We have a lot of people who want to speak on this item. I think everybody left wants to speak. We'll get to everybody eventually, but first we'll have some council conversation, maybe a staff presentation. I'm not sure if staff was planning to make a presentation or not. Let's just start there.

>> Thank you, Mr. Mayor. Assistant director planning and building code enforcement. The ordinance is one of the council priorities that came forward in August of 2011. Thanks to a grant from the Silicon Valley Community Foundation, staff worked very closely with the city attorney's office to bring forward to you this evening, a proposed set of land use regulations for payday lending as identified in the staff report, our ability to legislate on interest rates and some of the other issues that you might hear about tonight are -- is really beyond the purview of our city. So we are proposing land use regulations that we believe will address the concerns of our community. Namely, we are looking at distance requirements between payday lending establishments. The staff is familiar

with that and just recently we learned that we now have 39 pay-day lending establishments. We are understanding of our planning commissions recommendation to increase that distance requirement to one quarter mile. The map ahead on the screen shows to you the area, then, essentially that would be off limits to new payday lending establishments if the ordinance is passed this evening by the council. Staff is eager to answer questions of the council as well as to listen to the public testimony. We don't want to recognize the efforts of Sandra Lee for their hard work in finding a balance between how to allow appropriate numbers and locations and also protecting our very low income households. Thank you. Thank you, mayor. I also want to give the thanks.

>>> Regarding a cap, I know there's sometimes a suggestion that we put a cap in that gives leverage to a landowner to raise bail bonds. Do you have any concern about that in the situation given the number that we have in the city?

>> Thank you, council member. Among the staff discussion, whenever we suggest a cap perhaps in our experience to our liquor license, there is the potential that establishing some upper limit would create a market value how much of an impact that would have or necessarily suggest to the council that it would alter your policy.

>> But it's an argument that comes up with any type -- or brought up regardless of what kind of business we're talking about.

>> I think that's fair to complete.

>> Thank you. And, Rick, are there any -- I know that there have been some, you know, legal issues. Do you have any legal concern in the way that this was written? Or does this fall under the same parameters of the jurisdiction?

>> This is regulating the land use. We're regulating the location of where these businesses can be located. I don't see any problem.

>> Thank you. And just for the council's information, I know I've made reference to it. There are actually 39 establishments and this is just how current the state web site is. My staff was able to verify that the most recent establishment was licensed on Friday. And it was already up on the website. The state actually updates it within 24 hours. The most effective way is that that reduces some of the headaches that may arise from a potential cap. We've been very sensitive to the concerns on staff and the most significant action we're taking to make sure that there is a cap in place. So with that, I'll reserve further comment until after public testimony at this time. I'd like to move the memorandum that I've authored. It's the factually current number of establishments.

>> All right. We have a motion on the floor. I think we'll take public testimony before we get into the council discussion of that. A lot of peep want to speak. So, please, come on down when I call your name. Again, we're using a one-minute limit tonight.

>> I want to express my support for a strong ordinance that will effectively stop the spread of payday lenders and effectively stop the predatory practices. They start with the most vulnerable sector of our community. They claim they are helping people, but they are in fact, exploiting their need and driving them deeper into financial ruin by charging outrageously exorbitant rates. Please don't let these practices continue to spread in our city. It's not for the common good. It affects us all. Our community is only as strong as its weakest link and its weakest member. And it's no longer sustainable nor acceptable nor ethical to have lenders take advantage of the weak. It should not be allowed.

>> Good evening, mayor reed. I want to commend the city council for taking a bold step in considering this ordinance. And to respect new payday lending within a quarter mile from another payday lender or another low-income track. Your consideration of this ordinance reinforces the need for comprehensive approach to raise awareness about access to mainstream financial services. This ordinance is just one tool in a larger toolbox to help people achieve financial stability unfortunately, many payday lenders prey on low income individuals. United

way is proud to partner with the host of organizations, many of whom who are here tonight throughout San Jose and is working in concert with one another to ensure that people have access to see these critical services. We provide financial education classes, help people open bank accounts and raise their credit scores. Together these efforts help move into the financial mainstream and enabling individuals and families to begin saving, build a credit history and, again, access to lower credit sources and decreases the chances of them having to turn to payday lenders and ultimately invest in their future. Thank you very much.

>> Good evening. Entering access to credit is hurtful, not helpful. This product has been regulated in California since 1996. Speaking of rents, this proposed ordinance provides landlords to hold hostage to unfair increases in rent. You would not impose that on your own business. This industry must be doing something right, after all bs, the service is offered by major banks since 1994. So one must ask why is our industry singled out here. Why are the banks and credit unions exempt. It seems discriminatory in practice. We're more than willing to work with the city as we have where ordinances past have had language that was far more acceptable to both the cities and the industry. On behalf of the association, I respectfully ask consideration to table this motion and allow the industry in your elected officials to work out a compromise that all parties may not see as perfect, but could see as fair.

>> I'm sorry, your time is up.

>> This ordnance is clearly not and needs more work.

>> Good everybody noon. I'm an assistant district attorney. I'm here tonight because the district attorney believe that is payday loans are predatory. And we're all here tonight because Sacramento is deadlocked with the lobbyists who will not out law this.

>> One, we had an undercover investigator go to a number of these out lets and chat it up with the clerks. One clerk in particular said I'm not supposed to say anything, but people can really get in deep and it's really hard to get out of it. And let me tell you how they get in deep. Only 14 had separate distinct business licenses. The rule in California is you get one loan and you can't take another loan until you've paid it off. So you go to your payday

loan at Story Road. You can't pay it off, you go to a payday loan owned by the same guy using the same business license and he gives you the second. That's how you get in really deep. Thank you for this ordinance. The DA's office supports it. I am speaking tonight on behalf of the senior organization AARP. Seniors try to stay somewhat on the work force because they needed to do that to make ends meet. The council has shown that in San Jose, seniors over the age of 60, 29% are living at or near the federal poverty level. They're targeting for the payday loan industry. That's what we'd like to stop. Other jurisdictions, the counties, as you know.

>> When I was a little girl, they always said that America was the land where you choose to do something. You're not forced to, but the government doesn't force you to do something and I think that given the choice, it's better off for the community. I think it would be better to put your efforts into that than this.

>> Good evening. I am a district manager with California check cashing and I'm here to tell you that we are a financial institution but offer a financial assistance for our customers. Just like any other financial institution that comes to assistance with money because they need to by goods and things that they need to survive. We disclose everything to them in writing, posters, low bees, everything is disclosed to the customer. They choose to come to us because they have gone to other financial institutions but have refused to assist these particular customers. So in addition, we are a very large company that employs a lot of single moms, students, families. We a lot to the San Jose -- I'm sorry, your time is up.

>> Good evening. Thank you very much for having an opportunity to speak here. I'd like to take a different look and before you pass the ordinance, look at the actual fees that payday loan charges their customers when they borrow money. And then compare that to overdraft pex that banks charge when customers borrow money from them. If a customer had overdraft and they went to the store, overdraft their credit card or debit card a hundred dollars, there would be a fee charge to it from the bank. And Wells Fargo, it's \$35. So they both work the same. Take a loan out at the payday loan, there's a fee. Let's say a hundred, it's \$17.64. Overdraft the debit card, it's \$35, both paid back on the payday.

>> I'm sorry, your time is up.

>> Thank you very much.

>> Mayor?

>> If somebody goes to one of my stores and does a payday loan, they're not allowed to do another one. There is a cap. They're not allowed to go from one to another. Even with the same company. I employ 96 employees and I can tell you we have, even with myself, I started, you know, being the teller and I have seen how people definitely sometimes their power is going to be cut off and they come on a Saturday or Saturday morning on Friday afternoon and try to get that advance. I don't think we're hiding any fees. I think everybody has the option to say okay, this is the best for me. We're there to help them. Obviously, we're doing something good for them.

>> I'm sorry, your time is up.

>> Okay, thank you. [applause]

>> I'm proud to be here tonight. One thing that was stunning to us because when we see tens of thousands of people in need every year that are coming to us, sometimes we don't always ask the question why do they get into the situation? Until we ask the question about how much does the payday loan touch them? With the pieces that we have to pick up, members of 20% of the family that is we see are coming to us in a situation in part because of the situation with payday lenders. And to see that many families that are destroyed and be spent months and years working on this is a huge thing. And I just want to thank you for taking some proactive steps to do something for these families and our community.

>> It's a step in the right direction. [applause]

>> I'm an out reach minister and we support the proposal and, if anything, we would rather see it be stronger and being the kind of activity all together. Just because other institutions are predatory, doesn't mean we should allow these institutions to be so from a Christian point of view, charging any interest at all to poor people is abhorrent. And that's why these institutions are not allowed in the more religious areas in the country like the south.

>> Good afternoon, I'm representing sacred heart. For years now, I've been struggling with low income for years now. I have a temporary disabled in 2007 issue. I found payday loans a year and a half ago walking on San Carlos Street. I just happened to notice the payday loans, the easy loans. They made it very easy for me to take out a loan. We knowing at the time that it probably wasn't the best decision I could make. But I was feeling desperate. I got into a bad situation with my rent and couldn't pay my rent. You know what I felt like. There seems to be the interest that I have had to pay on this payday loan has taken me over a year to get out of. If it wasn't for the help of me going into a homeless shelter and getting them.

>> Sorry, your time is up.

>> Good evening, I hold a bachelor's degree in sociology, criminology. I've seen the need to address social change in and around my community. While interning with sacred heart, I had the opportunity to administer surveys over the course of 100 people after hearing the many, I believe industry reinforces poverty for so many and we must come together as a community to protect consumers. Coming from several groups myself, I've seen through the eyes of someone who is disadvantaged. I've seen social December party in and around my community and experienced the same feelings of helplessness. That is why I'm here today. I urge you to pass this ordinance.

>> I come from Ohio. I've been out in San Jose for about four years. That was a surprise when I moved downtown. San Jose really was the bombardment of the payday lending industry. With volunteering, I really got an idea of how these payday lenders really are predatory and how it's really hurting our communities. And so i, you know, I think that this is a great step in the right direction. You know, I think that by starting to regulate this

industry, we're really going to help our future generation from staying out of the cycle of debt that they could fall into by not passing this ordinance. Thank you

>> Good evening. I stand before you today not only as a supporter of the proposed ordinance, but also as a community volunteer for many years. In volunteering with Sacred Heart, I have firsthand seen many families depend on the essential services from nonprofit agencies such as sacred heart. Just one day can provide 400 families with food and with the majority of them from San Jose. I hear individual stories of hardship and the series of events that led them there, events like job loss and illness, that can happen to anyone. I know it would be very difficult for many to survive without such programs and services. While there are many factors, payday loans can be a significant turn in changing the cycle. According o responsible lending research, 76% of payday loans are to pay up old payday loans. And even though most are to be paid within two weeks, on average --

>> I'm sorry, your time is up. Rikki Alexander, Christian Luna.

>> Good evening, Mayor. I am here tonight representing Sacred Heart. We serve hundreds of people with an array of services. As we engage our community and empower people to take control of their lives, predatory lending works against our dream. If we are to get closer to the eradication of poverty, it is time to address the root causes of it. Make San Jose a leader on this issue in the county in adopting strong curves on this abusive industry. Let's make San Jose a healthier, more vibrant city. Let's make San Jose an even prouder city, enhancing our already strong reputation of being on the cutting edge of technology.

>> I'm sorry, your time is up. Christian Luna?

>> I come here as a concerned San Jose resident. In my line of work, I witness on a daily basis a long-term and residual mass of payday borrowing. Our benefits focuses on payday loans and other products such as the true financial security. Claims have seen and heard firsthand the abuse of debt collection practices and lenders when a borrower is unstable to pay back their loan and in some instances, being severely fined by their bank. Please

take into effect the abusive rights. Please help us in our effort to support real alternatives with the financial emergencies.

>> Just give me your name.

>> Yes, good evening. I'm here representing silicon family community foundation. We care deeply about enhancing the common good and think that curbing explicative practices such as payday lending is a critical element. This city, the planning department or research drafting and the planning commission for its recommendation, ordinance language. We applaud and support the memo and urge a yes vote. You may also lead the way for other just dictions to do right and to show that they, too, can put common sense parameters around these businesses. Thank you.

>> Debbie Mesa? We provide fair housing services as well as mortgage counseling and intervention services. We see these predatory loans wreck people's lives. And we hope you'll see it the same way and pass it on. We believe that these loans, these businesses are discriminating against minorities. They are focused in low income minority communities is a detriment to those communities and while they will give loans to anybody, there is a focus. We hope you'll look at the bank that is the city does business with. And if they are supporting payday loan businesses, we hope you'll reconsider doing business with them. Good evening. I'm council district 7. I found for me, it was way too easy to use and too high of a price to pay. In my own situation, we had to find other alternatives and they are out there. We did what grown-up people do. We cut corner, we stretched our dollars. And in my particular case, thanks to sacred heart community centers, I told you last time I was here, we the regulations will encourage people to seek those out. Thank you.

>> Good evening, mayor reed and members of the city council. My name is Susan Price and tonight I represent the S&J neighborhood advisory committee which sent a letter to the planning commission earlier requesting the support of a cap on the payday lenders requesting that you not allow low income areas, such as ours, and also that you make a quarter mile spacing between sites. The number of lending is increasing, as you've heard earlier and have been for the last four years. Payday lenders say they are in need of service but their presence is a

symptom and not a solution. I'm here to speak in favor of the ordinance. I have a nephew where the interest to loan money out is over 800 percent. He did what three quarter of the people here do. He got a loan. He got another loan to pay off the first loan. He got a third loan to help him with the other ones and he ended up where his income was less than the interest he owed each month. And this is not helping the low income community. This is kicking the can down the road and the can becomes larger and larger. I really indicate that the council is trying to slow this down and not have lenders so close that they become convenient to borrow one to pay off the second one with.

>> She said I can help you. I can tell you how to avoid foreclosures. She said no thank you. This is where our profit is.

>> I'm sorry, your time is up. Emily Gatfield. Hi, my name is Emily Gatfield. Thank you for hearing me again. I'd like to thank the council member for putting this forward. The people who are targeted by the payday lenders are people who traditionally do not have a voice in public goods course. They do not have defender in politics. I am very proud of you for putting this forward to council members and I look forward to seeing our council pass this. This will be very good for San Jose. Thank you very much and please support this. Thank you.

>> Hello. First of all, I want to thank you for bringing the ordinance forward and hope that you will support it, as well. Many of my colleagues have issues with vital statistics and focus how the industries focus on certain communities and exorbitant rates in distress.

>> We are at a critical point where we are witnessing the divergence for two separate societies. This payday industry represents the first step in the second where poor people will receive certain kinds of fringe banking benefits.

>> Rent to own, refund anticipation, overdraft, these are all fringe benefits and fringe banking industry and I would urge you to support this ordinance because it takes a step in the right direction --

>> I'm sorry, your time is up.

>> Thank you.

>> David Sharpoles?

>> I'm here to speak on behalf of one of our members who lives in the Washington neighborhood who couldn't be here tonight. She, herself, is a payday loan borrower. Soon after that, she had a stroke. She began using payday loans to begin paying off her medical bills, making mortgage payments, buy groceries and school supplies for her kids. She felt it was unfair that the payday lenders charge such a high interest rate. Her story also demonstrates a high level of debt. I urge you to pass the land use regulations. Thank you.

>> Judy, Brenda Martinez, Maritza Maldonado.

>> Good evening, mayor and council members. My name is Judy and I live in council district two. I'm here representing the San Jose peace and justice system. Payday lenders in the underserved communities. I have several friends who have used these places to bridge the gap in funds to make ends meet. The fees are exorbitant and the loan usually leads to another loan before the next payday. Months go by and often the payoff loans, people end up with several simultaneous loans and different companies. This ends up being a huge drain in difficult times.

>> Good evening, mayor reed and council members. My name is Maritza and I'm here representing Mayfair. I just want to remind us that in reference to unbanked people since you need a checking account to take out a payday loan, payday loan borrowers are by definition not unbanked. One way to look at this is that the targeted demographics for payday loans are the working poor. Those are the people that are at -- in east San Jose in particular Mayfair. People who have little access to banking constantly are using these methods of payday banking. A steady income of poor people without credit are not enough --or don't make enough income to make ends meet. I do want to emphasize that when we sell it in advance, we do sell it as an emergency, small, short-

time loan. what happens to individual who is have been turned away from another lender because of the credit cards. The interest is ridiculous on those. And they come to us to pay that one PG&E bill so they have power or to buy that gallon of milk, you know, that they need. So what we provide is a service from the moment an individual walks in. I wish you guys had put some pictures of the check cashing store, which you will see, you know, we do have fliers and the pamphlet. --

>> I'm sorry, your time is up.

>> Okay, thank you.

>> Hello, I'm with the coalition of payday lenders which is 40 community-based industries that believe that San Jose residents deserve affordable and fair, small dollar loan products. Council members have proposed a well suited ordinance with the payday ordinance. It also provides some breathing room to belter educate the public about the harms of payday lending. Thank you very much.

>> Kenny Muller.

>> Good evening. My name is Kenny and I'm representing catholic charities. We support the ordinance in a more just and passionate community. San Jose families promote economic prosperity and sincerely work as part of a private community. By limiting new payday lenders, we will all come out ahead. Thank you for your consideration.

>> Hello, my name is Arimngo. I'm in local five. I deal with an array of issues that concern an array of issues. One is payday lending. The exorbitant rate of predatory payday lenders suggest outrages to the point of affecting their lives.

>> Thank you.

>> My name is Balira. I'm -- I used to be a small business owner. But I don't within my house and my business. I wanted to know what is our law representing the single mother with children and business owners order. Thank you.

>> Shawn Cartwright, Jeff Moore.

>> I had a payday loan many years ago and I was really on the verge of panic attack for the entire time because I was terrified that I wouldn't be able to pay it back. And to have somebody going through that is just a horrible, horrible feeling. Wells Fargo is the biggest backer of payday loans. First they threaten to foreclose. And then you go and take out a payday loan to try and pay back that loan. So at every stage of the system, as well as Fargo, they're backing these things. We need to take some responsibility and we need to shut this down. We need to make people aware of this. We need to get that word out there and we need to stop this. At every moment, it's the same people that are doing the same things to these people and they benefit from the whole process. So from the foreclosure to you hocking grandmom's ring, it's the same thing.

>> Jeff Moore, president of the silicon valley. We are against all forms of predatory lending that trap thousands of Santa Clara residents. We vigorously seek to protect borrowers for payday loans. Further, regulating this industry will not be unprecedented. Congress under president bush passed a 36% interest rate for payday loans for duty military personnel and a founding as a matter of national security. We asked that you, Mr. Reed, would take this same point in protecting our communities. We support those council members who are in favor of limiting the amount and numbers of payday lenders in our county.

>> Good evening, mayor and members of the council. I'm with the reinvestment coalition. We're a statewide organization committed to advocacy around fair and equal access to other financial services for low income communities. We worked on similar ordinances and we're very pleased with the planning commissions recommendations to the council. It's one of the strongest policies in the state. And we're especially pleased with the recommendation by council members and regard to a cap. San Jose is home to about 145bank branches

which means there's roughly one payday lender for every four banks. So there's currently more than enough to serve the needs of the community, which is why we support the cap at 39.

>> Good evening, mayor reed. I'm executive director of the law line. And I'm here in full support of the memo offered by council members. We thank you very much for that memo. Regulating payday lending is the right thing to do now. We think that the 39 number is a reasonable cap and we urge support of that cap. Thank you

>> Good evening. Opportunity fund is a not-for-profit lender providing small business loans and savings.

>> Unfortunately, the payday loan product is actually designed to be most profitable when a client borrows repeatedly and ultimately defaults. Due to the high cost and short repayment period, they are not a responsible product for the majority of borrowers. We find it disturbing that. Instead of helping someone recover from an emergency, these loans often prolong and deepen their financial challenges.

>> Finally, we are here. It's been a long haul.

>> I am here today representing trinity and we very, very strongly support this effort.

>> I think what we're seeing here is a continued effort of banks not doing their jobs. Every payday borrower is a bank customer. While we're not discussing this here today, perhaps later on you will remember that maybe we could talk to some of our banking friends and they could possibly still make a profit and offer some reasonable terms for folks. It is very expensive being poor and being poor is real easy herein Santa Clara county.

>> Elena, Elisa

>> Good evening, mayor. My name is Elena and I am here without any financial self interest. I represent the chair. It is a 45-year-old county employee coalition that serves our Spanish-speaking community and their families. We signed on as a supporting organization when they first came to the county with this issue. We

recognized generational damage that has cost our client and friends by payroll lenders. Aside from the previously discussed issues, the number one users are members of the household. Many of them are clients, we watch them all of the time. When these borrowers default, it destroys their credit and makes it more difficult in many ways. We strongly support these changes, thank you.

>> Lisa Ginsburg. Shane virtue.

>> Good evening. I'm the board representing working partnerships. As you know, we're a public policy institute with a mission to improve the lives of working families. Payday loans do not improve the lives of working families. We prohibit payday lenders in low-income neighborhoods requiring the distance of a quarter mile between them. The promises of fast cash and quick loans that result in financial ruin. Thank you for this and I urge you to support the motion.

>> Good evening. Neighborhood housing. Since 1995, we've been promoting responsible lending in silicon valley and payday predatory lenders are an entity to what were present. And I can tell you not only the city, but the state, federal government, everyone invests way too much in responsible lending practices in trying to support low income families with our community and to let them proliferate, which would be a travesty and not responsible for the city.

>> Good evening. Glad to see you here again. I'm supporting myself as well asace back there. And I would like to state that I or we, a couple of us are in the trenches of receiving these loans and they're not good. They're not good lines at all. It had to be paid back in two weeks, and I had to pay back \$117.50 for a total of two weeks, that's a lot of money. So that was the last time I ever did that. I learned my lesson. And I understand that this is a good situation which I hope you do recognize that this does hurt people. Thank you.

>> Good evening. My name is Elaine and I'm here on behalf of working partnerships. I'm also a resident of downtown San Jose. I'm here in support by similar members.

>> Thank you for your bold steps to limit access to predatory loaners and these loans are concentrated in low income areas. Thank you for your work on this issue.

>> Hi, good evening, I'm actually a lender -- not a lender, I've used them in the past. E I keep hearing people say they're trapping us. I'm going to be 43 years old. I am responsible. I have a decision. I have a choice. I can either open the door or not. It's my decision. I'm so tired of people trying to make decisions for me. I'm putting my son through college. If I need a book that he needs.

>> All right, your time is up. Good evening, as a credit union, we have members who are dealing with a fall out of pay-day loans. I've sat with mothers and fathers who are in tears out of sheer desperation. They feel trapped. And at the credit union, we feel a responsibility to work with them to address the financial situations. Credit unions have several tools that can help members who are financially distressed. As well as unsecured installment loans with major debt and make monthly payments that fit within their budget. I hope it supports their regulation of payday loans. This ordinance takes a good step in that direction. Thanks.

>> Judy Pickott.

>> Good evening, mayor, vice major. I'm Joseph Rosas. A member of occupy San Jose and spirit of full disclosure candidate for the assembly. I'd like to implore the council to recognize this year's ratio of volunteers to employee on each side of the issue. There's some community staff but there are very few in comparison to actual customers, residents and just concerned citizens that on sli don't have a dog in the race, but care about their fellow San Jose residents. I'd like to show a little bit of light as to where there are so many employees from the industry. The community financial services association, last year, spent \$11.3 million on federal lobbying --

>> I'm sorry, your time is up.

>> Hi, good afternoon. I've been working with the company for over 6 years. And I wanted to let you guys know that, you know, I do have -- many customers that are having great customers for five years. We're not predators.

We're actually just employees. We're providing great service that comes to us for needs of help. They come in for a financial support, for financial caps. All of my credit cards have high interest rates, banks with not helping customers with their foreclosure, with their bank accounts with, you know, any need that they need. They come to us. Especially right now with the economy, you know, high gas prices, it's hard to keep up with the economy and with everything else you need.

>> I'm sorry, your time is up. I am the voice today for one man. Maurice is a builder. He's always been a builder. The job as an engineer at silicon valley. But as a single individual, he had to support himself. And times are tough. He saw the bills pile up. As those things build up, he knew he had the responsibility to try to pay and so he went to the payday loan and quickly went through exorbitant interest rates leading to loan after loan after loan and led him to sacred haert where he was asking for food that day trying to solve today he asked you not to take away penal's dreams. Help him help us.

>> I am a single mother. And this is the only job that I have. The job with my coworkers. . And any other people who have this kind of job. I think this also affect the deficit of the state of California because we pay taxes.

>> If we lose our job, others will suffer

>> Good evening, Honorable Mayor, my name is john rigger. I support the ordinance. I'm against usury in all forms. At one time, it was 10%. Financial institutions made 30%. And if my math is right, \$17.50 interest on a hundred dollars for two weeks comes up to 455%. I think that is Obama scene. In turn, it puts a strain on city resources and county resources, as the folks no longer have any money to spend. So I would encourage you to please invest in our citizens and please support the ordinance. Thank you for your time.

>> Shawn is our last speaker.

>> Good evening council members. My name is john. I used to have a drug and alcohol problem, so I changed my life. I gave up drugs and alcohol and had a higher power. Now I spend a lot of my time helping people in my

community. Another one of my adventures is working with united way. I'm seeing that this group is a problem. I don't have any direct, personal experience with it. But I'm seeing that it does have a negative impact on your society here and I'm against this payday loan. And I support this ordinance. I heard you've made some very harsh decisions about the community and the libraries and stuff like that. I'd like to see you make the responsibility for your citizens. Thank you.

>> That concludes the public testimony. We now have some time for decision.

>> Thank you, mayor. I appreciate everyone coming out. I want to thank the city staff. I know the staff for a lot of time in the office with the department and both the attorney's office and a tremendous amount of work over a very long period of time. I certainly want to thank my staff who had a tremendous amount of work with community supporters, as well. I want to give a special for the planning commission. That's, again, another role of the planning commission is I know any time they're there, they take a lot of time and a lot of care in these issues. They did a really good job of listening for public input and strengthening the staff recommendation in a very thoughtful manner. There's some people who helped to get us where we are. We all know with the limited resources that we have, we have to get money to try to do this with the community foundation and to supply the bulk of resources to get where we are today. The coalition against payday players, which is a number of organizations that I want to particularly point out, the law foundation who worked very closely to get us here today, as well. The council with the partnership and the responsible ending, the catholic charities pack. You can hear that this was truly a community effort and there's a number of other organizations to add to that. I want to thank all of you. The comments that I have from the speakers, including those that don't want us to move forward. No one is going to lose their job. The service is going to be there for the people that feel they need these type of loans. We know they're not healthy, financial decisions. But no one is losing their job, I don't know if other people were told otherwise. The customers have been turned away. And that's part of the problem. We have a number of folks here helping us get out there. They're putting the cap in place certainly helps as was mentioned create that space. There's a reference to the fact that there's a lot of disclosures to information in the payday lending offices and that's required by law. So, yes, they're there. And there's a reason they're required by law because the rates are really out of control. We've seen it happen with the way that we regulate liquor stores. We've seen

it in the accomplices area, you know, where there used to be saturation. We've seen that saturation diluted. Is the problem gone? No. But it certainly has improved the quality of life in those neighborhoods.

>> Similarly, although, yes, this may not be the complete answer, it will get us in the right direction.

>> This used to be the largest city to take action. That is to Sacramento. We know that it's a problem that we see throughout this nation.

>> I know we are not held to those same interests. We're here to represent our residents, our community, not the interest of that financial institution. Finally, I know we should seek an ordinance. That's perfect to spare. I think that's what we have here. A perfect ordinance with a band for Sacramento to take action. Until then, I think it's fair to create real solutions and to help teach the community about healthier, financial options, while all the while, it gives us an opportunity to put pressure on Sacramento. So I think that this, all in all, gives us the place to put other options out there and, hopefully, someday, we can get Sacramento to take some serious action. And I really urge my council members to support the motion on the table. Thank you. [applause]

>> Thank you, mayor. First of all, I want to thank all of those that took the time and effort to put this forward and then, also, the -- my council colleague that signed on this memo with council member including myself. I do want to start off with a question clarification. Regarding the distance between is the census trap.

>> We do need to verify the zoning district for the 39 establishments we have. Assuming they are in the zoning districts, those would be forming in the ordinance.

>> So if they're existing -- let's say they're in the commercial office. What would happen? Then they are not legal and we would take enforcement action and similar to how we've handled it with the bail bonds, we would send a courtesy letter and give them a reasonable time to relocate or they would need to close and perhaps move into another location in another city.

>> And if they are illegal, nonconforming, they would then be restricted -- for example, let's say they wanted to expand they actually would not be able to do anything. But then they would see what they came in, is that correct? They would be able to say where they are. An expansion is particularly handled through the special use permit. But I don't see how you would be expanding through a use. We're not really regulating the size. So long as there's not a break of six months at that particular location, a payday establishment would be able to remain at that place. Okay, thank you. I kept getting tons of letters. And one of the recurring themes with customers was please don't take these establishments away. As the council member mentioned, it's unfortunate that they're stuck and I truly believe they're stuck in a cycle. We're doing what we've done with any other business of a similar time. It's a land use perspective that's going to be respectful, if you can say that, to the community that's already existed. Is it perfect, no, it's not perfect. But I would -- if I had to give advice to the industry, you could really do yourself a lot of good if you self regulated yourself. The testimony from assistant DA was very, very telling. Someone can go get a loan at one place and, you know, get into that cycle. And because they owe in that one place -- and it could be -- let's just say they're going to a completely different company, they would still be able to go to that company because they don't communicate. At least if you apply for a credit card and you don't pay for that credit card, you're not going to get another credit card. There's communication there. Unfortunately, that doesn't happen with the industry. So many people are in so deep, to get out of that hole, you know, folks feel hopeless. And so, you know, I'm proud to sign on with this council member. I'm glad he had the courage to start this. Thank you.

>> And, so, as usual, I think I find myself in the minority of opinions. And I'm going to keep this short because I know where I stand in relation to the count. But I just want to say that I believe in personal responsibility and I believe that people make choices and decisions. But hopefully, they learn from them. There's a lot of situations where people are subject to financial hardships. They can't pay their utility bills, they get turned off and then you have to pay a restoration fee to get it turned on that's usually a larger amount than what the bill was. You go to an ATM and pay a fee of two or three because you're too lazy to go to your own bank. If you write a check hoping that you'll have a little bit of coverage time before it clears before you make your deposit and you miss that, you're liable for three times the cost of that check. And the district attorney is the one who will come after you to collect three times the cost of the check, which is far more than the fee of the payday lender. So I think what makes me

a little different with our residents and what they can and do make decisions. And sometimes they make poor ones. And when you make a poor decision, you have to live with the consequences. I think probably every one of us up here has made a bad financial decision at one time or another. I know I have. And that doesn't mean the government should come along and make a law to fix it. I just don't think the government really has the solution to every problem in society. I'm going to vote know, but I understand why everyone is voting yet. It's just a matter of perspective and principle.

>> Thanks, Mr. Pyle.

>> I'd like to say I'm very much appreciative of what you put together. It's a multi-pronged approach. It's obvious to me that you've done a lot of research. Added with great out rage. I think that you've done the county a favor and we'll all be living in a better place because of this. Thank you.

>> You know, I'm supporting this because I believe it's the right thing to do. Certainly, it's a very positive movement forward. The sobering reality is that tomorrow, every one of these institutions will do exactly what it's doing today and the same people will be, depending on your perspective, either poorly or well served as they are today. And I'm hopeful that we can think creatively of how to expand the local services. I know a lot of folks have been thinking about this. I know catholic charities has been working and the mayor's office has been involved. But we've got to be more creative to see how we can encourage financial institutions, the community reinvestment act is a great idea. And so I'm hopeful and I invite folks who have those ideas to see how the city can actually get engaged recognizing that we have little influence over the broader economy. There's certainly interesting like the progressive. But I have no idea whether anybody has really found -- really the total solution, I suspect, after probably a lot of solutions that we can work on together. And I certainly invite anyone who wants to work on those to see how we make it happen.

>> Thank you, Mayor. Thank you very much for your time. I'd like to thank all of the speakers for coming here and speaking your mind and sharing with us decisions whether they err hard or difficult. It's really great to hear from the community. I know how important the issues are. And also for the advocate and getting in front of

council members and telling them and showing them and speaking to the issue. It's really helpful. Again, whatever side of the fence you're on, I'm telling you, your participation is extremely critical and I thank you.

>> Thanks, Mayor. Believe it or not, I have a couple thank yous. Adjoining in the most recent one and others that are made publicly showing support or made public statements such as mayor and vice mayor in terms of their intentions and support. And then I also wanted to thank the attorney and mayor reed for the consumer product position. It was very powerful to hear that. When we do our investigation, this is what we found and that's as extraordinarily powerful and really helped to bolster the desire from so many in our community to go forward with this. And finally, I think the councilman makes a great point as to what's next and working with all of the members of the community to take that next step. Okay, now we've done this.

>> I know Sam mentioned so many are working on it. But we still have plenty of work to do and this is just one step along here. I thank you.

>> that concludes the council discussion. We have a motion on the floor on that motion. All in favor? Opposed? I count one opposed. Motion passes. So that concludes our work on that item. [applause]

>> last matter is the open forum. We'll take that testimony now. Tom lineburger. Dehave mikely. Shawn cartwright. As you leave, please be quiet. We do have some more testimony to take.

>> that's ten million people every year for the last five years. This is obama scene. The federal government has not been able to fix this crisis. The state government has not been able to fix this crisis. But I believe local governments can work on it very effectively. And the way to do it is to get together with the district attorney and say if the bank is going to foreclose, it has to foreclose legally. If they took some shortcuts, if they don't own the property, if the people have applied for a modification they haven't given one but they're still going to sell their homes, that should not be allowed. And the district attorney can find blighted --

>> I'm sorry, your time is up. Now is the time, folks. We're in a hurry. This is your opportunity. Otherwise, we're going to close it off.

>> I came to speak on foreclosures, too. We need to do something and I'm hoping that you guys will actually go ahead and do an investigation just like San Francisco did. When San Francisco did their investigation, they found fraud and things that were wrong in 84% of the foreclosures. And I'm hoping that you will do the same thing. It affected the Latino community four times as hard. There's a big chunk in the Latino community and we really need to do something about these foreclosures. The banks are a big part of this affecting your community. When I'm out there physically stopping homes from being sold at foreclosures, I realize that I should not be out there alone. That you should be a part of it.

>> Good evening. I wanted to speak very quickly on the issue of homelessness that is currently affecting the city even more so after the recent cuts. We need to remember that these people are people. Many of them, like us, a few months ago, a year or two ago, I assure you that there's maybe many people, friends and family of yours, who have one broken arm or one broken leg from being homeless. So please keep that in mind in going forward to help solve the homeless issue in San Jose.

>> John Rieger?

>> Good evening, Mr. Mayor. I hope with labor negotiations in the future here, regardless of how they turn out that you pursue revenue generation with the same zeal that you pursued cuts on your employees. Employees don't make a great deal of money and it's very expensive to live here. I personally had to borrow \$300 from my son's college saving account. It's really important that you listen and extract contrary points of view. Don't be under the impression that there's only one solution to the problem. All of these problems can be solved. The sooner we get to the truth, the cheaper it will be. --

>> I'm sorry, your time is up. That concludes the open forum and concludes our meeting. We're adjourned.