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>> Mayor Reed: Good afternoon. I'd like to call the San José, city council to order for June 16th, 2009. Councilmember Oliverio will introduce the invocator.

>> Councilmember Oliverio: Thank you, Mayor Reed. I have the privilege and honor of presenting the invocation today on what may be our longest meeting of the year. I am proud to represent Congregation Sinai and Rabbi Joshua Berkenwald, and I believe I see him somewhere in the audience. There he is, thank you, Joshua. The Congregation Sinai was founded in 1954 in Willow Glen and prides itself on meeting the spiritual, social, and educational needs for all the congregants within a warm and friendly community. Rabbi Berkenwald will be discussion his participation in the Darfur Fast for Life, an international fasting chain to express solidarity with the people of Darfur. For six years a genocide has raged in Darfur. Each day mothers and fathers living in camps look into the eyes of their children knowing that they would sacrifice anything for them but are unable to provide for them the basic food and clean water. Joshua Berkenwald is actually a -- recent to California, being in New York City, and I look forward to your invocation today. Thank you.

>> Thank you, Councilmember Oliverio. Your honor, Mayor Reed, councilmembers, and friends. I don't envy the choices that you have to make during these difficult times as you steer our city through economic uncertainty. But whether we face economic hardship here at home it's tempting to shift our attention away from the suffering of people in other parts of the world. And yet their suffering does not change simply because our focus on them has been distracted. Today, I direct our attention to the continuing genocide that is being perpetrated against the people of Darfur. Two months ago, Sudan's president, Omar Bashir, expelled aid workers who were providing basic lifesaving services to millions of Sudanese. As the situation becomes more dire for those innocent men, women and children, especially with the onset of the rainy season, we cannot remain silent. Our faith traditions teach us that human beings, regardless of whether they are here in our own communities or over there, are created in a divine image, and hence, we have a moral responsibility to act. I've chosen to participate in the Darfur Fast for Life, joining religious leaders, activists, politicians and others in an international fasting chain to express our solidarity with the people of Darfur. We fast today because they do not have a choice. We fast as a personal expression of outrage against a world that has allowed. Simply watched, Darfur's defenseless people were forced into wretched camps. We fast because those in positions of authority who know what is right and just could and should do more to alleviate their suffering to bring peace protection and justice to the people Sudan. We fast for Darfur's courageous people because we yearn for a world where human rights are respected and a life of dignity is a legacy for every man, woman and child. I close this invocation with a prayer for the people of Darfur composed by rabbi Jonathan Sachs. O God of peace, who commands us to seek peace, send peace to the people of Darfur. Oh God of compassion, who hears the cry of the afflicted, hear the cry of the victims, the bereaved, the injured, and all those who live their days in fear. Rouse the hearts of the leaders of the world to put an end to the bloodshed, the violence, the rape, the starvation and the terror that has ravaged and endangered an entire population. Be with those who are working for peace or tending the sick or bringing food to the hungry or shelter to the homeless or hope to those that are close to despair. O God of justice and love, let us not be indifferent to the cry of the persecuted and the ears of those who have seen their homes, their families, and their communities destroyed. And may their plea and their plight reach the ears and hearts of those who have it in their power to bring peace to a troubled region and aid to a devastated people. Osir Shalom bim Ramov. May you who make peace in your high places help us make peace down here on earth. Amen.

>> Mayor Reed: Thank you, rabbi. Thank you for joining us. The next item is the pledge of allegiance. Please stand for the pledge. [ pledge of allegiance ]

>> Mayor Reed: Under orders of the day, we have a couple of changes to the agenda. Item 5.3, the construction contract for educational park branch library and 5.5, the happy hollow zoo, substitution of contractor need to be delayed one week. If you are following the agenda you can see we are taking a lot of things out of order. The agenda is very long. We are trying to organize it in a meaningful fashion. I have one other change to what's printed and that we will after the consent calendar we'll take up item 3.11, that's the agreement with city association of management personnel and then we'll take up the ordinance relating to contributions to retirement fund and calculation of retirement benefits, that's item 3.13. That's part of the implementation of the agreement that we have with ABMEI. Then we'll take item 3.12, regarding the operating engineers local number 3, follow that with deferred maintenance and infrastructure backlog which is 3.4, then we'll do 3.5, 3.6, 3.7, in order. At that time we'll take up the joint city redevelopment agency consideration of the Mayor's Budget Message, which is item 9.1, and item 3.8, the approval of the '09-10 operating and capital budgets for the city of San Jose and schedule of

fees and charges. Then we'll take up the redevelopment agenda, and then we'll go back to the rest of the council agenda. So the one change from the printed agenda, if you track through all of the cross-references is we'll take 3.13 a little bit earlier than printed. Also, today's council meeting will be adjourned in memory of Lahori Ram, former economic development commissioner for the State of California. Councilmember Kalra has some additional words.

>> Councilmember Kalra: Thank you, Mayor Reed. I just wanted to take a moment and allow us to reflect on the life of Mr. Lahori Ram, who is certainly a great inspiration to many in the community. Mr. Lahori Ram entered the United States with a student visa on August 15th, 1972. He moved to America to seek a better life for himself. Mr. Ram was a fearless and active leader of the Indo-American community and certainly was a role model for me in choosing a life in public service. Mr. Ram was involved in politics in India and helped Indians get involved in the American political process. He strongly believed in the strength of unity, and always made sure he expressed it as "united we stand, divided we fall." Mr. Lahori Ram was the very first Indo-American to be appointed on a high-level commission in California by the governor. He served on many commissions, most recently the Economic Development Commission for the State of California. Lahori Ram made sure his services were always available to everyone. He never said no to anyone, and always went out of his way to do what he could to help everyone. I'm pleased to say we have his family here in the first row, and he was a devoted family man, as well as a loving and supportive husband to Prit Dam Cour. He made sure all of his children had the very best education possible. His two sons, Jadaj and Ajai Paul, are attorneys, and his daughter, Jadish, is obtaining her MBA degree. He was a loving father for his daughter-in-laws, Ramit Paul and Nelam, and he was a caring grandfather for Jasmine. Lahori Ram made a real estate fortune for his family to enjoy and created a name that is known all around the world, and he will be truly missed by all. And so today let us celebrate the life of this determined man who will always be remembered for his love of life, love of community, and his contagiously radiant smile.

>> Mayor Reed: Thank you. Councilmember Campos.

>> Councilmember Campos: Mayor, is this appropriate to pull something on the consent calendar?

>> Mayor Reed: Not --

>> Councilmember Campos: When that time does come, I want to --

>> Mayor Reed: I'll come back to you on that, I'm sorry. Thank you, Councilmember Kalra, for those words about Lahori Ram. I was privileged to know Mr. Lahori Ram, who was a great man, great Californian, and made a great contribution to our state leading the way for many other people, and we appreciate his contributions. On the orders of the day, is there a motion? Motion to approve the orders of the day. All in favor? Opposed? None opposed, those are approved. Next item is our closed session report, Mr. City Attorney.

>> City Attorney Doyle: Mr. Mayor, the city council met in closed session pursuant notice to notice. approval of a settlement of interest arbitration allowing for civilian sayings of the fire marshal position. the decision was unanimous with Councilmember Nguyen and the vice mayor absent.

>> Mayor Reed: Consent calendar, items the council would like to pull, Councilmember Campos,.

>> Councilmember Campos: Thank you, I'd like to pull item 2.8.

>> Mayor Reed: I would like to pull 2.8 and I have a note to pull 2.11. 2.17, Councilmember Liccardo. Motion is to approve the balance of the consent calendar. All in favor? Opposed? None opposed, that's approved. 2.8. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I had pulled this item because it's regarding a pocket park, I guess because it's under a half an acre and I have a memo that's attached that asks that we not approve the extension since this -- if we do approve the extension would it mean that this project would be two years delayed, and I'm hoping that my colleagues would support my memo to move forward with the time frame that we currently have. With that, I ask for a second on the motion.

>> Mayor Reed: We have a motion not to approve the extension. Discussion on the motion, I have a card here, Ross Signorino did you want to speak?

>> Councilmember Campos: Mayor, just to clarify, it's to move my memo for the motion.

>> Mayor Reed: Thank you.

>> Ross Signorino: Thank you, Mr. Mayor, members of the county. I won't speak very long. I just saw this particular headline, it says airport living wage ordinance and I'm certainly glad to hear the words living wage added at the top of this agenda item. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just had a quick question for Albert. Just wanted to confirm that this doesn't create any challenges in terms of the park construction, I was hoping to get some response from --

>> Albert Balagso: Albert Balagso director of Parks, Recreation, and Neighborhood Services. It doesn't create any impact to us. It was providing an easier way if we had to extend it. I understand Councilmember Campos's concern that we want to encourage the developer to move forward.

>> Councilmember Liccardo: Great, okay, thank you.

>> Mayor Reed: We have a motion to approve based on Councilmember Campos's memo. Councilmember Pyle.

>> Councilmember Pyle: I just had a quick question. I wanted to clarify. Staff is recommending approval for the completion date to be December 31st, 2009, is that correct, Mr. Balagso? And my question to you would be, Councilmember Campos, is December 9th, 2009, acceptable, or is that -- it pushing it forward to be completed sooner than that?

>> Councilmember Campos: I think Albert if you want to explain because I did have a conversation with your staff about the time frame and that's why we're doing the memo. I think what we're asking is that they were asking for further extension. And I'm asking that it just go 'til the end of the year so that we can give them -- I think that's enough time for them to complete the park.

>> Albert Balagso: That's correct.

>> Mayor Reed: We do have a motion to approve based on Councilmember Campos's memo modifying the dates. All in favor? Opposed? None opposed, that's approved. Item 2.9, is an ordinance modifying the A time that the Planning Department has to extend building permits and plan check submittals. I just wanted to thank Joe Horwedel financing to wait a little bit in this economy, I think it's important to keep them alive, thank you for bringing us to that and with that, I would ask for a motion. Motion is to approve. Councilmember Pyle had the motion. All in favor? Opposed? None opposed, that's approved. 2.12 I think Elizabeth mad sen wants to speak on that one .

>> Thank you, Mayor Reed. Jim Ortbal, the assistant director of transportation. And the City's representative to the property owners association board of directors. The item before you today is to approve the assessments for next fiscal year on downtown properties. You have a comprehensive report in your package. But most important, though, we thought lie lighting the successes of this very important public-private partnership, here with us are members of the downtown association who oversee the operation and the ground works operation as well. You can see them in the green uniforms there, they're doing the outstanding job and Elizabeth madsen is the members representative of the board of directors. She is here to focus on some of the highlights. Elizabeth.

>> Good afternoon, Mayor Reed and members of the city council. I'm Elizabeth madsen, a member of the PBID owners downtown at paseo plaza. It's my pleasure to present the second operations. The PBID is an improvement district where all property owners in the downtown including residents like myself pay into a

common fund to achieve three primary objectives. To make downtown cleaner, to present a more safe and friendly downtown, and to make the downtown more attractive and inviting by enhancing our streetscapes by planters flowering baskets, lights, murals and maintaining these enhancements throughout the year. The BID delivers its clean team under the ground works. Observed our hardworking crew and their highly visible green and orange uniforms. Earlier this year we surveyed our members, the business and property owners who pay the assessments and we were delighted with both the response and the results of the survey. In 2007, before ground works began operations only 46% proved the downtown's cleanliness. In 2009, after full year of ground works cleaning, the approval ratings soared to 88%. This is very encouraging, however I can tell you that the board is well aware that there is much room for improvement. We are looking to adjust our cleaning schedules and techniques to provide better detailing and improve on response times to paint over graffiti tags. We see the most potential for improvement with our beautification projects. We learn much from the demonstration area on first street between Santa Clara and San Fernando streets installed in November. We are applying these lessons to future work on that job and look forward to applying those best elements to our next block. We also look for opportunities where we may leverage our resources with other downtown projects to create a more synergistic result. As an example we will take over maintenance of the recent RDA 1st Act sofa streetscape. The Pbid is the quintessential owners pay theirs. You also provide us two excellent board members, Jim Ortbal and Dean Monroe. Through their guidance and willingness to share their expertise they help us coordinate and manage the Pbid services around the clock. Thank you for your support, collaboration and partnership.

>> Mayor Reed: Thank you. Excellent report. I love the ground works team. They're out there day and night, and it's really terrific to see them doing what they do and the city looks a lot better. I occasionally get asked to go on the Kfog program and they come down here from San Francisco periodically and they always compliment us how nice and clean the city looks whether they're down here on their programs. So that's the result of that work. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just want to thank Jim and Elizabeth and all the folks who have been so involved in this Pbid. I love the flowers along the upset Scott Knies was doing everything in his power to get the votes together to make this happen. We knew it was going to be a real challenge to get everyone to agree because there were many doubters but I think now it is pretty evidence what an incredible enhancement it's been. I think the highest compliment was paid to the good folks from grounds works when we recently saw circulated a graffiti tag that actually bemoaned the effectiveness of ground works in removing graffiti. That was I think the highest compliment that could be paid. I just want to thank all the hardworking people over at ground works who really make it more and more proud of our downtown. I'll move to approve.

>> Mayor Reed: We have a motion to approve. Comch.

>> Councilmember Pyle: Well, I just wanted to add my thanks to all of the great work that you're doing. I love this entrepreneurial spirit. I love the fact that you took the whole thing, the bull by the hounders and you made it happen and are continuing to make it happen. Just adding my appreciation, the economic development that comes about as a result of all of this is very much noticed and I wanted to add my thanks. Thank you and with that I'll second in no one else has.

>> Mayor Reed: Okay, we have a motion to approve. All in favor. Opposed. None opposed. That's approved. Item 2.17. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Albert, thank you for coming down again. I had just a quick question for clarification. The serk part of the recommendation appears to allow the City Manager to extend the ability to waive the fee. Am I right in believing that through October 31st to be that ?

>> Albert Balagso: Yes. The authority goes through October 31st, 2010 if warranted.

>> Councilmember Liccardo: Great I appreciate it. I know a lot of our events producers are experiencing very, very tough time. This is the least we can do to help them along and I appreciate your willingness to push this through. I'll move to approve.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. That completes the consent calendar. We'll now take up item 3.11, the agreement with the city association of management personnel. I think we'll have Alex Gurza is coming down. City Manager.

>> City Manager Figone: And I'll start mayor on each of the next three items. This item is a very good news story. camp represents approximately 450 employees in our great city. And the number of employees will be reduced by 10% in this next fiscal year. Camp is agreeing to forgo 1.5% general wage increase which is scheduled for 2009-10. And it's another true example of a bargaining unit stepping up to the plate and providing personnel cost savings to the city. Camp is the first union to forgo the previously negotiated 1.5% pay increase and I think what's important about that statement is it was previously negotiated. Other management units have willingly gone along with foregoing raises but these are not raises that were previously scheduled. So this is a true zero. They are not eligible for step increases because they are under the merit pay plan of management. So in summary I am very proud of this group. I appreciate very much Camp's leadership in troamg its leadership forgoing the 1.5% wage increase. I would like to thank Gail lippert and others for their cost savings. We do recommend your approval.

>> Mayor Reed: Okay, is there a motion? There is a motion by Councilmember Herrera, seconded by Councilmember Pyle. Councilmember Constant.

>> Councilmember Constant: I just had wanted to add my thanks to the members and the leadership of Camp for getting this to us in a timely manner, so that we can really rely on these savings as we talk about our budget later on, in just a few minutes, actually. So thank you very much. We appreciate the hard work and sacrifice.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I also wanted to echo the thanks to Gay Gail and all of the leaders over at Camp. I know this is truly a difficult time for everyone involved, but I think many of our -- many of the folks in union leadership feel it the most because I think they're getting it from all ends, all directions. And it's difficult to step forward and clearly Gay and her team have done this for the good of the city and I'm very grateful to them.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I also want to add my thanks to Gay Gail and the members of Camp and leadership and members for stepping up and taking this action to help all of us. Thank you.

>> Mayor Reed: Okay, we have a motion to approve. All in favor? Opposed? None opposed, thank you, Camp. We appreciate it. That's approved. Item 3.13.

>> City Manager Figone: Thank you, mayor. I'll just make a couple of brief comments. Item 3.13 is a rather technical item but I think it's important. And what this item does is AB MEI as you know has agreed to a mandatory reduction in paid working time, otherwise known as a furlough, and this is a 10% reduction. And even though there is that hit to their paychecks, they have also agreed to make the required contributions to the retirement system in order to ensure that that funding stream stays whole. So we think that this is a very important step. We would like to thank ABmei and we do recommend your approval .

>> Mayor Reed: I have a motion by Councilmember Pyle, seconded by I believe. Councilmember Constant on the motion. .

>> Councilmember Constant: Thank you. As a federated retirement board trustee as well as a councilmember, I think this is really a significant action. I know I mentioned it I think it was last week but I wanted to mention it again. It's just so important that as we make decisions going forward that we are really conscious of the effect that these decisions have on our retirement systems. Because that -- those decisions and that effect on the retirement system has a direct effect on our General Fund and a direct effect on the stability of benefits in the future for our retirees, both current and future retirees. So I think I'm just very happy that we're doing this and that we're looking forward to making sure that we don't do things that negatively impact the individual retirement funds.

>> Mayor Reed: I want to thank ABmei for stepping up and saving some of their jobs and making concessions. They're to be commended on it and I appreciate it. Anything else on the motion? All in favor, opposed, none opposed, that's approved. 3 | 12. Regarding city and operating engineers local number 3.

>> City Manager Figone: Thank you, mayor again, before the staff makes a presentation on this item I'd like to introduce it. This is a decision before the council on whether or not to approve the terms of the last best final offer from the City of San José to OE 3. At last week's council meeting this item was deferred in response to a letter from OE 3 requesting that we did meet, the city did meet hoping that the OE 3 was ready to meet the city's key interest. Unfortunately we remain where we were last week on the council's decision whether or not to approve the terms of the city's last best final offer again before you. It's important for us to note that our goal, as city staff, who negotiate on your behalf, in meeting and conferring is to reach agreements. Agreement with Camp is an example of this, as the last item regarding ABmei and so recommending lengths of terms is not something we take lightly and we would prefer not to do. It is important however to keep in mind that moving forward with the terms of the last best final offer does not implement a contract. The city and OE 3 can begin negotiating the terms of a new contract right away. As we discussed last week, four items remaining are very important to the city. The remaining items are not any more than the other bargaining units have all right agreed to and the wage freeze the city is asking of all of its employees. These items include retiree health care, health care co-pays and cost sharing, a true wage freeze and clarification of our discipline language. On the slide in front of you, as I mentioned, we are not asking anyone to take a pay cut, but rather, a freeze of wages, as this is a very straightforward and uncomplicated, uncomplicated request and it will help preserve services. It will save approximately \$1.02 million significant challenges ahead in 2010-11 and so I do think it is important that we bear this in mind as we move forward. And now Alex will go through the rest of the presentation.

>> Alex Gurza: Good afternoon, mayor, members of the city council, Alex Gurza director of employee relations. With me this afternoon is Dena Donnelly, director of imloas employee relations. provided to you last Tuesday bit for listening we wanted to go through that summary again for you. The item, the term of the last contract began on November 9th of 2006, and the contract with OE 3 expired on April 17th of 2009. Because the city knew that there was going to be significant and complex issues to discuss, including retiree health care, the city initially contacted OE 3 in December of 2008 which is earlier than usual to ask them to begin negotiations to ensure that we have sufficient time to address these complicated and important issues. OE 3 was not -- unable to begin negotiations until January 28th of 2009. This next slide shows you the negotiation sessions that the two teams did have. They met approximately 17 times, and through the end of that process, and when the city declared an impasse we had unfortunately not been able to reach any single tentative agreement on any one item. The City's impasse procedures in our local rules call for mediation to try to resolve the issue. We participated in mediation on May 11th of 2009, and again unfortunately, did not reach an agreement. You mentioned the City's last, best and final offer is down to four core items. Of course, as both sides normally do, there are many more items that both sides began with. The city began with over 30 proposals, many of which were items intended to try to reduce our personnel costs. And -- but in the last, best, fine offer it came down to these last core issues. It -- again it's the true wage freeze which is no general wage increase and a suspension of step increases for one year, which are 5% automatic step increases that are received not by everyone in the bargaining unit but by those that are not yet at the top of the pay range. In terms of medical benefits we have a cost-sharing formal, and we have been trying to achieve the 90-10 lowest price plan. We have had a cap on what the employee's 10% is and that still exists within OE 3 contracts and this would move to a straight 90-10. The co-pays are, we have been slowly negotiating modest co--pays with all of our bargaining units and so for example in the Kaiser HMO plan OE 3 is the last 10 office visits, which are the same co-pays that every other city employee already has. The discipline appeal is clarification that all appeals of disciplinary actions are heard by the City's civil service commission. And last but no means by importance, is retiree health care, and the five-year ramp-up to full prefunding and again, just to clarify, it isn't that in five years, the city will have fully paid off its liability for retiree health care. It will take five years to start making the annual required payments that will thereafter take 30 years to pay off the liability. So it is not something that we're trying to make all the payments in the five years. On the retiree health care, we had participated as we went over last week in coalition bargaining with all of the other bargaining units that are part of the federated employees retirement system that are merged MEF, ooment Camp and AMSP. It was an experiment to try to see if we could collaborate together with all the bargaining units there at the same time to come up with an agreement on retiree health care. OE 3 had a right to choose not to participate and they did elect not to participate which is why it meant that then retiree health care was going to be part of the regular contract negotiations. But what's important is that effective June 28th, all of the employees in

the federated retirement system will start ramping up and paying more contributions into the retirement system. But the city also ramps up its funding. So it is based on the 50-50 split for medical care and both the city and employees start contributing more. In '09-10 that increased contribution for employees is 0.42%. So the city starts paying in slightly more than that and the employees start paying in that .42% as I mentioned last week, the average it will approximately an additional \$4.85 per week, which is pretax. So that is the extent of the items that are in our last, best, final offer and again, a slide that I showed last week ask what the City Manager mentioned, the items that we have in our last, best, final again are not new items, are not items that go beyond what we have asked or our employees and have reached agreement. So you can see there that of the items that are up there, the vast majority of our employees, even unrepresented employees in unit 99 as well as all of the bargaining units, have already agreed to almost all of those items. So OE 3 appears there at the bottom, and that really demonstrates why those four items were the ones that were left in our last, best, final when we start Wednesday 35. It was tried to pare down to the items that we had already achieved with most everyone else rather than going beyond, what was already agreed by other bargaining units. So that's the end of our presentation and Gina and I would be happy to answer any questions that you may have.

>> Mayor Reed: Thank you. I have some cards from the public who would like to speak to that. I think I'll take those now. Please come on down so you're close to the front. Seats in the front row. Don Dietrich, Bill Lininger, and Bob Brownstein.

>> I got two minutes or three?

>> Mayor Reed: Two.

>> Good afternoon, council. My name is Don Dietrich. I work for the operating engineers. I want to tell that you I came here last Tuesday and I didn't say a word. I just listened very intently to what you had to say. And what I heard you ask us to do was go back to the table and negotiate. And I'm here to tell that you we went there, taking in mind the issues of furloughs and how much you appreciated those. We came back to negotiate and presented an offer to the city. We got absolutely no response back. We were stone walled for five and a half hours until there was nothing they could do. So your team did not come to negotiate. We asked to mediate, not to negotiate. And I want to be clear with that before I say the rest of what I have to say. Something's gone terribly wrong. The economy is in the toilet. We all know that. Things are bad. But especially in this city there has become an overwhelming desire to blame the employees for that. It's the employees that caused the City's budget problems. These folks have nothing to do with how you spend your money, where you direct it, how much service you provide or don't provide. They just show up every day and provide the service. These are the folks that make sure that when you flush your toilet, it goes down instead of coming up. They make sure your water's safe to drink. They make make sure that when you go to the airport the traffic flows and when you walk up to the automatic door it opens and closes, and the client's wastewater is treated to such a standard that it is fresher than what's in the bay when they put it back out there. They take care of your parks, your roads, your airport and they do that every single day, day in and day out with pride. These people are your friends and your neighbors. They live here in the city and they're part of the fabric that we call the community. And it is very, very sad to me that they are being the ones that are being blamed for this because they come to work every day to do the very best they can to provide those services for the citizens.

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

>> That's great.

>> Mayor Reed: Bill Lininger, Bob Brownstein, wiggy Severtson.

>> Bob Brownstein: Mayor Reed, member of council. Perplexing to many people in our community. They know most workers are dedicated to public service and they see most elected officials as committed to fairness. So why can't the two sides reach agreement? Today I'd like to focus on one reason. Misinformation. Last Tuesday, employee relations presented the council with a chart showing the negotiating positions of OE 3 in relationship to other bargaining units. The chart shows ABMEI had agreed to the city's position on discipline rights. That's not true. ABMEI's position is roughly the same as OE 3's, supporting the rates to arbitration. Last week the quoted Alex Gurza describing the recent meeting between OE 3 and the city as follows, we got further apart, not

closer. That's not true. OE 3 agreed to health care co-pays and offered furloughs the same strategy used by ABMEI and praised repeatedly by this council just last Tuesday. In the same article city officials are quoted as saying unions are complicating a simple request to maintain existing pay rates for a year, with insurances the sacrifice will save workers' jobs. We all know that's not true. The City's initial offer to MEF didn't even mention saving jobs. The City's from AEA and ANSP called for reopeners which means specifically not maintaining pay rates for a year. What is worse, all these misstatements have the same theme, that city workers are unreasonable intransigent and unwilling to help with the budget and that theme is the greatest untruth of all.

>> Mayor Reed: I'm sorry, your time is up.

>> Bob Brownstein: Thank you. Flaws.

>> Mayor Reed: Bill Lininger. [applause]

>> Mayor Reed: Bill Lininger, followed by Wigsey and Pope.

>> Mr. Mayor, and councilmembers, I can't go in all the figures like Bob just did pps tall unions have been good at rolling back what they could and we've had a history of that, of work ringing together and being part of this. And one of the most important part of this is not wages and benefits it is that but it is also the dignity of the respect of somebody having a say in what they're going to do. And I would just campaign today for a going back to some negotiating element to do this contract rather than imposing it today, and having the workers feel that they didn't have any say in it. And that's what's going to happen if it does. So I would encourage you all to send this back to negotiating table. I don't think we're as far away from this as people might think. And I think could be done very quickly if it was opened up one more time. Thank you.

>> Mayor Reed: Wigsey Severtsen, Bill Pope, Pascal Robanof.

>> Good afternoon members of the city council. I'm happy to be here not listening to land use projects until 1:00 in the morning, again. I came here because I have been a part of the committee that has been working to try create issues and solve problems for the budget for this county. You all know I know I work for the state, you know that, that the budget is horrible. But what really worries me and what seems to be most disturbing to me is that somehow or other the talking has broken down. And I really believe that it is essential for us to talk. There is no question that this is a difficult time for us, and that we have to find ways to work through the difficult barriers that are out there. But to cease talking, to impose unilaterally, rules and regulations and decisions at this point seems very, very nonproductive and really not helpful to the people in your city. I don't live here. In your city that really do keep the doors open and the business running. So I would urge you to go back to the negotiating table and to continue finding solutions to these problems. Clearly they are out there in the worst of times. They are not going to be the best solutions but they are solutions. Thank you.

>> Mayor Reed: Bill Pope, Pascal Robenow and then John Peterson.

>> Good afternoon, Bill Pope, operating engineers business agent. Last Tuesday when we're here I heard out a strong direction from the council, from the dais, to go back, negotiate, be flexible, and get something that could be ratified. I said I could meet with the employee relations on Wednesday morning. And I set up the meeting to meet with Gina to talk at 8:30. She could not do it at 8:30. The only time she had available was 10:30. So we didn't have that meeting and we moved forward to bringing the teams together on Friday at 9:30. On that day we brought in a proposal, that we believe was our initial proposal, and it touched, it hit every one of those four issues. What we were told then was they were -- they did not have authority to do anything more than the last, best and final offer. Now, we had authority from our membership to work a deal. But they said that they did not have the authority. I questioned that, because I believe you gave them authority from the dais. And not in closed session but in public session. I certainly took it that way. Okay? Now, in order to do this, for us to move forward and get back to negotiations, I can do a side letter today that will freeze step increases for 60 days. I can sign it right now and hand it in. I have already rough drafted. But you need to kind of understand what we did propose to them. We proposed a 2% furlough which is more than a 1.5% raise. We also said we'll do your co-pays but we would like to keep the cap. Okay? We didn't do the step increases, because it was an initial proposal. We talked about selling back vacation. That was in the initial proposal. We expected a counterproposal from the negotiating

team. We got none, except, we don't have authority, but just to give you the last, best and final offer which I think -  
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>> Mayor Reed: Sorry your time is up.

>> All right, thank you.

>> Mayor Reed: Pascal Robenow, (saying names) .

>> Good afternoon. Many of you are either parents or grandparents. As adults we sometimes, we don't tell the kids that we do what is least bad, what is most, but rather we do what is least bad not what is most good because we feel we don't have a choice. Before you consider imposing, I ask you to consider the lack of good faith that occurred last Friday. On Tuesday, City Manager's office staff was directed to negotiate. Now, I wasn't on -- I'm not on the negotiating team but I'm told and I questioned people who were, that the head negotiator for the city, not only stated that they did not have negotiating authority, they stated they were governed by what occurred in the closed session that occurred Tuesday morning, not the open session. It's hard to call that anything less than shocking. And with all due respect, ma'am, City Manager, if you pretend to lead, you will get employees who pretend to follow. It's an egregious show of bad faith and what is the point of reopening negotiations on contract afterwards, if there's no confidence in the City Manager's office willingness to show good faith, meet and confer means meet and confer, it means discuss, it means give fair answers to questions. It took Larry Lisenbee taken out of retirement, it took that person's tieibilities explain it. so what I'm asking is, if you in good faith feel you must impose before the City Manager's office meet with OE 3 again to discuss contract negotiations, have neutral parties question both sides and determine if the City Manager office's staff deserves to be rebuked because --

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

>> Thank you.

>> Mayor Reed: John Peterson, Harry Adams and Debra Simon.

>> Well, the first thing I'd like to say is that this old saying that goes, never let an economic crisis go to waste. And I guess we can say, that's going on here. I've worked for the City of San José for 20 years. I work at the waste treatment plant. Our pay raises with the exception of three years have never kept up with inflation. We have lost benefits and given concessions to the City of San José every single contract. But it is never enough. Our workers that take care of the parks, roads, sewers, fill potholes, man roadways, take care of the waste waiter, are now incapable of living in the city let alone buying a house. Out here in the midst of an economic crisis as usual the city wants it all. They not only want wage reductions they want permanent benefit reductions. Our union OE 3 came up with a plan that would help the city with the budget mess and when the economic situation returns to normal we would like to furloughs for the next year and forgo raises to for the same period of time and when things get better, which they will this recession won't last forever then we would like our benefits and pay raises to revert to normal. We of course will negotiate all of this in good faith. Unfortunately in these times we can't have it all. I think the City of San José management wants it all. They want to keep lots of unnecessary things that subsidize like golf courses and mariachi festivals and we in OE 3 are willing to help any way we can but we don't think it's fair of management of the City of San José to take advantage of this situation and take our hard minutes away forever. thank you. .

>> Mayor Reed: Harry Adams, Debra Simon, Tom fink. [applause]

>> Good afternoon, mayor and councilmembers. Harry Adams from the South Bay labor council. It is totally unbelievable to me the report that you just got from staff. Both the City Manager and Mr. Gurza. It is unbelievable because you sent city staff back last week to negotiate. And to try and reach an agreement. City Manager, all she would say about the past week is, we remain in the same position as we were last week. The only reason you're in the same position as you were last week is because the city refused to negotiate. Mr. Gurza did not even address what happened in negotiations on Friday. I sat in as an observer. I saw the negotiations. I have bargained contracts, public sector and private sector contracts for many years, and I know bargaining when I see it. OE 3 came in with the substantive proposal. Gina and her team consistently said, and I'll give you the direct

quotes, and you can check my notes from the meeting, we just came to hear what you had to say. We have no authority to go beyond our last, best and final offer. There is no new authority. We have the same direction from the council. We don't have the opportunity to get the authority. And finally, amazingly, I was concerned, people would be confused when the council asked for flexibility. I know, these are workers, maybe you don't think that they understand five-syllable words, but we know what flexibility means. The bottom line is, the City refused to negotiate and there's only two possibilities for why they refused to negotiate. One, the council gave in closed session not to negotiate and then in open session pit on a show.

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you.

>> Mayor Reed: Debra Simon, Tom fink [applause]

>> Mayor Reed: Followed by James Kim.

>> Good afternoon mayor and city council members. I am reverend Devore Simon and I represent the interfaith council. Along with other city residents I have been watching the progress of the City's budget deliberations. I am aware that the stives various bargaining units have been sacrificing wages, unpaid furloughs and propose other cost savings in order to reduce services and to save services and jobs. We should be encouraging and opening the door for every opportunity and willingness of city employees to share in this painful situation. In lean economic times the faith community views shared sacrifice as a moral necessity north to safeguard the community. -- in order to safeguard the community. justice calls for taking a stand and for living by one's deepest convictions. We want to you continue to display the courage to do the right thing for working people. And Dr. King said about the necessity for justice for workers, particularly for those who do the hard and difficult labor for the community, he spoke about the need for people to act upon their convictions, he said let us be dissatisfied until every capital house, houses a governor who will do justice, who will love mercy, and will walk humbly with God. Let us be dissatisfied until, from every City Hall, justice rolls down like water, and righteousness a mighty stream. Thank you.

>> Mayor Reed: Tom fink. [applause]

>> Mayor Reed: After that, James Kim and then John Max Rigor.

>> Good afternoon, mayor and members of the city council. My name is Tom fink and I'm speaking today for AT local 265, a union that represents 1500 transit workers at VTA. As a citizen of this community for over 50 years I've seen the slow but steady erosion of public services as local revenues have declined in the post-prop 13 era. The current hard times have dangerously accelerated the curtailment of programs and services. I've also been following the progress of budget deliberations. It is a sad state of affairs that city service workers cut cost by taking unpaid furloughs and to offer other substantive concessions in order to maintain services and preserve jobs. But as a citizen I admire their community spirit. As a frequent participant in contract negotiation myself however, I know the ability to reach agreements acceptable to both sides depends on the maintenance of a respectful relationship between managers and bargaining units. The unilateral erode the trust and good faith that is bedrock of such a respectful relationship. Public employees take pride in working for their fellow citizens, their friends, their families and their neighbors and are clearly willing to make drives maintain services critical to their well-being. It would be tragic if the city council underminde that community shared spirit of sacrifice by imposing a contract not agreed do by both sides. It would create a legacy of ill will that would last well into the future. Please don't impose -- thank you for your attention.

>> Mayor Reed: James Kim . Followed by John Max rigor and Jor Evans.

>> Good afternoon mayor and city council members. As a long time resident of the City of San José I'm here to talk to you about some members of the operating union. By going to the marks and rec commission meeting for last three years, three years or so, I've learned the importance of park rangers and some of the park maintenance workers that affects our City's service to general public. As you all know, park rangers are representing our city during their -- at certain parks and you all know that they are the safety net of the park system. I know things are

tough. Economic times are horrible right now for every one of us in this place. But there has got to be a more creative way than imposing a contract. I ask all of you to reconsider taking this recommendation and voting against it. Thank you.

>> Mayor Reed: John Max rigor, Jor Evans, rueings Signorino.

>> Honorable mayor, councilmembers, I'm John Max rigor, I'm an OE 3 member one of the negotiating team members. I would like to read an excerpt from Councilmember Herrera and I want to make this motion to give OE 3 bargaining table, I'm not suggest mediation, I'm suggesting getting together today, tomorrow, immediately as it were as soon as we're out of here to come together and hopefully that it can be a negotiation with whatever flexibility can be had there to come together in agreement so that we can put this to rest in a positive way and move forward. Later in the meeting, Alex Gurza responded, Councilmember Nguyen, we absolutely agree and Gina and her team will be available to negotiate with OE 3 between now and when it will have to be ratified by next Monday. Gina's quote was I do not have the authority to negotiate, nor do I have the ability to contact someone to obtain that authority. The city has not negotiated last Friday, they consistently have not negotiated with us. We are here to negotiate. We have made substantive proposals and the city is not interested. We agree, there are economic problems. We agree to the ultimate destination. We want to discuss how to get there. And I find it very frustrating when this council gives the City Manager's office direction, which way to go, and the City Manager defies that. Explicitly. When their representative Gina Donnelly is not given the authority to negotiate on your behalf. In our sector that's call insubordination. And it's usually dealt with quite harshly. Councilmember Oliverio last week questioned Bill Pope about how much time he had to work on this matter. Well, they couldn't meet Wednesday. Thursday, there was a membership meeting and barbecue, members got together, came forthwith influence ideas. To make proposals --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Jore Evans, Ross Signorino, followed by Cindy Chavez.

>> Hello, council. As a new employee of City of San José I didn't come here to be removed from my -- what I was garpted to be placed. When I hired on to City of San José I was guaranteed basically raises every year. Now that I'm not going to get those under this council's members meetings I don't think I should even left my old job. As I leave East Bay mud to come to City of San José, I feel that I should have stayed where I should have been. The City of San José has not promised me anything but is not guarantied me anything in the absence of what is going on with these negotiations. I don't want to say that I want to leave the City of San José but if you want to retain workers, the quality that you've hired, then why do you stop the act -- to give the benefits that you printed when I hired on? Thank you.

>> Mayor Reed: Ross Signorino, Cindy Chavez. Followed by Randy Sakani.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. We can turn the time clock back a week ago, same thing all over here. A week was decided, we'll come back and see what we can come up with. I agree with the first speaker that got up here and talked about all the good that these people do for our city. And I don't think any of you, being reasonable people, and you are reasonable people, that can deny how well these people work for the city and keep this city going. There's no question about it. We would like to be and I'm sure you would like to be, I should say, be generous in every way in the past. But the past is gone, it's no longer here. We have to think of the future and what's going on right now. The mayor himself last night talked about what the state might do. And we want to negotiate a contract here when we don't even know what's going to happen there. The county don't evenly know what the state's going to do. Other statistician don't know what the state's going to do. They're going to raid our treasury, raid our tax dollars in every way they can to balance their budget. And somehow or another, somehow or another we have an audience here that can't see that. And the courage is going to be yours now. To decide what to do and how to the do tonight such a way that everybody gets something out of this and at the same time we keep this city going the way it should go. I am appreciative of anyone who works in this city here. When I see the garbage man passing in the morning collecting my garbage, I often take the time to say good morning to him, I often think of the people in the recycling plant who have to operate all these items at our

recycle plant, a job that I wouldn't want to do and I am grateful, I am grateful for those who are doing it for us. But somehow or another, somehow or another people sitting here in this audience think that you and the people in San José are not grateful. Well, let me tell them now that you are grateful and the people San José are grateful for their service that they provide.

>> Mayor Reed: Sorry your time is up.

>> But there are certainly limits to what we can do. Thank you.

>> Mayor Reed: Cindy Chavez. (saying names).

>> Good afternoon. I first wanted to start because we tried not to have a thousand people to speak to you to ask those people who did not speak but came to support the operating engineers to please rise. Thank you. And you're welcome, mayor, that they didn't all speak. Let me just say I know the matter before us is serious, and I want to address it by starting out by talking about kinds of big picture and the way the South Bay labor council and the way many of the unions tried to approach this budget. Early on when the community budget working group got together, the union sat faith leaders and community leaders all sat together to try to deal with the budget. And the importance of that was recognizing that nobody wanted somebody else's ox to be gored and to stop having debates about who was being impacted or more hurt but really try to address the problem before us. And there were up some and I will say Councilmember Luigi mentioned that maybe we should be looking at the Healthy Neighborhood Venture Fund and I want to tell you why that didn't happen from the labor movement's perspective. It didn't happen because we're all in the same boat. The unions, not jut Camp and -- well all the unions tried to come forward with money because they wanted to be part of the solution. Here is where I think the challenge is. Without pointing fingers at one or two people the challenge really is the challenge we give ipse important one for us to consider. And somehow in this process, I don't know if it's from people being afraid or timing, people backed away from the big picture. If we think it is rough this year it's only going to be worse next year and imposing on this union is a terrible way to lay the groundwork for next year. Fear and intimidation is not the way we're going to get through the next year. We're going to get through it because we all work together. I know everybody is worried about the clock and the time. We're worried about it too. Worried enough that these guys are willing to sign a side letter. Worried that these guys scheduled an election for yesterday because they were so certain that they have been --

>> Mayor Reed: Time is up.

>> And I bet you're dying to say that. I'm teasing. Appreciate your sometime. [applause]

>> Mayor Reed: It was my first chance. [ Laughter ]

>> Mayor Reed: Randy Sakani followed by Calvin Gill.

>> Mayor, city council you've heard a lot today, I want to make a couple of quick points and I'll let the neck speaker go in, come up. First point, old adage, point we certainly take where there's smoke there's fire. You've heard over and over today stories about a problem with the negotiations process. From one group, I can tell you it comes from all groups. There's smoke, there's fire, you got a problem. You decide. Second point, imposition, you heard very eloquently from my good friend Cindy Chavez, the reality is this, you have a problem this year but you have another problem next year. If you impose and please, not, this is not a threat, but you will scare the workers so profoundly, and so completely, that the chilling effect that will have when you come back and try to get support next year will probably make it insurmountable to have any kind of cooperation. I'm not threatening. I'm saying that that is the reality. That's how your workers, your family members, as the City of San José family, are going to feel. Okay? I'm retired, so I'm not one of them anymore but I'm telling you that's what they're telling me. The people who are standing up today and saying we want to help but if you treat OE 3 like this and set that example that's the effect it's going to have. That's not going to be good because we all have bigger challenges next year, whether it's relative to retirement and stuff like that, please don't impose on OE 3, thank you.

>> Mayor Reed: Calvin Gil. [applause]

>> Thank you, Mr. Mayor. City council , to give me the opportunity to speak. My name is Calvin gill and I'm a community activist. And I just want to share my personal experience as an employees and a small businessman. During my lifetime I saw so many tough times like we have this times. But if we want to increase the profitability some if we want to increase the productions, and if we want to deliver the quality product on time, we must work with the employees. I want to request through the city council, before they make any kind of recommendation or decision, please open the door, and work with the employees one more time. Thank you. Thank you very much.

>> Mayor Reed: That concludes the public testimony on this item. I'll bring it back for council discussion. Alex, I'd like for you to put up on the video the chart that shows the agreements that have been reached, that one, employee unit comparisons. We're talking about four terms here. These are terms that as you can see have been agreed upon by nearly every other union. All seven of the other federated unions have agreed to these terms. And four terms do not make a contract. If the council adopts the staff recommendation, and imposes these four terms, that is not a contract. We still need to negotiate a contract. And we need to move ahead in order to do this. So I'm going to be supporting the staff recommendation to impose these four terms. But at the same time, we need to get back to the bargaining table to negotiate a contract. We've been at this for five months with OE 3. We do not have a single tentative agreement that we got during the course of the five months in negotiations. That's not a good sign. So I'm not optimistic about how quickly we can negotiate the rest of the contract but it last to be done, and we need to get started on it immediately, as soon as we can. So that's what I think we should do. And I just want to note for everybody to understand, that when Alex Gurza and Gina Donnelly and the negotiating team and the City Manager go to negotiate with any of our bargaining units, they do it only after receiving authorization from the city council. They speak for the city council. They carry the collective will of the city council. That's their authority. I would say we had maybe a dozen meetings in closed session during the negotiations with OE 3, and we're down to these four terms. And we're down to these four terms because they're very important to the city, for all the reasons that were outlined we need to move ahead, we are at the ends of the fiscal year. There are things that have to happen on, well, before July 1st. And these four terms need to be in place so that we can continue the negotiations over the terms of a contract that we need to arrive at with OE 3. I think it will be more difficult next year because every time we turn around there's more bad news coming from the state of California. But to say that the seven, eight or so unions here that have agreed to these terms, that it's not important, and that we can just ignore the fact that we don't have everybody agreed to them, is also a problem, in terms of next year. Because I know, from talking to the leadership of each of these bargaining units, that agreeing to some of these terms was very difficult. It was painful. It was contentious. Their membership is often divided, and on these kinds of things, you know, they get divided. But through the course of coalition bargaining, seven unions, it's a very difficult thing to do, came to agreement on these. So everybody else has agreed it is time to move ahead with OE 3. Today our only choice is to implement or not implement. There's no agreement in front of us to consider. So we're down to very few choices, and very little time, and that's why we need to act today. Councilmember Constant.

>> Councilmember Constant: Thank you, Mr. Mayor. First I'd like to put forward a motion to approve staff's recommendation and if there's a second then I'll speak toe it. Okay, thank you, Councilmember Pyle.

>> Mayor Reed: We have a motion to approve the staff recommendation.

>> Councilmember Constant: I think that it's really important that we move forward today and implement these terms. It's important to the residents of San José, and it's important to the employees in this city who, if we don't continue to make affirmative steps to address these financial issues that we face, that we will be laying off scores of employees. We have found, just in the last 24 hours, a lot of new information about our budget. Sales tax numbers that are much worse than we expected, that create a \$7 million gap this year and a little bit larger gap next year, information that the state legislature is entertaining taking \$39 million from the redevelopment agency, we heard not too long ago that most likely the state is going to borrow money from our General Fund with some promise of paying it back some time in the future. That is if they don't change the law so that they don't have to pay us back. And no matter where you look, we keep seeing more and more negative financial information. And when we talk about some of these numbers, we have to remember that we're still looking a quarter in arrears. So we don't even know what the numbers are for our most recent activity. But we do know anecdotally, that you can't listen to a radio report or a news report on TV that doesn't talk about the continuing decline in retail sales. All you have to do is stop by any of our shopping malls and talk to them. Talk to Westfield valley fair that's cancelled their

expansion plans. Talk to any of the dealerships in my district that are now vacant because they don't have the sales and can't support staying open. It is a situation that is not only bad, but it's getting continually worse, every single day. We don't have to look far to other municipalities to sigh employees suffering severe wage cuts. Large numbers in a lot of the surrounding municipalities. We're not asking our employees to do that. We're simply saying, let's freeze time right now, let's freeze pay. Let's do something so that we can get through this fiscal year, because you know what? Next fiscal year is even worse. Look at all the struggle that we're having right now dealing with this budget deficit, and 12 months from now, we're going to be pulling whatever hair we have left on our heads out. Because it is going to be a lot worse. The four issues are the issues that are at discussion here are the wage freeze, and I truly think that a true wage freeze across the board for our city employees is necessary. And it's necessary to keep the other city employees working. And also, just as importantly, to continue to deliver the services to the residents of San José. That is why city governments exist. We exist to provide services. And it's important that we provide those services, and we do that by keeping our employees employed, and working, every day. The health insurance issue, the health insurance premium, 90-10 split and the co-pay, these are very, very reasonable issues for us to be discussing. Not only, as you can see by the chart here, is that something that has been agreed to by every other union. The co-pays is every other union except for OE 3. The 90-10 cost sharing is all you about two unions, OE 3 and local 230. These are things that many of our friends and neighbors in the private sector have fared far, far worse than a 90-10 split and a modest \$10 co-pay. The retiree health care issue, the funding of the gasb liability, that 1.64 billion dollar liability, that although we decided 20 years ago, that we were going to pay this on a 50-50 split, we're just now coming to the realization that maybe we should start funding that according to the agreement we made 20 years ago. And 23 years ago now because I believe it was 1986. Again, this is the only union in the federated retirement union that has not agreed to do that. on the trustee system it is really important that we move forward in this next fiscal year with all of the federated employee unions that participate in that plan moving at the same pace, under the same conditions. It is going to be a bureaucratic and financial night mayor to segregate the funds and deal with different unions having different approaches to addressing the health care issue. It's a very reasonable plan. It's a five-year phase-in. We heard it was going to be \$4 and something cents per week it is a very reasonable concession for us to make, so we can continue to move forward. And finally, the disciplinary appeals. It is something that if, again, you look at the chart, it's the only area where we don't have this clarification. I don't think that the city really is being unreasonable in any one of these categories. In fact, I think that it is something that is very, very reasonable on all accounts and it's something we should do. And I just want to reiterate what the mayor said about the City Manager and our office of employee relations. They're not the devil. They're the agents -- they're following our direction. And when I hear so many times from so many different people that it's mostly about Alex, about how he's not doing what the council said, I can tell you that every time I've heard that, I can tell you he's been following the direction that we've given in closed session. And that is important, that people understand, he's not the object of your hatred and your concern. It's the majority of this council, that we give very clear direction, every Tuesday when we talk about these labor issues. We spend hours and hours and hours going through this stuff. And I can tell you, he tells us the messaging and direct quotes of what you guys are asking for. We're not just blind in there, only hearing one side of a story. We hear it. We give direction, and Alex and his team are out there executing our direction. So if you're mad, you should be mad at us. Not Alex. Because we, as a collective council, with a majority of vote, often time unanimous vote, give direction to Alex and his negotiating team. Now, my last comment is, you know, when we talk about misinformation, I don't think we should be painting with such a broad brush. Because I tell you it would be just as easy for me that many people who spoke here gave misinformation. Because I have the offers right here in my hands. I can see that when a furlough is offered, there's also a buy-back of vacation. So you save \$800,000 and you spend 800,000. That is not a concession those are issues that if we're going to say there's disinformation, then everybody has the obligation to be 100% truthful with the union members, with the public, with the council, with your comments, and let's just put it out there. What has been proposed is very simple. It's four points. It does not say that we're implementing a contract and you're stuck with this for two years. It truly follows the spirit in fact the letter of the Mel yous Meyers Brown act that says you implement prior to enacting your budget which by the way we're doing today and that you implement the terms and you go back to the negotiating table and continue to negotiable to get a item. And that is what the intent of my motion is. If anybody's unclear about what it is, it is to impose these terms effective July 1st, and with the clear direction that we are to go back to the negotiating table and negotiate a contract. But we have a deadline, folks. We are talking about things now. We have one council meeting left in this fiscal year. And we have obligations to the residents, the employees, the taxpayers, the businesses of San José, July 1st, and this is the only way that we're going to meet them. And I urge the other unions that have been discussing with us concessions and true wage freezes, please, we need to do this. We have an obligation to the businesses and residents of San José. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And during public testimony and so on I've gone back and forth with the City Attorney to ask questions because I just want to be very cautious and careful as to what I can say and can't say. Because I know that much of what we discuss obviously in closed session but even, you know, amongst each other sometimes it's not -- they're not items that are for philanthropic debate but rather we debate amongst ourselves. But the -- the big -- you know, Councilmember Constant, I don't -- I agree with much of what you said. I think there are the four items here are items that have been up for negotiation, have been discussed and so on and will continue, you know, or they've been discussed 50 systems, have been discussed with OE 3 and so on. And one thing I will agree also is that, you know, ultimately the buck stops with us. And whether people put blame on Deb or Alex or anyone else really, it is our direction, it is our leadership that ultimately is the final say. It is -- we are the ones to blame one way or the other with what we decide to do whether it's implementing or not. I certainly believe that the tenor that I've -- or the tone that I've shown throughout has certainly been to try to come to an agreement. And specifically try to come to an agreement that is supportive of the mayor's budget, but also allows for us to deal with other issues as well. And from the public comments today, we've heard a lot of different issues raised. And we've even heard of a suggestion that there may be an agreement to pay freezes or wage freezes and Councilmember Constant, as you indicated right now, our biggest priority is to make it through this next year or two. And without wage freezes we certainly can't do that. The other four items don't specifically deal with that but you know, but they do -- they are important issues as well to discuss. Now, if there was an inability for true discussion of options over this past week, and if for whatever reason, Gina and Alex were handcuffed in their ability to discuss, and if OE 3 showed that desire, but again, they were also handcuffed because they couldn't get a response, I don't think that's the fault of OE 3 or of our bargaining team. I do think that the most important thing right now is -- well, there's two things that are critically important. One is fiscal responsibility. We want to make sure that we get through this budget cycle and that the Mayor's Budget Message is adhered to as much as possible. So that the services that we've all -- we all care about can continue to be delivered. But I think it's also important that, as was indicated by many speakers today and as has been indicated by many of us over the past few weeks, it is important how we go about the business of our city, and it is important how we relate with all our unions including OE 3 and regardless of how some bargaining units or other parties may talk or act, that we always must remain above the fray and we must always do everything we can to show that we are committed to our employee family, as much as we are to fiscal responsibility and to the citizens of this -- and the residents of the city. Now, I did pose some questions to Rick, and those aren't questions I -- that I -- I don't even know I can pose those questions publicly, because I think some of them are relatively detail-oriented and some of them may relate to specifics. So I don't know if I can repeat some of those questions, Rick. But there are some questions I think would be very helpful to get answers to, to know with what other options we might have. I know that we cannot discuss specifics of anything that was either -- that we've discussed, in closed session otherwise, or that any specifics that have been mentioned in public hearing today from the dais. I believe that's a correct interpretation.

>> City Attorney Doyle: That's correct.

>> Councilmember Kalra: Now, because I do have questions that deal directly with what options we may have but they depend very much on what the other party may or may not do, and so I don't want to jeopardize any or I don't want to talk out of line, and go into areas that I'm not supposed to, in -- during a public hearing. But I do have questions that I think may be very helpful to be answered.

>> City Attorney Doyle: Well, there are areas we can talk about. Clearly with respect to what the various options are, I mean, and the agenda item, what the consequences might be of implementing the last, best offer or not implementing the last, best offer. We can talk about that. Certainly that's a public discussion.

>> Councilmember Kalra: If we could -- if you could just go through each option that we have, each individual option that we have right now I'd really appreciate it.

>> City Attorney Doyle: Well, on the agenda today is a recommendation, and there are two items and they're in the alternative. The first was adoption of a resolution approving an agreement. That's not on the table because there's no agreement before you. So in the alternative the recommendation from staff is to adopt the resolution

implementing the terms of the last, best offer which Alex has given you the presentation. The council's choices are they can adopt the recommendation and implement and instruct the -- I think the motion on the floor is to do that, with -- instructing the staff to go back and then negotiate with OE 3 which is clearly one option. The second option is not to implement. And there is always the option I guess you can defer the item too as you did last week and not take action. And that seems to be the panoply.

>> Councilmember Kalra: And what's the effect -- we know the effect of approving the motion on the table. What's the effect of B and C, of those three options?

>> City Attorney Doyle: Of not implementing. Then the terms set forth in, before you, the retiree health care, the various -- the terms of the last, best offer are not adopted and you then, staff I would probably have to come back and regroup and revisit the issue with council in closed session to get direction for negotiations. I think it raises a lot of questions vis-a-vis the budget because I think some of the budget items contemplate concessions.

>> Councilmember Kalra: Okay, so I mean in some sense, it sounds like almost starting, I mean not from scratch but starting from a -- from an earlier negotiation, an earlier stage of the negotiation and then in that sense starting from scratch with the bargaining unit.

>> City Attorney Doyle: And the C option, the deferral option, I didn't mention again, you are back in the same position you were last week which is you can impose it again. Have one more council meeting scheduled, you can impose it again next week if you so opt to. It does raise questions vis-a-vis the budgets but that's something you need to talk amongst yourselves in terms of the concessions.

>> Councilmember Kalra: Now can I ask a question related to something that was brought up by a public speaker and maybe I'll just ask the question. If it's inappropriate you can tell me but in regards to the mention of a letter that would forgo step increases. And I know there was some time put on that, but the general concept of that, is that something that I can ask what the effect of it would be or is that an appropriate task in a public hearing?

>> City Attorney Doyle: Are you asking me what the effect of it would be or --

>> Councilmember Kalra: Well, I would ask is what -- first question would be, would the management of the union have the authority to do that?

>> City Attorney Doyle: I don't know the answer to that.

>> Councilmember Kalra: Without ratification.

>> City Attorney Doyle: It really is, as I heard the offer, Mr. Pope indicated he had the authority to go up to 60 days with a side letter saying freezing any step increases. 60 days is not going to balance your annual budget. The -- even if he does have the authority. I don't know the scope of that authority. I assume it would be in the bylaws or judge in the union documentation. And that's just something we'd have to verify. Without a ratification, though, you wouldn't have -- it would be tough to rely on anything beyond what the side letter, the 60 days.

>> Councilmember Kalra: Sure, and again, taking the 60 days out and just the authority itself, whether the authority exists even at all to give a step-freeze, and so I don't -- Alex, I don't know if you have more information on that.

>> City Attorney Doyle: The only thing I'd just note is we don't like to encourage negotiations from the dais.

>> Councilmember Kalra: That's why I was asking him if it was an appropriate question.

>> Alex Gurza: Councilmember Kalra, this is a proposal not made by the City Attorney so I would defer to the City Attorney to talk about the thrieshes. The other issues regarding the timing, the retiree health care funding, the

importance of having it in effect by June 28th when all the other bargaining units and every other employee in the federated system would begin the rampup. The other issue is very complex, how to implement the council.

>> Councilmember Kalra: That's what I don't want to do, I don't want to undermine and I know Alex archtd I know the leadership of OE 3 have had opportunities to meet and I certainly don't want to go into an area that I'm not supposed to. But the reason why I asked the question, and the reason why I'm curious, is I want to -- as was indicated by Councilmember Constant, the wage freeze aspect, in addition to the other four, is critically important in terms of the budget aspect, Rick as you mentioned, you know, if we just -- if we don't speak of that then that puts into question the mayor's budget. And that's -- certainly would be a concern. But if a deferral is made, that doesn't have an impact. In other words, we can just -- we can impose next week for the deferral.

>> City Attorney Doyle: Yes, and again, that's the council's call. Let me add something here, because part of the problem, and there's been a lot of discussions about good faith negotiations and not good faith negotiations, the heart of the problem here is, you have on the table a last, best offer. If you want to preserve your right to implement that, you are limited as to what you can do and what you can say. Or you can be accused of backing off and then you have to start the whole process all over again. I think the staff is in that position, when they sit at the table, of not having that authority because their only authority is the last, best offer. And they have been -- and they are hamstrung in that respect. It is not the question of people don't want to negotiate or can't negotiate. It gets down to the fact that you have a last, best offer on the table and while you can entertain concessions or alternatives or offers from the other side, you really are limited as to what you can do under the Meyers Milius Brown Act. It hasn't been said and I think it's important that it be said.

>> Councilmember Kalra: Okay, and that's 80 understand the limitation of the bargaining team and that was the limitation that they had, which I can appreciate and I can appreciate the frustration that that may have caused at the table. To have that limitation. There's still, even with the week, there's still the opportunity for OE 3 to vote and to vote on something -- and I still have some questions that I posed that I think would be interesting to know the answer to and I appreciate the answer to. But my sense here is that if we still have the same authority next week, I know that the -- I certainly don't want to be at this time in any sense backing off from the direction given to the bargaining units. However, I think that if there is an opportunity for -- I don't believe that -- as far as I know, yoabl OE 3 took a vote. I think they were scheduled to take a vote, from what I've heard, even today, yesterday, they were scheduled to take a vote. Which means they are able to get a vote together in less than a week, because they apparently did it this past week. And so both in regards to the authority of what the bargaining team has the ability to do, as well as the opportunity for the membership to have an opportunity to vote, I would -- I would ask that -- or I would put forward a superseding motion for a one-week deferral to allow that opportunity to occur rather than impose. And to wait, you know, imposition, I think we all agree, and have all made mention of how serious that is. And if we can do it next week and allow them an opportunity to vote with the understanding of where our bargaining team is, and that the best, final is there and that rather than cause any more frustration with being at the table knowing that -- knowing that they're not going to get anywhere, but now they know what the final vote is, they don't have a misunderstanding as to what may or may not be negotiated but it also gives an opportunity for them, I suppose from what I understand Rick, to at least come back and say up or down, from the membership, on the proposal.

>> City Attorney Doyle: I -- if-d and Alex may want to chime in on this too -- I think to avoid any direct dealing I think any discussions really should be with the team, as we talked about last week. Time is short there isn't any time to get a tentative agreement and then go ratify it. But if there are certain concessions or agreement that they would put together and say this is our agreement and you dear the item you do have the option to either adopt an agreement or impose terms.

>> Councilmember Kalra: So basically if we come back next week and they say yes or no to the best, final, or they say well no, we are not going to and we look it and said you know what, that's not what we want, we could still impose?

>> City Attorney Doyle: That's correct. It's phrased in the alternative. I'm assuming you're putting forth a motion to -- continue the entire item.

>> Councilmember Kalra: Yes.

>> Councilmember Campos: If that's the motion, I'll second it.

>> Mayor Reed: Alex.

>> Alex Gurza: I'd like to clarify to make sure the council is aware. Operating engineers did already take a vote on the last best final offer. The exact same last best final offer that's before you today. And we were notified by OE 3 last Tuesday that it was overwhelmingly voted down. So the question is I guess what they are voting on. Whether they're voting on it again, whether they are voting on something negotiate that they would vote on or that splip a revote on the very same last, best, final offer.

>> Councilmember Kalra: And on that point, Alex, Rick, if they -- and so I guess those were the kind of three scenarios that I put out there, either they can vote yes to the best final or no to the best final or that they can vote on something that's different. But in any -- either way no matter what, I mean, Alex will -- Alex will have to be presented with whatever that is.

>> City Attorney Doyle: Right.

>> Councilmember Kalra: And presumably can't really respond if it's not a best final agreement.

>> City Attorney Doyle: Right. And it's -- but it's basic contract law where you have offer acceptance and consideration. Through the bargaining group they make an offer that the city council is willing to accept you've got an agreement.

>> Councilmember Kalra: Okay. Yeah, then -- that will be my motion then for that one-week deferral.

>> Mayor Reed: On the motion, the motion is for a one-week deferral of everything on this agenda item. Councilmember Constant.

>> Councilmember Constant: I just think that one-week deferral is not good. We did this last week. We have a budget that we're going to be talking about and voting on today. This is something I think we need to do. And remember, this does not preclude negotiations. This is just one step on the way and negotiations will continue. So I urge my colleagues not to vote for this deferral so we can get back to the original motion.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I have a question. I would think the original motion would not preclude coming back in a week.

>> City Attorney Doyle: That's correct. The motion on the table, not on the table but the first motion was to implement with the direction to negotiate as well. So both of them require continued negotiation. Well, not -- let's take that back. The first one requires negotiation. The second one says let's defer the item and entertain any concessions or offer that OE 3 may bring forward.

>> Councilmember Pyle: So the result will be the same, or they could very well be the same.

>> City Attorney Doyle: It could be.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. And Rick, to be clear, and maybe there's a question I should ask to Councilmember Kalra, the motion is not to negotiate.

>> Councilmember Kalra: No.

>> Councilmember Liccardo: The motion is to keep the last best final offer on the table.

>> Councilmember Kalra: The motion is for a one week deferral, yeah, to allow for their response to the -- final response to the best last final offer and from what I understand from Rick, they can vote it up, down, or they're still within the purview of contract negotiations, they can force something else as well. However, Alex would not because of the best final, would not -- that's why I want to make clear -- would not have the authority to respond to it. And so I don't want -- I don't want any sense that Alex is not negotiating because he just doesn't have the authority to do it. And so basically I would -- you're right, it wouldn't be a direction for Alex to go back to the table and negotiate. Because then that would remove the ability for us to implement, I believe that that's what my understanding is.

>> Alex Gurza: I just want to add that I think that in my experience when there is a union ratification vote it is as the City Attorney mentioned after there's a tentative agreement reached with signatures on both sides, so both sides know what is being ratified. So again what would need to be very clear from what I understand from Councilmember Kalra's motion, is it simply would be taking another vote to accept or not accept the last best final offer. The first vote was negative, to see that again, that a ratification requires tentative agreement.

>> Councilmember Liccardo: And mayor, if I could continue the questioning. So Rick, just building on those points that were made, or the the council to consider nying next week that's any different from what we are facing this week, we would need ratification from OE 3 of either the last, best, final offer or something so close to it that it persuades the council to accept staff's proposal, is that correct?

>> City Attorney Doyle: That's correct.

>> Councilmember Liccardo: All right. With regard to the letter that was put out I think on Friday, regarding the terms that OE 3 had proposed, is it fair to say that we've been discussing those terms, that that's a topic of public discussion that's not something restricted to closed --

>> City Attorney Doyle: Alex, I think that the people have talked about it, I --

>> Alex Gurza: Yes, operating engineers e-mailed it to the mayor and city council on Friday and so we believe in that sense it was by that action made public. There was no ground rules about confidentiality of proposals but they did e-mail it to the council directly.

>> Councilmember Liccardo: Okay.

>> Mayor Reed: City Manager had a comment on that.

>> City Manager Figone: Rick, could you please clarify the point that Alex made about ratification?

>> City Attorney Doyle: That's a good point.

>> City Manager Figone: I'm sorry the tentative agreement and then ratification. I just want to make sure if there's a process step that has to be worked in that, it's very clear that staff will do whatever the council would like, want to make sure it's clear.

>> City Attorney Doyle: In the normal order of business, you have disagreements agreements reached at the table. It's called the tentative agreement subject to ratification. It then gets ratified by the membership and then comes to the city council for approval. In this case given the time constraints and again this is out of the ordinary but there's nothing I think that precludes the OE 3 from ratifying what -- what their proposal as a proposed agreement, presenting it to the negotiating team, who then would have to bring it to the council for an up or down. And the council's last best offer is still the offer of the city on the table that it can implement. The important point is that the council has not backed away from its last best offer but if something comes forward through the team as contemplated in the agenda item it is something that the council can entertain. Disf so just to be clear under the normal process there would be a tentative agreement that both parties agreed to bring forward, and it's voted on, in this case the risk would be without a tentative agreement, if the membership is presented something to ratify, the council may still find themselves in a position of not being able to live with what is being ratified?

>> City Attorney Doyle: Right. Or --

>> City Manager Figone: Or the converse.

>> City Attorney Doyle: Right, and it is out of the ordinary, and you run the risk of direct dealing, which we want to avoid. That is the concern. I think we have to be careful on Maui approach this.

>> Alex Gurza: Right, to vote on the last best final offer is the next step. Normally the union membership can vote up or down. Any other vote on a ratification of the contract is something it is important for both sides to understand what is being voted on and is it authority that we have to enter into that agreement we know what is being voted on and we understand what the terms are and then that gets ratified. At this point the only thing on the table is the last best final offer.

>> Councilmember Liccardo: Thank you, Alex. I think this buoyant was made plain by Pete earlier. This is important. If there is a disconnect that people are hearing from council and the negotiating team about the scope of their negotiating authority, the fault in my experience has not been that it's the fault of the negotiation team. It's a fault of council. And so the buck really stops here, if you're frustrated because you 30 you're hearing different things from different people. I'd suggest that the fault is with your elected representatives. What I am concerned about is, what this sets up. And by that, I mean this: We're in a dynamic now where clearly, because of our need to preserve the ability to go to impasse, if we need to do so, Alex and Gina have no discretion to move. That means by necessity if there's going to be any deal, it's going to go straight to council. There's going to be an enormous temptation for direct dealing. Without casting aspersions of any kind, I think that's literally the only way for a deal to be worked out is to go straight to council. I just don't think, if there was an 11th hour that was a week ago. And the only difference between now and a week ago is we're a week older and next week we're going to be a week older still and Alex will probably be ten years older. And I'm just concerned that we're really setting ourselves up for a -- an unpleasant ending. And I'm -- you know, I was very open to the idea of trying to see if we could get closer, when I saw that proposal on the table on Friday, which looked an awful lot like a wage freeze. After further examination it was clear there was not a wage freeze, there would still be 5% step increases, and apparently there would be ways of ambiguitying that with furloughs that ultimately could be compensated with vacation sell backs and so forth. Ultimately my conclusion after looking at the whole thing is the city doesn't get any better off financially as a result when we are trying to solve this budget and you could even get worse off if you count the pension concessions we'd have to make with regard to the furloughed hours. There is a commitment from OmentE 3 to really agree to a true wage freeze, I know they voted it down once, I think that's certainly -- there may be good reason why their leadership hasn't come in order with a true wage freeze, maybe their membership will not ratify it so I don't blame them. That doesn't lead me to any confidence that a week in now we'll be any closer. For that reason I'm not going to support the motion. I appreciate the creativity that's been brought to bear to try to see we can get somewhere closer. Lord knows I'd love to see us get there because I'm mindful of the implications of imposing. But I don't think we're left with any choice.

>> Mayor Reed: This is kind of an interesting juxtaposition motions. The first motion was to impose four terms and then go negotiate. The second motion is not to negotiate and wait and see, knowing they've already voted down the proposed four terms and we've been at this for five and a half months with no tentative agreements. I think we ought to impose the four terms and then go negotiate. We still have a contract to negotiate. There are a lot of terms that we have to work on. And to think that in one week we're going to be anyplace different when there is no negotiations possible, Alex can't negotiate, we can't negotiate, it's just wait and see and hope that something happens. That's just not realistic and we'll be right back here next week with another week's work much trying to deal with it with no other place to go. We are really down to either implement this and have the four terms and negotiate, or we're going to be right back here. So I'm going to not support the motion. I think we should move ahead. Councilmember Chu.

>> Councilmember Chu: Thank you very much. I can understand to give another week for the OE 3 to consider our final and best offer. I think you know we are definitely a week older, like Sam mentioned but we're also hopefully a week smarter. So to have another chance to review the contract, to look at our best and final offer, I think is an opportunity that I would like to give to the OE 3 member, although I wanted to state it very firmly and publicly that I'm standing behind the best and final offer, so this is really another opportunity for the OE 3 member

to vote either up or down. And while -- if they come up with some proposal that's very, very close to our final and best offer, we definitely are open to consider it. I just have one question for you, Alex, regarding to Bob Brownstein's comment, there was something at ABMEI that we're actually not agreeing upon.

>> Alex Gurza: Thank you for asking, Councilmember Chu, I was hoping to have the opportunity to make that clarification. Gina and I negotiated the agreement with the building inspectors. the discipline clarification language is in fact yes, the language we're referring to is section 26.3. The contract is posted online. Away we did do with ABMEI is we have a side letter pilot program, that's attached to the back of their contract. But the clarifying language about the civil service commission's role was achieved with ABMEI and again is article 26.3 of their contract.

>> Councilmember Chu: Thank you very much for that clarification. And also, I know that we didn't give you any authority to respond, because we're impasse, would you elaborate on that to just the audience who'd probably not understanding the current status of our negotiation?

>> Alex Gurza: Yes, thank you again. The procedural issues do get very complex in labor, especially at this stage of the process, and the process of providing the last, best, final offer for first reaching impasse, providing the last, best, final offer. The issue that happened last week is that OE 3 communicated with you directly, asked you to go back to mediation, as Mr. Dietrich mentioned. We at that point only knew that the leadership voted the last best final gown. The council did not know, how far apart of we're? Are we a mile apart? Is there just one small item? So really to go back, the idea to go back is to hear what proposal they might have and perhaps Gina and her team would have heard that it's almost all there in the last best final offer maybe one final item, we just simply did not know. The issue was not to go back again to negotiate from scratch, start over again, to see if we were very close to the last best final offer. That was the issue and the intent of the meeting. Again it's unfortunate that the operating engineers had a different perspective how that meeting could go. I can understand why they felt frustration, ow the South Bay labor council negotiation do but I think it's important to say this is the end of the process not the beginning when there's a lot of exchange of proposals negotiating back and forth. This is postlast best final offer opportunity to see if there's still opportunity to reach an agreement so I hope that clarifies some of the procedural issues.

>> Councilmember Chu: If we give you the authority to negotiate then we pretty much break the impasse, that would put us backwards? Lfg yes, if you -- if the council gave us authority to for example drop some of these items, right, then essentially we are not at impasse anymore, and we can start negotiating back and taboret what those items are. If that were to occur the goal again would be to reach an agreement. If that however were to fail then one side or the other could then declare impasse again, go through the impasse procedure. So I think that's what you're asking, yes. And that could happen if the council chose just to reengage in negotiations. Compared to a post-last best final offer exploration of an opportunity for an agreement.

>> Councilmember Chu: And when do we declare the impasse, could you show that chart again?

>> Alex Gurza: Yes. Impasse was declared on April 8th. And it was several days before the expiration of the contract and our impasse procedures call for a mediation, as could be impasse procedure and then the date there you see is the date that worked out with the mediator and OE 3 to participate in mediation. Unfortunately, mediation did not result in an agreement.

>> Councilmember Chu: But we're almost two months into the impasse?

>> Alex Gurza: That's correct. And then in our local rules, which are referred to as the employer-employee relations resolution, Mr. Pope pointed out tow to us section 23B of the regulation, that indicate that post mediation if an offer -- if a deal is not worked out that the parties could get together to see if there was a mutual way to still resolve the issue. We responded to OE 3 immediately that we would be willing to meet under section 23B, and then operating engineers told us they would get back to us as to when they were available to meet, and that meeting did not occur.

>> Councilmember Chu: Okay, great. Thank you very much. Again, I'll support the substitute motion, and I again will ask for the OE 3 member to please reconsider your decision, and to support our best and final offer. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thanks mayor and I just wanted to comment mayor on your thoughts which are accurate, that the substitute motion is asking to not negotiate because we can't, or at least our bargaining team can't. But to allow for a week to hear back on the agreement, and then the underlying motion is to impose and negotiate. But the consequences of underlying motion would still apply in one week. So it's just a matter of one week to allow them the opportunity, if we have -- if we legally have that week, I think we should take it and I think we should regardless of how, you know, how relations are perceived to be with OE 3 and the bargain team, and regardless of miscommunication or even mistrust that may exist, I'm hoping that we can come to some agreement and at the very least we on our end should do our best to show good faith and give every opportunity for a successful agreement to be made before we impose. By doing it today, although it is beyond the 11th hour there are still a couple minutes left and those couple minutes left are this next week. And so that's the reason why I'm putting forward the substitute motion. Again it's not as Councilmember Chu indicated, it's not to back away from best and final offer but rather, to show -- to show all the bargaining units in our city, as well as the residents of the city, that we are being as reasonable as we possibly can and that we will go to the last final moment to come to agreement or allow for an agreement to be had before imposition and once imposition is made then whatever consequences that occur at that point we'll have to deal with. But I think it's a good message, not just to the bargaining units but to our city and to our community that we're not going to back off what we think is important but at the same time, if we don't have to, we're not going to force the issue until we absolutely have to.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. Jennifer Maguire I see in the audience. If you could come down for -- budget director how long have you worked for the city in your capacity confident finance, budget?

>> Jennifer Maguire: 18 years.

>> Councilmember Oliverio: How does this year compare to anything you've seen in your history?

>> Jennifer Maguire: It is 50 that are the worst year financially for the city.

>> Councilmember Oliverio: And we started these negotiations on December 12th, 2008.

>> Jennifer Maguire: Uh-huh.

>> Councilmember Oliverio: Knowing what you do today versus what you know December 12th, dwai, waw know today looking back now ?

>> Jennifer Maguire: Thank you. Looking back we have obviously had deterioration in our economy in a severe way, continued with a deterioration of our forecast. Most prominently our sales tax revenue our property tax revenue that is now negative, which it's the fifth time it's been negative in 75 years, in the property tax world, our transient occupancy tax revenues are down, as well as our development fee revenues, airport revenues, just any of our economically sensitive revenues are extremely falling short of revenue estimates.

>> Councilmember Oliverio: And your review of the economy on a quick recovery for the budget?

>> Jennifer Maguire: Do I not see a quick recovery for the budget. It's going to be a volatile time for the budget over the next year or two. Most economists think we are going to have a slow recovery and it's going to be a prolonged time before our revenues start to come back.

>> Councilmember Oliverio: Thank you very much.

>> Jennifer Maguire: Uh-huh.

>> Councilmember Oliverio: Alex Gurza. In your chart you had 17 meetings. Were any other meetings scheduled and cancelled?

>> Alex Gurza: I defer to Gina to respond to it. She was the lead negotiator.

>> Yen ah Donnelly, deputy director of employee relation. april 17th, those meetings were cancelled by OE 3.

>> Councilmember Oliverio: Okay. And since I was the person who asked the question if OE 3 could meet immediately, they said the next day, could you explain the difference between the 8:30, 10:30?

>> Sure. We had e-mailed OE 3 to offer to meet at 10:30 with both teams bringing the city negotiating team and OE 3's team back together, based on the council direction that we meet with them. The e-mail I received back was that there was a meeting scheduled with the members for Thursday evening, and that they wouldn't be able to negotiate until after that meeting. But they did request to meet with me at 8:30 in my office to discuss negotiation logistics. I e-mailed back, requested a little more information as to what logistics they were referring to. And the next e-mail essentially was to meet on Friday at 9:30.

>> Councilmember Oliverio: Okay, I appreciate that. I called the budget director over because I think we're certainly in challenging times and we can hear it again and again but I think it helps to hear this. We're certainly not in a position to, on purpose, try to be mean, or inconsiderate of people and how they are valued here at the city. We certainly stated at this first budget meetings that I value the work of every employee' and in my two years here I worked with people who are very dedicated staff. Doesn't mean that some people don't do their work but in the end a majority overwhelming are hardworking people. we've been dealing with this since December. We've had our meetings and he we've kind of come to the precipice, right? We're at the cliff now, we got to go do something. And we have 35 items to discuss, to resolve, and because we as a council based on our budget and what we want to do are at the precipice so we chose four items. Four items that we said hey, this is the best and final offer because this is all we can settle for. In the end would we have wanted to have more in the contract? I believe so because there were 35 items and not four. And the viewpoint was that these four items would garner a concession and that concession would be to save money. Inevitably whatever concession whatever bargaining unit whatever we do to save money here, 99 times out of 100 that money is going to go to keeping people employed that provide city services to residents. And the last and final offer provides cost savings to all funds and a good portion to the General Fund, and as we heard, will be able to employ park rangers for all the reasons that people gave. Security, park safety, et cetera. And then I would say on the matter of equity, the chart has shown that all these different groups in the federated system have agreed to funding of retirement. There is a massive liability that was pointed out by Councilmember Constant, and that's just equity with the other bargaining units, that that has to get done. If we don't do it now, we just continue passing the issue over and over. And I voted to defer it last week because I felt that there was the need, knowing very well that that was our final and best offer, but giving the opportunity to say hey, you know what, we recognize that and we're going to agree with it. We may not like it, we may not like the current economy, the City's revenues, we might not like that the city made certain decisions in its historic past on lands use and other methods that put us here but that's what we're here for. We spend a tremendous amount of time reading, talking, sitting in meetings, whether it's closed session or staff time with business agents of the union or union members that's frankly nonvalue-added. All these hundreds of hours do not fix a swing set in a park. They don't pave a pothole. They don't provide police protection. Whatever the city service that you can picture, it does none of that. And I know there's this specter and view of hostility of misinformation out there. And we have at one point where we point fingers, and we spend a lot of time going back and forth, tit-for-tat, why we have these labor negotiation as private meetings. These labor negotiations should be in public. We should know and understand what is being said by whom, versus a random accusation. If the city is at fault, I want to know it. If the other side is being unwilling or not bargaining, we deserve to know that, as well. So as we move forward in this area of restricted resources, we have to do better. We have to be comfortable with facts, fiscal facts, honesty. There are two ways of looking at a problem, four quarters for a dollar. But we need to vent those in the public. This has been the closest thing to having a negotiation, a labor negotiation, for the public to view it. And the public's been pretty adamant that they think it's, in these times, in these trying times, that a zero percent wage increase and paying co-payments is fair. Again, I don't expect you to take it -- take this down with no fight. I respect that you're the well organized group that you are, that you're effective, but in the end,

we're here because we have to make a decision. And we've been pushed against, again, the precipice, so we have to make the decision. So with that I cannot support the substitute motion. I believe the original motion is where we need to go, with the intent that is described to go meet at the table again. You know, and this is not going to be the only time we're going to sit in the room here in this building, filled with an audience that might not like our decisions. But those are alternatives. We much be rather voting on building a park or adding some other amenities to our city and adding real value to the residents of San José. But at this agenda item, that's not the point. It's to move forward. So I will not accept the substitute motion. I appreciate the time. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I agree with a lot of what my colleagues have said. We are coming up against a deadline. But I think that we need to utilize every opportunity to try to come to a resolution without imposing. That was the spirit of what I said last week, and why I made a motion for deferral. And I apologize if my comment about showing flexibility implied that we had more flexibility than we did. And I think that's one of the reasons I want to -- one of the reasons I want to support the deferral. Is I think there was some misunderstanding created by council. And I take full responsibility for being part of that. We are at a situation right now where we need to pass a budget. And I support mostly what's up there. I support it. And I support what the council's been doing. But I would like to give another week for OE 3 to come to the table and ratify our best and final offer or come so close that we are moved to do something different. And so I will be supporting the substitute motion.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I have an expression that says, if something goes wrong, it's more important to talk about who's going to fix it, than who is to blame. Surely, there's room on either side of the fence for blame. We're not all perfect people. We don't do things always the way we should. But if the message was sent that we are up against the wall, and it isn't us that you need to be mad about, if you want to get mad at somebody, point in the direction of Sacramento. Then we are up against it and we don't have the luxury of allowing extra time, more than we should, to change what we all know needs to be changed. the message is still the same. We need to work as a team. And it is, I think nine of the unions have already done exactly that. What kind of a message do we send to them if we keep extending and keep extending? I hope that in the next week an agreement can be reached. But I think enough said. Let's get on with it. Let's not worry anymore about who's to blame. And get busy and fix what is wrong. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. First of all, Councilmember Herrera, I appreciate your explanation and your comments. Because in listening to some of the comments, it was clear to me that there may have been some miscommunication from the direction of the council last week. That's why I second the motion, so that there is clarity as we move forward, and that's why I will be supporting the motion.

>> Mayor Reed: Thank you. Well, I'm going to vote against the motion. I think we ought to move ahead and negotiate, and let's get these four terms behind us and negotiate a contract. And so I'm not going to support the substitute motion. But I think that's the end of the debate, at least based on the indicators I have here. So on the substitute motion, which is to defer for one week, all in favor? One, two, three, okay, in favor of the motion, Kalra, Chu, Campos and Herrera. Opposing the motion, Oliverio, constant, Reed, Chirco, Pyle. Liccardo. The motion fails on a 4-6 motion. Leesk us with the original motion which was so long ago I can remember it, Councilmember Pyle made the original motion to adopt staff's recommendation on the terms. On that, Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and I appreciate the full discussion of the substitute motion, I still believe is that was the best course to allow the opportunity that was indicated, if there was any misunderstanding of what council's direction was, there was now the opportunity to vote up or down the best or final, knowing that's the only motion they were going ohave. I won't support this motion not for that reason but I won't support the underlying in the motion.

>> Mayor Reed: On the motion, all in favor, in favor Oliverio, in favor of the motion Chu, constant, Reed, Chirco, Pyle, Liccardo. Opposed, Kalra, Campos and Herrera. So that motion passes on a 7-3 vote. Hope we make faster progress on the rest of the agenda. But we do have a lot more work to do here. As I get back to my agenda, I'll tell what you we're going to do next. Next on the agenda is, more good news. Deferred maintenance and infrastructure backlog. There's really not much good news in this category. Except we're getting some thrust funding from the federal government. Maybe that will help us on that good news .

>> Ed Shikada: Absolutely, Ed shict, deputy City Manager. Hopefully a slide is woort thousand words and I'll shut up. But quickly, I will note on behalf of staff our appreciation of Councilmember Constant for bringing this forward. A number of difficult choices and infrastructure being a significant need, appreciate the opportunity for discussion. In case we're not able to get it up, let me just note that the report that you have in your packet reflects the range of items included within our infrastructure backlog review. As noted this is a brief update to a report that was prepared over a year ago, and in order to try and show it graphically, what we've got here on the left is a relative term, a one time backlog need for the various categories of our infrastructure ranging from buildings on the left to transportation, the largest stack, toward the right. And then on the very right side, the breakdown of our annual ongoing unfunded needs. The particular good news portion is perhaps starting on the far left with the buildings that the reason that the buildings backlog is as small as it is has been the significant general obligation bond funding that has gone into our public facilities over the last several years. Now just very briefly, looking forward in terms of some of the strategies that exist in order to address the backlog, ranging from bonds and grants, as the mayor noted, to in some cases the bars that are shown in the somewhat orange shade reflect categories that can receive some special funding aside from General Fund but nonetheless recognizing that whether it be utility rates, user fees and the like are very difficult to raise in this particular economic environment. So with that, Mr. Mayor, members of the council, again just appreciate the opportunity to keep this on the radar screen. With that, staff stands by for any questions.

>> Mayor Reed: Okay, Councilmember Constant.

>> Councilmember Constant: Thank you. I wanted to thank Ed, and the staff, for working on this kind of compiling the disparate information and getting it all in one place. I did have one question. I know Ed we spoke briefly earlier today. On the June 8th memo, page 4, in the section 2, the question -- I'm sorry, the section that addresses question number 2, are there specific long term actions the city could consider in order to reduce the backlog. On the second paragraph under that it says the 2008 structural deficit elimination plan proposed an annual ongoing commitment of \$5.9 million for five years to fully fund the \$29 of 5 million annual ongoing need. That math doesn't add up.

>> Ed Shikada: Right.

>> Councilmember Constant: So you can clarify that?

>> Ed Shikada: Thank you very much for that opportunity. I meant to mention that in my opening comments. This is a correction. What it was intended to say is that it's an incremental 5.9 so each year, first year 5.9, second year would be 11.8 and cumulatively over a five year period would build up to an annual 29.5 commitment. That was the recommendation, as a means of phasing in an ongoing funding program, again, coming out of the structural deficit elimination report. That said, again, recognize that there are a variety of potential funding sources that go in, it would need to be broken out by different sources.

>> Councilmember Constant: And then just to continue on that theme to clarify, our budget that we're going to be voting on shortly does not include that first \$5.9 million down payment.

>> Ed Shikada: That is correct.

>> Councilmember Constant: Okay, so one of the questions that I had asked in my original memo is, what do our actions or inactions do to the deferred infrastructure maintenance? So while that question is not directly answered, I think what I'm seeing as the answer is, that by doing nothing this year, we add \$29.5 million onto the problem, is that correct? Because the \$29 | 5 million is what we need to do to make sure things don't get worse.

>> Ed Shikada: Well, given that we're referring to both a one-time backlog as well as the ongoing, it does get complicated. And not the least of which, as the mayor mentioned some we do have an infusion of federal stimulus funds, as a part of the transportation. But to your point, by not providing our ongoing, or an ongoing allocation from local sources, we do make the backlog larger.

>> Councilmember Constant: And then in the area of the parks infrastructure, I'm looking again at page 14, the box in the chart with all the asterisks in it, this \$832 million of one-time and ongoing of \$50 million does not include citywide or regional parks, underground infrastructure or major park expansion projects. I can understand the expansion projects because they're on hold and they're not really deferred maintenance. Those are things we'd like to do. Is the underground infrastructure, is that irrigation systems?

>> Ed Shikada: Yes.

>> Councilmember Constant: My understanding is quite a few of our parks have significant issues with the irrigation systems. And I understand it's going to take a while to assess that. Why have we not really got a handle on our citywide or regional parks because we have quite a few and I would imagine by volume, as far as acreage, they probably equal what all of the little parks put together are, something close to that. And what's our plans to get there?

>> Ed Shikada: As Mr. Balagso comes down, let me also note that this is a good example of a number of categories in which we do have incomplete citywide information. This would include the city facilities operated by others, as well as our storm sewer system. So in large measure, we are in a reactive mode rather than being able to have a comprehensive handle on the needs.

>> Albert Balagso: Councilmember Constant, when the initial infrastructure backlog was put together, we had good information on regional parks to the extent what you see before you. We're not able at that time in order to get this infrastructure backlog together to do a full assessment of regional parks. For the future, what our intention is, is to incorporate those needs and do further research in our asset management program, so that we can add that to the inventory. So there is an additional number out there. We have just not had the resources to go to a comprehensive analysis.

>> Councilmember Constant: Do we have any -- are we talking about 2 million or 20 million, do you woo very any idea of the magnitude?

>> Albert Balagso: I don't have a good number four. I do know that irrigation underground infrastructure is one of the needs we do have there. The tree canopy and other parks regional parks Alma and others we have to evaluate we have just not gone on that road yet.

>> Councilmember Constant: Okay. The reason I asked for all of this and I know it took some work and I appreciate the work, I just think as we go forward we need to continually talk about this deferred infrastructure. Because it didn't get to where it is overnight. It got to where it is because a significant period of time where it wasn't addressed. And we know just by this report that we haven't even really put resources into assess what our needs are. And if you compare this to what we did with our retiree health care liability, the GASB 4345 issue, for a long time we had no idea what that burden was. We knew we had a burden but it was sitting thoroughfare and we just knew it was big. But we took the opportunity to address it, study it, calculate what it is, and come up with a clear-cut plan to move forward on it. And as of today, we have almost all of our unions now contributing to solving that 1.65 or 64 million dollar liability. I really think that we need to do that with all these deferred needs, as well. Because we know, just from reading this, it's around \$1 billion and we still have some very, very big issues that we haven't even analyzed yet. And I fear, after going through, what, seven years of deficits, in our 8th year with a couple more on the horizon, that we are going to make it another five, six, seven years without analyzing, addressing these needs. And I think that we, if we don't completely understand and evaluate the problem, and put a pry tag on it and come up with a plan to fund it, we are going to have a city that crumbles beneath our feet. And I don't want to leave office a year and a half from now or five and a half years from now to a city that has not addressed these issues. I think it's really critically important that we put as much a commitment to this as we have to some of our other problems. And really come up with a plan. We knew when we first started talking about the GASB issue, we didn't know where the money was going to come from but we're

dealing with it. And I think we have to do the same thing here. I did this mostly to bring this to the front of everybody's consciousness as we're moving into the budget, that we have to keep plugging away on this. And I hope that next year we can start to really address these issues in a meaningful way where at least we know what the big problem is, put a price tag on it, and come up with a plan to start funding it. Because if not, I think ten years from now we're going to have some serious, serious issues in the city.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I would just like to thank Councilmember Constant for bringing this up all the time and staff's research on this I don't want to repeat every point but if we don't spend money early it's going to cost us more later. It's such a huge amount of money that we as a council should consider some type of bond or whatever mechanism to cover a good down payment on this before it gets even more expensive. So yes, I am saying raise taxes or do a bond or something because there's no way I'm going to be able to, you know, even get close to trying to fix this issue without those revenue sources. And I just want to say as much as streets as always, the very evident one of deferred infrastructure, the reality is, people can drive on a street that's not in great condition but the moment your network goes out on the movement your finance statement is out, holy God, right, if all those different systems were in perfect situation or actually dire situation were to happen the city would come to a standstill. So I think it's important that we also and I know it's part of that but also emphasize technology as a critical infrastructure from where we geographically sit. Thank you .

>> Mayor Reed: I believe that's just a status report, we need a motion to accept the report, then.

>> Councilmember Constant: So move.

>> Mayor Reed: Motion is to accept the report. All in favor? Opposed? None opposed, that's approved. Item 3.5, is a library parcel tax rates for 2009-2010. I have one card from the public to speak. Ross is going to pass on that. No cards from the public. We need a motion. Motion is to approve the staff recommendation. All in favor? Opposed? None opposed, that's approved. Item 3.6. Sewer service and use charge rates and storm sewer service charge rates for fiscal year '09-10. I do have one card from the public on that one, Martha O'Connell.

>> Martha O'Connell representing homeowners organized to maintain equity. We are opted to an increase in storm sewer charges adopt to assist low income folks in disabled and seniors in mobile home parks. need to know that these charges in most mobile home parks used to be included in our rent and are only subject to 3%. They are now being taken out of our rent and we are having to pay 15 and 30% pay increases and it is killing the seniors, folks, we can't afford it. You have a garbage rate assistance program and home is asking that you make the same program to help low income folks on your sewer service and your storm service charges, and when you do it, please use the elder economic standard index that was referred to you by the senior commission to set the income level. So it will realistically reflect what it costs to live in Santa Clara County. Thank you.

>> Mayor Reed: That concludes the public testimony. Is there a motion? Motion is to approve the staff recommendation. I need a second. Second by Councilmember Herrera. All in favor? Opposed? None opposed, that's approved. 3.7 is municipal water system rate increases for fiscal year '09-10 and we need to check and see if the clerk has received any protests.

>> Lee Price: Thank you, Mr. Mayor. Item 3.7 is a public hearing as you know on the approval of a 10% increase in rate and charges for the San José Muni water system. The office of the City Clerk has received 479 written protests. Mr. Mayor at this time it would be appropriate to open the public hearing although I do not believe we have any cards. There is one card and at that point we could interchange the public comment and if you would turn it back to me, thank you.

>> Mayor Reed: The assments of protests are 479. We'll take whatever additional comments the public wishes to make at this time. The public hearing is open, I have one card at this point, Martha O'Connell. Anyone who wishes to speak, now is the time to protest and otherwise speak.

>> Martha O'Connell from homeowners organized to maintain equity. We oppose this one same as the odor two please understand this used to be included in the rent and in June 6th in coij District 10 there were 260 mobile

homeowners who received a notice that they are now going to have to pay for their water. They got a 3% increase on June 1st and six days later they were told by the park owner that water was no longer included, and they were now going to have to pay for it. And this is just outrageous that he delayed the notice until we get the 3% increase. So please, once again if you're going to do this, set up a water rate assistance for the low income folks and the seniors and the other thing is in the parks they don't give us meters. They give us the bill and they divide it by the number of units. So even if you want to conserve water you don't have an individual meter, in many parks. So please, give these guys a break.

>> Mayor Reed: Are there any other protests on this item or anybody else who wishes to speak to it? Seeing none we'll close the public hearing. City Clerk, you want to comment on a number of protests.

>> Lee Price: Yes, thank you Mr. Mayor. Then the number of protests is less than the majority of protests required or 10,000 protests. The city council may take action as recommended.

>> Mayor Reed: Okay, we're able to take actions. Would the council like to place a motion on the table? Motion by Councilmember Liccardo to approve. All in favor? Councilmember Herrera did you wish to speak to the motion?

>> Councilmember Herrera: Yeah, I just wanted to ask staff what provision are there for seniors and for folks that are -- that are at a disadvantage to deal with these increases?

>> Mayor Reed: John Stufflebean will come down and speak on behalf of municipal water.

>> John Stufflebean: Yes, John Stufflebean director of environmental services and we do not have a program for low income or seniors on the water program. So they pay the regular bill everybody else.

>> Mayor Reed: Okay. Anything else? All right, we have a motion to approve. All in favor? Opposed? None opposed, that's approved. That takes us to a joint item, city-redevelopment agency item 9.1, that is the Mayor's Budget Message. This is the part of the program where the people with the really big binders get to take over. The city council started a hearing last night to take public comment on the budget message and the proposed capital and operating budgets. We had somewhere close to 100 people that testified. We still have a few more to testify this afternoon. There are some things that, before we get into discussion of the message itself that I like to give everybody by way of overview. First, we know that we are at risk of what the State of California might do to solve its budget crisis. Either in the legislature or in the Governor's Office or in all of those places, they're discussing the possibility of taking property taxes away from us and other local jurisdictions. Our share, our loss would be about 20 million. Discussing taking local gas tax away from us, that's about \$16 million. They're discussing taking proposition 42 sales tax on gas away from us, our share would be about \$6 million. They're discussing taking about \$13 million away from the redevelopment agency, that's all just this year. In addition, COPS funding which helps us with public safety and booking fees of about \$4 million total, are on the table at the state. So it's a total of about \$58 million, depending upon what comes out of that budget. We won't know what happens until they do it. And they may not do it for months but it is something that we'll have to deal with when it happens. In addition, we know from the last two years of poor performance in our pension funds, that we are going to have to raise our pension contribution rates in the year 2010 and 11 in order to make up for those shortfalls. That will substantially increase the gap that we have to cover in 2010 and 11. We also know that our sales taxes continue to decline. In fact, the actual sales tax cash receipts for the first three months of this calendar year, January, February and March are down about 30% over what they were last year. That adds about \$7 million to this year's problem and of course will add to next year's problem as well. This year we'll have to solve that with use of reserves. There's only two weeks left in this year. There's not much else we can do except tap our reserves in order to plug that hole that was created 50 sales tax losses. In my message I'm proposing that we try to get through this together by sharing the pain. There's plenty of that to go around, sharing it between the city council, our employees and the community. And through this effort, we've been able to reinstate some of the most painful reductions that we've been facing, and I want to thank our bargaining groups who have already stepped forward, ABMEI and Camp led the way allowing us to save jobs and vital services. Councilmembers and council appointees and our senior management have taken pay cuts, that helps and we appreciate that. Weekend reserve and employee groups were to give up their raises for next year. There is a list of those items which we could save that are on attachment 1 of the budget message that are pending some additional concessions. But with the resources we

had available for us, time for posing that we keep fire station 30 and 33 open, that we preserve the park ranger program, that the six satellite community centers, Los paseos, Alma Hank Lopez be kept open, that we restore some of the hours to our branch libraries, we preserve the hooter-mounted unit, we maintain the traffic units at the size we have now and it provides some additional funding to stabilize our arts organizations. All of that's covered in my message which was a lot of pages and we've had some time to look at that, but I do have to make some amendments to the message based on some changed circumstances and comments and things that we need to do. So in addition to the written message, we need to adjust our economic uncertainty reserve rebudget adjustment for 2009 and 10, and direct staff to amend the carry-over rebudget from the economic uncertainty reserve by 5792 dollars from that reserve and drop it down to 4,592,000, and that is directly due to the drop in sales tax reference that was so dramatic in January p arts grants stabilization fund which I've described on page 18 item 2A ooms I'm recommending that the manager's budget dented be accepted by the council i'm also recommending that the City Manager work with the arts commission to identify any T.O.T. transient occupancy tax funded program, rebudgets and future budget cycles that can be used to help our arts organizations and to have that work done by mid year so that we can consider it then. The convention and cultural affairs fund, fund 536, probably the most famous fund number in our whole budget because we talk about it so much, good old 536, which I discuss on page 19 item 2G, am recommending the City Manager be directed to work with Team San José and the Community and Economic Development committee to review future overhead charges for fund 536 to ensure that changes in the overhead charges or charges to that fund are appropriate. Crime prevention staffing, there were 4.0 crime prevention specialists that were funded one time in the 2008-2009 budget. I'm recommending that these budgets be added to the list so they be added to the bottom of the page on attachment 1. In addition of in addition I've received some recommendations from councilmembers in a couple of memos, I'll speak to those. First on crime prevention, my recommendations, my message does not recommend eliminating the crime prevention program. The manager's proposed budget included this as a strategy in 2010 and 2011. So I recommend before concluding the strategy in 2010 and 2011 that we have that as so we can discuss on how we're going to maintain those services if the council decides to make that decision in 2010 and 11. With regard to real estate services, I recommend having the City Manager return to the council with a benchmarking plan for real estate services, and a detailed budget for that work. Happy hollow zoo, councilmembers have recommended having the Community and Economic Development Committee determine if city employees can submit a proposal to provide corn session services. This has already been deemed to be a meet and confer item and so meet and confer discussions have already been initiated with our employees. I'm recommending we let that process play out and then bring it back to the city council through the CED committee. Risk management staff. I've recommended the memorandum from councilmembers recommended reinstating the program manager position 2 based on the concessions for Camp. The Camp concessions were not contingent on any position buy backs and we've already reinstated Camp positions in the library and community centers. The department has proposed to absorb that function in the budget and it needs to work with -- and can do the work with existing staff. But I recommend that we add that position to the list of potential adds-backs if we get additional concessions from our bargaining units. So that would go on the list on attachment 1 at the bottom of the page. With regard to the redevelopment agency, the councilmembers memorandum recommends an update to the council on a strategy to allow for the agency to pay for police services in project areas. This is consistent with my recommendation to agendize the discussion to discuss agency support for the General Fund and the legal analysis on issues related to RDA support for the General Fund. So this will be done in the context of the RDA budget which we will take up as soon as we get back from recess, it seems. The ARRA, also known as the American recovery and reinvestment act, I believe, those funds, the memorandum has recommended that those ARRA funds be governed by the same rules as city funds regarding employment positions, meaning that laid off city workers should have the right of first refusal for contractual contracted work. The ARRA rules are being promulgated almost on a daily basis by the federal government. They are complex and they are still taking place. And each grant, each pot of money has a different set of rules. I'm recommending that the City Manager develop a process where grant proposals are developed with transparency and stakeholders like our unions are allowed to participate and that we move towards implementation that is consistent with ARRA rules which we're required to do under federal law. And then finally, because we have quite a few items that are subject to concessions, and we're still negotiating with our municipal employees, MEF, AFSCME negotiations, I recommend that we on next week's council agenda approval of a contract with MEF. Whether or not we get such a contract that remains to be seen but we need to get it on the agenda in hopes that we will conclude negotiations with MEF and that we can make the additions that are proposed in my attachment 1. But if we don't get it agendized soon it will be too late. So this will preserve our staff to continue to negotiate with MEF and hopefully come to a resolution that will be satisfactory to them and to us. So with that I do finally need to make some disclosures before we have

discussion, in preparation for this meeting I've met with a lot of people. Representatives from work partnerships, South Bay labor council, Team San José, the arts alliance, bay 101, Garden City, most of the city bargaining groups, San José giants, ICAN, Silicon Valley council of nonprofits and the San José night life and entertainment association. So with that, that is the completion of my budget message. Would I ask councilmembers to support it so that we can -- I would ask councilmembers to support it so that we can knowing there's a great deal of work next year ahead of us but at least we will have a budget that is balanced. And allows us to move ahead with hope for next year that maybe it won't be as bad as we fear. Councilmember Constant had a motion to approve. Seconded by Councilmember Herrera. Councilmember Liccardo.

>> Councilmember Liccardo: I just wanted to thank the mayor and his team for this budget proposal. I think these are the very difficult times when we need leadership the most, and I think this is -- demonstrates the leadership we need. I also want to thank working partnerships which I think created many very innovative ideas for budget savings. And many of those have been incorporated this this document, as well. And so I think this is a reflection of a good collaboration. What -- clearly what we've worked on trying to do here is to restore many of the critical city services that we know otherwise would be cut, and trying to minimize the impacts of very difficult times on our residents. And we know there will be more cuts next year. And really, there's no such thing as a good budget in times like this. There's only the best of many very difficult alternatives. And so I think what we have is the best of what we could possibly come up, given the constraints that we have. And I hope that we can all come together and work through the next 12 months in a constructive way in a way that ensures we can continue to provide services to everyone in the city at the same time that we preserve critical jobs.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I wanted to add my thanks to pretty much everyone that Sam thanked. And all the city employees. It's just, this is an incredible hard time to be making these kinds of decisions. And unfortunately, like I mentioned, a couple of items ago, I think that next year, it's even going to be worse. In fact, maybe even just a few months. You know, I'll be honest. I don't like everything in the budget, and I don't know if everybody is ums on the whole thing. There are a bunch of things that I don't like but I think given the situation that we find ourselves in with the resources that we have and the level of demand for services that we have, this is the best that we can do at this time. I think that the process, I know I've given my opinion on the process several times over the last year and I just hope that we can continue to find ways to change our budget process. I think we really, especially as we're looking into a time next year, where we're going to have even more significant issues to deal with, in a time when, by then, we will have cut almost a half a billion dollars from the budget over a series of eight years. There's not going to be a whole lot of new, innovative things for us to find. I'm concerned that we have trimmed all the fat, and we're going to be start to get rid of vital organs. And I think we came dangerously close to that this year. And if it were not for process we have, I think some of the vital organs of the city will be gone. I encourage the council to really look this fall, or perhaps at latest very early next year, about really having a discussion and talking about the individual items that we provide through our city services to really see what are those things that we must be doing? And making sure we fund those must-dos which kind of takes me back to that infrastructure discussion that we had just a short time ago. Finding ways to really fund those things that are really central to the function of a local city government, the things that we must do, the health and safety issues that affect our businesses and our residents every single day. And then, really talk about those things that we should do, because good cities do a lot of good things. And we need to identify those, and start to find ways to fully fund those. And then, and only then, when we've really funded the must-dos and the should-dos that we look at the things that are the would like to dos. Because there are a lot of things that we would like to do. I talk about it in analogies with my family. I would really like to take my family to Disney world but one day we'll be able to do that. There are a lot of things that we would like to do but we're just not going to be able to do them given the financial situation that not only we find ourselves in but we only need to look at the people around us and above us in the Pecking order like the county and the state and the federal government and everybody else who has major significant financial difficulties that they're dealing with. So I just hope that we can find ways to really critically look at things in our budget. I know we've also had the debate about program level budgeting versus CSA budgeting. I really think that we need to talk about program levels, not just when we're cutting programs, but also when we're funding programs. Because it's really hard to compare apples to oranges. And we need to be able to see the level of detail that we see in the cuts, I believe is a level of detail that we need to see in the areas that we're funding. It's something that we really need to work towards. Because trying to find something like, you know, the advanced life support, I'll pick that because it was on tier 2. When you're talking about those

advanced life support functions in the fire department and then not being able to go through that big old budget document and find any other program-level detail that you can compare it to, where you can say, what is more important, A, or ALS? You know, and be able to really look at had a. I don't think we have the ability do that. And it's been a frustration I've had in the short time that I've been here, is that we have the illusion that we have control over a budget, but I don't think we really do. And I don't know what the answer is. I just implore my colleagues to really kind of -- we got to jump in with both feet and find ways to do this. And I know there's a way and I know, in talking with Bob Brownstein from working partnerships, and with Ed Rast from the neighborhoods, you know, they've pointed to a lot of other exemplar processes in other communities. I think we need to look at those and find how we're going to be able to do this better, and how we're going to do it with more detail and more value type discussions where we can really value one service next to another service, and say what are we going to do? And I think that's really important. And then let's see, I had a whole bunch of notes but I probably didn't get anything on my notes. But that's okay. And I think that -- I think that in these tough times, we also have to be really conscious of what's going on in our areas of economic development. And I think that this budget message does that. I think that we're going to be talking a little bit in a little bit about the convention center and the hotel bid and things like that. And those are all things that we talk about separately, but they're really interrelated. And it's really important that we stay consistent in our approach across all these discussions and when we identify these areas where we have an impact in economic development where we know that we can't just cut our way or grow our way out of our problem, we have to do it in a combined manner, that we're able to weave all of these things together and make sure we continue to put our money where it's most valuable, to provide essential city services and where an investment of those dollars whether it be in economic development or redevelopment agency or Convention and Visitors Bureau other things put to good work to bring things back. We have an opportunity to do that and when we get to the hotel vote in a little bit I'll have some more words to say about that. Thank you.

>> Mayor Reed: Thank you. I'm going to take public testimony at this time. As I mentioned we had about 100 people speak last night. We have a few more today. I want to thank a lot of people who helped us with this budget. We got a lot of ideas from the community, the budget working group came up with some excellent ideas. I have no pride of authorship when I'm drafting a budget message. I'll take anybody's good idea. I appreciate the work that everybody did here on this council and on the community to come up with ways to try save some of the jobs and the services and to be more efficient and effective. So it was all very helpful and I would expect no less next year. We'll get to do it all over again. So at this time Dan Fenton, Richard dunkley, Raymondo Espinoza. Come on down. I only have half a dozen cards in case anybody is worried about 100 speakers.

>> Thank you, Mr. Mayor and council, Dan Fenton president and CEO of Team San José. Andrew bails, Cyril Isnard, Diane Driscoll, mathson Apley, economic development organizations like ours intact and to look at ways and Mr. Mayor you mentioned this about fund 536, to look at its stability. We think the next three years and Councilmember Constant talked about this, we think fantastic floojt we're going to talk about in a second but the next three years are vital. And so we appreciate the support and the thought around maintaining that funding and making sure that we can produce great results. So really on behalf of all those people that govern Team San José we want to say thank you and support the message.

>> Mayor Reed: Richard dunkel, Raymondo epees Espinoza. glrks Real Estate services and in your oral comments prior to requesting testimony I was very pleased to hear your request for bench parking and I believe I also heard that we would get more detail on how that 560,000 is broke out -- broken out. I'm extremely appreciative of that additional change. With that kind of new spending in a year like this, understanding how that money will be used is really critical to knowing that it's going to the right things. Thank you very much for that change.

>> Mayor Reed: Raymondo Espinoza, Judy purchasington and.

>> My name is Raymondo Espinoza and I'm the re of Gardner health services. Community budget work group I want to thank councilmembers clar, Pyle, neung including many of these recommendation in his budget message. I was really glad to hear that you're taking another look at the crime prevention program because I think it's a very, very essential program that we need to maintain. We have a small police department in San José relative to our population, and thus, the crime prevention services play an absolutely critical way in protecting the well-being of our residents. The crime prevention program provides qualified staff to work directly with neighborhoods. As a health care executive I fundamentally understand how an ounce of prevention is worth a

pound of cure, at Gardner we focus largely on preventive practices. It is the most efficient work that we do. In public safety as in health care prevention is a community investment, a method for ensuring that we pay less later. I urge you to retain the crime prevention program as part of the base budget for the next year in order to maintain this important investment in public safety. Thank you.

>> Mayor Reed: Judy purchasington, Judy Pipton, Ross Signorino. Hope those aren't yellow speaker cards.

>> But there's a lot of handwriting on them. Good afternoon, mayor and councilmembers, I'm Judy purrington. I live in the deanl round table area of district 2. economic trials the city is suffering. I also appreciate the mayor and council for listening, and for hearing the community on the issues, the core issues that the community needs. To that end I participated in a volunteer effort in my neighborhood library to inform the community and to get their take on the issue of proposed library day cuts. The friends of Edenvale library collected 1584 post cards with their comments. The community needs the libraries and it needs them seven days a week. They need them for some very real reasons. Huge numbers of adults uses the computers and other resources to job-hunt in Edenvale to such a degree that many are turned away because the computer time is booked for the day. scores of kids use the library and those are the kids who will be successful. don't forget the littlest library users. They say I love my library and that says it all for their future. Thank you for listening and please do the right thing for the community.

>> Mayor Reed: Judy Pipkin? Ross Signorino. Was that your comment Ross? Best comment you've ever made. Judy Pipkin, Ross Signorino, Quinn Vuong. Go ahead Ross, it's okay, that was only two seconds of your coment .

>> Ross Signorino: Thank you Mr. Mayor. I feel very encouraged by those words. I want to speak on an article that was in the June 15th newspaper by Gary Richards regarding the cameras at certain intersections, and councilman Sam Liccardo, I heard him on radio and this is something he's promoting too. I think it's a great thing. I don't think our budget is in that bad a condition that we cannot put cameras in certain intersections to get red-light runners. That is dangerous, what's going on in the city, around schools, and people trying to cross the street, pedestrians have been hit, and run down, and killed. And even the driver, cowardly, runs off, then. So get these cameras, as a matter of fact, I'm for it! Yes, I say a thousand times, yes, yes, yes, we need these cameras and yes, yes, yes we need big brother watching us, unfortunately. Mr. Mayor, within a very short time, even you weren't limited to two minutes, but last night on your concern about the budget, you hit on a lot of points which I thought was admirable on that you should come up on the podium and limit you to two minutes I think you could do it. But nonetheless, what I think -- what I think you did last night and I -- you probably even touched on this point yet, on if budget regarding the pensions that we're going to have to support since the fall of the stock and is not being able to support that way, the earnings, take care of pensions. So I think that's another crucial thing, and how that's going to affect the budget, I don't even know and I think that's something you have to keep in mind, too and I'm sure you have. Thank you.

>> Mayor Reed: Quinn Vuong,.

>> My name is Quinn Vuong. I'm the ED of ICAN. I want to thank the spreading HNVF funds to support 53 proposals instead of 42. That's a big step in the right direction but it's not enough. I would like to ask the city council to spread all the funds to use of funds to fund all 65 existing proposals, returning proposals, and 13 new projects. I've been analyzing the data carefully and I know this is feasible within the budget that we have today for HNVF. So if you want to do tiered funding, you should take into consideration last year's funding level so as a way to mitigate all the inflaided asks that we've seen 300, 400, 600%. Give them 10% of what they had last year funded the 13 new projects at \$45,000 which is a very reasonable starting point. You still have \$100,000 left, isn't that amazing? I respect the city's policy to work with fewer partners but to support them better. I respect all the work and efforts that have gone into my grading towards the RDA model but the system is not really ready and the scoring is 90th right and most critically of all the time is not right. I ask that the city support -- give all the support to its partners for all the years that we've been partnering with the city to bring services to the community. So I ask the city council to authorize staff to use the HNVF budget as it is today to fund all existing proposals and the 13 new projects. Thank you.

>> Mayor Reed: Jeff bornafeld, Andrew bales.

>> I'm speaking today because I haven't heard any change from what I've heard in the past. So I did hear today the need to share the pain. And I've heard that being said at all levels, at city, county, state and the neighborhoods. And yet I want to speak to the fact that last year, we had 65 successful providers serving the unserved through the HNVF funding cycle. So this year, the effective recommendation is to fire 40% of those, hire 25% new, and then give the returning ones, between 200 and 429% raise, and then give the new ones the equivalent of 184% raise over those you fired. I don't get it. That's not sharing the pain at all. That's actually rewarding a fewer number of people. Yes, it's funding the same dollar amount to a fewer number of agencies. There are underserved constituents in this city that are not being served that will not get the services they need. You need to look a little farther ahead. Most of the services provide services that bring a match in, and they prevent future expenses. For every young person that drops out, for the current population of high school dropouts, everyone in this entire state pays \$1250 a year, that's what it costs us. It is \$46.6 billion out of the taxpayer's pocket to support our current system of having a drop-out rate that is in excess of 25%, and in the population that we serve, it's in excess of 50% that leads to cost of policing and other areas. So we can fund all of the other providers. The other thing that didn't get said is this isn't for one year, this is for two years. This is a two year funding decision being made for HNVF.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Andrew bales, is our last speaker.

>> Here Andrew bales here for symphony sloven I think you were all asked to be here not to be fair but to be wise. It's an impossible task that you face and I don't wish it on Nebraska. But I do want to say having heard the conversation before that the money that's being moved into the arts fund is being diversion, it's money that was already dedicated to the arts in conversion, it's not new funds coming in and I appreciate that act and I think we all appreciate that and I also think to remember that the arts certain the community in so many ways but one of the ways is that we're employers of union workers K IATSI, IATSI B, AGMA, American federation of workers work in this town, and work for a long time to make their living here and we appreciate the support that the arts group get as part of this proposal. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. Is there any additional council discussion or debate? If not, we have a motion on the floor. All in favor, [ ayes ]

>> Mayor Reed: Opposed? None opposed, that's approved. Thank you very much. I want to thank our budget staff, Jennifer and her staff have worked lots and lots of long hours, they're the only ones I see in the parking lot when I arrive early in the morning and usually the ones that are still there when I leave late at night. I appreciate that Armando Gomez, Antonio Guerra and those on my staff that put in a lot of time and effort and council and their staff it's become all consuming and year round but that's the world we live in. Appreciate the work you did to get us here. After the budget message there's the rest of the budget as modified by the budget message. We need to actually adopt and approve the 09-10 operating and capital budgets for the city and the schedule of fees and charges so the staff can finalize it based on the message that we've just approved. Discussion on that? Motion to approve. All in favor? Opposed? None opposed, that's approved. All right, I think we're finished with the budget for a couple of minutes, at least. We'll now take up a couple of items together, city item 9.2, and redevelopment agency item 8.1, related to the formation of a convention center facilities district. We'll hear those and discuss those and take public comment on those together, and then there will be separate actions taken. First we'll talk about the formation of the -- have a staff presentation on the formation of the facilities district. After we get our staff shifted around. Well, the happy news is that the hotels voted, 78% said it's okay. I think that's where we begin our discussion. [applause]

>> Mayor Reed: That's a bit of good news. John Weis, you're going to take us.

>> John Weis: Yes, John Weis, with Paul Krutko and Abby Magenthal you're right a 78% vote is extremely optimistic and a belief in the expansion of the hotelliars and the expansion of the district. what this does is we think it really addresses some of the fundamental economic development objectives which is to make this facility increasingly competitive in a very difficult environment. And so that we're poised to do that. It also presents us

with some long term solutions to problems that we've had for some time which is to create a sinking fund the agency has spent or encumbered over \$20 million. Looking at a number of issues, we've designed the new facility, we've spent money on other issues, and the roof, the C.U.P. which is the central utility plant, which are items that we bring to you both next week and on early August, on the demolition of MLK, and the relocation of city employees, that's going to be brought forward just today. All this, of course, is being done in an environment which you've been talking about for the past three hours, which is a financial markets environment which is much more difficult than when the plan of finance was brought forward to you back in January. With there were issues about the future of the T.O.T, there's issues as you indicated just now, mayor, of the take which we are told the California state is about to take on redevelopment, that's \$12.8 million for one year. It's not certain they're going to take it. It's not certain that we can't do what we've done in the past, such as doing a loan, which allowed us to pay that to the State over an extended period of time. Important, those ERAF payments are not subordinate to our existing -- or are subordinate to our existing debt. And as we move forward, our tax increment projections come out in early July. And you're right, we'll begin our budget process in August. We're cautiously optimistic that the numbers are slightly better than we thought. But we'll only know that in July. So it puts us in a context of looking at this project with a different tone. And one of those tones is to look at alternative solutions to what we've been working on. And so Gilbane, which is our CM, construction manager for the prompt has been looking for us, looking for alternative solutions that can still address the goals and objectives that Team San José and the city have had when they first entered into this, which is to have expandability and flexibility within this design. So we are open to looking at that within the next month or so with Gilbane. And I think that there are any number of possibilities, we would either choose one or two or three alternatives to explore with our colleagues, or there is certainly the possibility of a schedule adjustment and some possible delay, depending upon the data when it comes in, in September. But all of those things need to be on the table, and I'm thinking that we would be able to come back in September with a plan of finance based on the way we really see the world working. In order to do this, we'll need a very strong collaborative effort among all of the -- all of the partners, from Team San José, all of the hoteliers, city staff and agency staff, and you all, giving us guidance about how we need to move forward. And so with that, that concludes our preliminary recommendation.

>> Mayor Reed: Okay, I had some recommendations that I want to make sure we get answered. Because one of our recommendations is to approve the levying of a special tax in the district. I know people are concerned of the local economy that affects the T.O.T, the state and everybody else. We don't know what the state will do to us, there have been some serious proposals or maybe they only take a little bit we just don't know. The question is, if we impose this tax and we're some months into it and disaster strikes in the form of the state government, you know, taking all of our money or the T.O.T. revenues get worse and worse and worse, and we can't for somehow build a project, we don't know for whatever reason, what do we do with the money? Because I know that the people are paying the tax, the hoteliers need to know, well, what happens if we don't have a project because something bad happens?

>> Paul Krutko: Thank you, Mayor. Paul Krutko, chief development officer. We would collect those dollars in an escrow account format and would be able to return those to the hoteliers if we're not able to go forward with the project. I do -- one point I want to make on that however is that in the plan of finance we brought to you, in January, beginning the collection of the tax as soon as possible was a critical element. Because it created resources for us that we would then use as a reserve against the bonding. And we had, in that strategy, that -- which is what Team San José took forward to the electorate and got support for, was to begin collecting 4% right away, in the core downtown, and ramping it up outside. The only caveat I would make to you is beginning the collection is important, because if we don't, it opens up an additional financial hole in the project that we would have to deal with.

>> Mayor Reed: So we could begin the collection, collect the money as planned and if we don't ever have a project we could give the money back?

>> Paul Krutko: That is my understanding and I would defer to Rick for clarification.

>> City Attorney Doyle: That's our intention and the finance department would keep the money and collect it. the one thing I want to point out though is part of the overall program requires that we get a blessing from the court.

>> Paul Krutko: Validation.

>> City Attorney Doyle: This is a very unique financing scheme and the composition of this tax is really the first -- imposition of this tax is really the first stem for us going to the court, validation action that would allow us to sell bond. So until the council acts on imposing the tax we are not really ready to go forward. That's another reason to impose it. Albeit if there is a change in plan, that you need to refund it in whole or part, the city has the ability to refund it back to the hoteliers.

>> Mayor Reed: We never know whether we'll win the lawsuit, one never knows, that could happen we have to refund the money I just want to make sure we have the mechanism in place, collect it, which I certainly support but I want to be able to deal with it in a rational way if we have to. I think some other councilmembers have questions or comments. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I just wanted to make a few comments. First of all, I think the 78% response is a very, very big indicator of what the hotels feel about the confidence of San José and the confidence in the economy of what we hope to be in the future and it was not just the fact that there was 78% of the hoteliers voting yes, but the excessively high. the visitor experience I think it might take a while for us to come out of this little bit of a downturn but as I've said before, this is the perfect time for us to be building when the demand for the facility is lower than we might like it to be, but it gives an opportunity to do the construction without a whole lot of disruption. I think that it's really important that we keep, you know, as positive as we can be on the economic recovery and keep doing these things as I mentioned, when we were talking about the budget message, we keep taking these opportunities to make an impact in the economic vitality of our city and providing many more resources for not only the businesses that are here but the businesses that are bringing visitors here . I think that we really need to continue to look at things like the design-build, looking at the chance that we may be able to really save money there, the continue to explore the opportunities of using some of our employees in the construction project, trying to save more money there, making sure that we use the sinking fund appropriately, and be very discriminate in how we use that, and making slur we get through this downturn and get the very best for the citizens because I think this is one project that is going to pay considerable dividends as the economy starts to turn around, as companies gets their businesses going again. I hope we're in the perfect situation for that. Just thank you for all the hotels because we really see your vote of confidence here and also a thank you to Dan and his folks because I know they did a lot of folks in making sure that people knew about this, people were educated on what it was going to do for them. I know they went out to a lot of the motels that are not usually included in outreach to get out there and make sure that those smaller businesses understand the impact that they're going to receive from this. And to make sure that the -- thanks don't just go to Sudan and his staff but the board, I osee a lot of the board members there and our thanks do we have a motion yet?

>> Mayor Reed: We don't have a motion yet. We need couple of separate motions, on 9.2, the actions related to the formation of the district, there are four items we need to do O&M and the things that redevelopment agency has under agenda 8.1.

>> Councilmember Constant: So let me make the motion for the items on 9.2, the four items needed.

>> Mayor Reed: A motion to approve the four items on 9.2. Was there a second? There is a second. Continued discussion on that motion on the floor, Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I also wanted to congratulate Sudan and his team. I think many of us expected in these very difficult economic times this would be very difficult. That is certainly what I expected and the fact that it was such a resounding majority says a lot about the commitment of a lot of our hotel ownership and leadership in ensuring that this goes forward. I had a couple of questions, Scott, about where we are financially. Knowing what we know now, which we didn't know maybe section months ago when this came up in December or January, I think I've heard about projections of T.O.T. revenue, being negative going into 2011. Do we have any sense now what the bonding capacity would be of the 4%?

>> Scott Johnson: Thank you, Councilmember Liccardo, Scott Johnson director of finance. Based on our current projections related to the special tax it basically mirrors the A 4% of T.O.T. revenue that goes to our General Fund. So we're estimating about you know about 7.75 million that would be generated in this special tax. And based on that revenue stream, we have to assume a certain interest rate we assumed in our stress test anywhere

from 58% as an interest rate. So middle of the road we're assuming at this point that based upon the information as of the beginning of May we may be able to generate bonding capacity of about \$80 million from the special tax as far as bond capacity.

>> Councilmember Liccardo: Okay, thanks, Scott. And John, I know you're not in finance but I thought I'd ask. I know that we've been anticipating the possibility of a take on the order of \$13 million on next year's budget on RDA. Do we have any accepts of RDA bonding capacity in the next fiscal year?

>> John Weis: We don't yet, councilmember. David Baum our financial CFO was in New York yesterday and today with J.P. Morgan has come back and was on the plane with relatively good news relative to our letter of credit and that's really very positive for us. So as we move forward, this will be one of those difficult situations, because it's -- there's so many variables out there right now, that will impact what our number will be. And certainly, if the state does do a take, and to do a take and they allow us an ERAF kind of payment that allows us to pay it over time as they did in 2002 and 3, that's going to be much less significant an impact on our ability to bond. So we will know that in the next month or so. We'll also, as I've indicated in the past, and at past sessions, our tax increment rolls come out in the first week of July. So those two factors put together will give us a very strong indication of where we will be and what our possibility in the bond market. And, plus then, we will be doing our budget during the month of August, and they will be bringing it forward in September and we'll be looking at all of our options at that point in time.

>> Councilmember Liccardo: Thanks, John. I appreciate we would like to be able to smooth out the payments to the state in future years. But if we weren't able to do so, that \$13 million which is I think on the table right now coming out of committee in Sacramento, that would come out of the top, right, that's increment that would essentially be money that we cannot bond off of or would that be bond revenue?

>> John Weis: In the past we've been able to do some bonds and so that's been helpful.

>> City Attorney Doyle: I think in the past and I'm looking at Patty Degnan, maybe she can explain the details but we have worked with the city in terms of being able to really use bond proceeds just because we get lot more leverage that way. Patty.

>> Yes, the ERAF payment is not off the top tax increment. They leave it up to the agencies the best ways for them to pay. So we've been pretty lucky in the past being able to borrow, being able to use taxable bond proceeds for those types of payments. So hopefully, we'll have some flexibility looking forward.

>> Councilmember Liccardo: That's encouraging. Thanks Patty. I guess where I'm concerned about is, just our capacity to move forward, given what Weaver been presented in the past, with a scope and a scale of the project, we would all love to be able to finance that project. But I also know we'd love to have important projects in our neighborhoods an have a baseball stadium and a lot of other things that we know are emnently important in our community and I'm concerned about those constraints and I appreciate the sacrifices that the hotels have made and I believe what we owe them is to be as strayed forward as possible bops what we can and cannot do. I'm mindful of the fact that we're able to essentially give the money back if that's you know where we end up but I think it's really important that we really go to the hotels directly and let them know what -- if we're going to be scoping this project, if we're going to be deferring construction significantly that we need to check in with the stakeholders and make sure they're on board before we go forward. Because I know we've got a validation suit but I'm also concerned about what happens down the road if somebody believes we've been pulling a bait and switch in terms of imposing a tax and not delivering what more or less had been promised. I know this is an important project for the city, and I want to go forward, but I want to go forward with open eyes. Hopefully we'll all know a lot more because a lot of the numbers are in flux right now. So I appreciate a lot of the work folks have been doing to try to nail down those numbers but I expect we're going to need to make some difficult decisions about scope and schedule in the coming months and I hope we're all prepared do that.

>> Mayor Reed: If I might suggest a friendly amendment to the motion. I know that the financing district documents call for the formation of a hotelliers committee, I'd like to get that formed sooner rather than later, if the maker of the motion would add that by saying, let's get going on that, I'd appreciate it .

>> Councilmember Constant: Okay.

>> Mayor Reed: Then we'll have a structure to work on with stakeholders on any issue that we have. Staff could you talk about a couple of things? This item was on our list of possible stimulus package to the federal government, the upon package, when we were making up the possibility of a billion dollars to City of San José. Have we seen the money into pots that would lend itself to construction funds on this? I'm shovel ready, I'll go out there tomorrow and throw the first shovel of dirt. But that used to be the criteria and now these things have changed over time.

>> Paul Krutko: Let me start and then we'll have Bill chime in. Mayor, the issue is that convention centers per se are not a project that the stimulus funding is looking to favor, in providing funding for. So what we have been trying to track are dollars that could be used for energy improvements in the structure that would sort of align with the administration's priorities. So I'll stop there and see if Bill's got any more.

>> Mr. Mayor, members of the city council that's exactly what I was good going to say, at this point trying to keep the project however within budget we've not designed, moved forward on energy additions to the project but if money became available the building is ready to take those facilities and so it's a question of timing when that money and when those projects would be available. There are other buildings in the city that are more ready and more ready to take photovoltaics and other elements today and we're still a couple of years away.

>> Mayor Reed: Okay, one other element of potential good news, the good news is we're in recession. That's probably the bad news but the good news is construction costs have gone down in some areas, 20 to 30% below engineer's estimate I'm wondering if you've considered, this may be specialty building, pain there's not that much competition, but isn't this a better candidate for better construction costs if we have the money sooner than later?

>> Paul Krutko: Mayor that's a very significant opportunity but it's important to keep in mind if we pursue those we've got sort of the adage from the movie, show me the money. You've got to have the money in place before you can take advantage of a better bidding climate. And quite frankly, you take advantage of the design-build opportunity so it's going to be really important for us, in close collaboration with the agency, to understand what resources are available as soon as possible. So that we can structure the financing.

>> Mayor Reed: You mentioned design-build, maybe a year or so ago, it seems like a long time ago. and it wasn't possible for the agency to do a design-build project. I think that's changed.

>> John Weis: Mayor, we have it on our agenda for the next week, for us to apply to the state for that type of project. we're kind of optimistic that they will say yes, you can do it but we wouldn't get that authority until January. But that's certainly an option that we want to pursue and we want to pursue it very aggressively.

>> Mayor Reed: Okay, we'll hear more about this next week but this was a change in the law that came out in the last budget deal that the legislature put together. This is one of those items that somebody thought was really important and got put into the budget.

>> John Weis: Right.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I also wanted to express my gratitude to Dan Fenton and his team for all the work they've done. I'm very well aware of the outreach efforts they made and frankly, above and beyond in terms of the economy, in this economy you don't know that a high turnout could be a bad or a good thing. Hopeful that speaks to the optimistic that we have from our hoteliers. I had an opportunity to meet with some of the smaller hotels, where it didn't serve necessarily the clientele that would benefit from the convention center, yet they were supportive because of -- they know it's good for the city, they know it's good for the economy, they know that ultimately it will be good for their business and I know that Dan has expressed a commitment to them as well of continuing to work with them. And I know that the city we can certainly benefit from building a stronger relationship your suggestion of the amendment of accepted, Councilmember Liccardo's comments of being upfront and honest with them in terms of what we might be able to do depending on the

economy, how the economy goes in the next few months. But as long as we understand that we're from a starting point where we want and believe in the importance of a convention center expansion, I think that we've all expressed that sentiment that this is something very important to our downtown, to our economy, to attracting businesses, to attracting -- to attracting large conventions, and ultimately to filling in our hotel rooms. So I just want to express that at least from my perspective that my commitment is still there to see a new and improved convention center. If this can't be done it can't be done. We certainly must be honest with ourselves and must be honest with the hoteliers as well going forward but I believe with this vote here today, and with prior conversations we've had, it appears to be well established that at least we believe in principle that an improved convention center is something that's good for our city and good for our economy. And I really hope that that is something that we can get done sooner rather than later. Thank you.

>> Mayor Reed: Thank you. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. John Weis, so I have the same concerns as Councilmember Liccardo about capacity based on forces out of our control. And I guess my question to you is, you know, could you give me what you believe to be the top three projects that could be funded by RDA? What are those that you believe? Because in the end you know there's tradeoffs, right? I could give you a moment if you want to come back but I really need to hear something from you that says what you think those are. We have our opinion as the board of directors of the redevelopment board but in the end I need to hear what you think based on your judgment. And if Paul Krutko if you want to throw your hat or your opinion in here sense of your title, but if we're coming to a point of not being able to bond money to do certain things, what drops off?

>> John Weis: Well, I think what I can do is go back to a session that we had about a year and a half ago in room 118 on a Saturday morning. And we established priorities for the city and the agency. And at that point in time, if memory serves me, the number one priority was the convention center. Along somewhere around 3 or 4 because we didn't have baseball at the time, things around Diridon, Diridon was an important, we understood it as a BART location. I'm not sure where it fits but certainly in the top 10 is our commitment to the strong neighborhoods. And those are 30 year redevelopment plans and those are things that we have been committed to since we started the plans eight or nine years ago. And so just as a generic way, we have discussed them in the past and they have always been in the top ten.

>> Councilmember Oliverio: To keep those in the future, you're saying Diridon station, whether it's a ballpark or not and the SNIs. pall do you have a different word there?

>> Paul Krutko: No, sir. Use thousand I remember the session.

>> Councilmember Oliverio: Okay, well, you know, certainly want to pursue the formation of the district based on the hoteliers vote and we all pray for good fortunes for our redevelopment agency and to be able to understanding that we do not prospect money, thank you .

>> Mayor Reed: There are some people who wish to speak on these two items. Before we go any further, I'd like to take public testimony. Ross Signorino. I think Ross is gone. Cyril Isnard, Diane Driscoll. Ford diNapoli. Those are the four cards I have we're hearing both items so if you want to speak either on the formation of the district or the physical things we're going to do speak now.

>> Well, the hoteliers of San José voted 40% increase of the T.O.T. tax, with a provision for an additional 1% which would mean 50% increase in the case that the financing would be short. So the hotel community feels as a whole that the redevelopment agency and the city leaders should be leading the effort to keeping the convention center vision intact. The hotels voted to keep this vision alive and will be immensely appreciative to the city council for supporting the implementation of this vision. And I want to also to thank personally Councilmember Constant and Sam Liccardo for their support of this expansion and renovation. Thank you very much. And Mr. Mayor, as well.

>> Mayor Reed: Diane Driscoll, Dan Fenton, Matt diNapoli and Scott Knies.

>> Honorable Mayor Reed and esteemed councilmembers. Thank you for allowing us to share with you the spirit of the business district and the convention project overall health and welfare of our community. We are partners of innovation, creativity and persistence. We never once gave up on this convention center. We are also trying to creatively fix the budget. Many hours and days were spent as you noted meeting with owners and CEOs regarding the importance of this project. As a hotelier, a member of SBBTA travel community and residents I know or feel very confident that this project will be strongly supported by our corporate community. Mayor Reed, I attended structures breakfasts where you and several leaders spoke on the status of our local economy. The builders and corporate leaders agreed, now is the very best time to build based on cost of goods and available labor. In fact, when Michael Cliko drvmentEO of brocade was asked to support the airport project he quickly agreed. We must not stall on the collection of taxes, my father always told us during times adversity, if you wait until the perfect day you will never do anything. If you cease or drastically change this project, you will send revenue to our competing cities. That revenue builds hotels, restaurants, taxis and brings airplanes to our new airport. I urge each of you to support this project while helping our business district and the residents of San José. Thank you.

>> Mayor Reed: Dan Fenton, Matt diNapoli, Scott Knies and back to Ross Signorino.

>> Dan Fenton: Thank you, Mr. Mayor and council. I just want to reiterate what Councilmember Constant said and others. I think this is the time for us to be bold. I think that as the redevelopment agency and as Paul Krutko said it was just a year ago that we all said this was the number 1 project to drive our economy and to move San José forward, so I think that this is an opportunity for us to be bold. But I really any of think that sometimes you got to smell the coffee here and take a moment and thank people. There is a list that I will try to do under two minutes. I really wanted to start with the city attorney's office. This wasn't a simple concept to put the district together and think about this whole idea. This took a lot of people really coming up with this concept, so I really want to thank them. I really want to thank Scott Johnson, finance area, these are people who thought differently how we could proach this. I want to thank Paul Krutko and the office economic development big part of why we're here trying to push the envelope think differently. This is a very unique concept. We want to thank Lee Price. She managed this campaign in a way that was very professional, worked very closely with our team, it was a unique process and we are thankful for her work and her team's work. It's been mentioned before we want to thank Councilmember Kalra. You know he's understating his role with this. He spent some time with the small hotel owners, spoke about things beyond this campaign that we 30 will move into the future and be a big part of this. Always want to thank our liaison Pete Constant for his support. I want to thank the hotel community, they came on strong. We had some very specific conversations with them about the economy and where they are going. I know you're going to hear from one of the more progressive members lastly, the city and their staff and the great effort they put in, thank you very much.

>> Mayor Reed: Matt dinapoli, Scott Knies and Ross Signorino.

>> Mr. Mayor, council, my name is Matt Dinapoli, I represent the owners of the San José Hilton and the San José crowne plaza. The hotel owners important piece in the growth of Downtown San Jose. We also realize that this project will not be without its short term pain and I truly believe that the hotels closest to the construction zone will probably feel the brunt of that short-term economic pain. I believe that this is not the time to worry about the short term, but to think about the long term benefit to San José, and we are ready to step forward with you and to work together to be bottomed and to move the city forward and move this project forward. Now, we wouldn't be doing this, we do understand that these are economic times with a lot of uncertainty. But if we were to believe some of the projects, the Draconian scenarios, economic collapse, we wouldn't be moving forward. We don't subscribe to those projections. We think that things are starting to stabilize in the hotel world, and I think that we will see better times during this three years of construction, and that some of the fears of what might happen to the sinking fund are perhaps overblown. We think that good cities are created by taking single, but dramatic, steps forward. We're willing to work together and we're looking forward to working together with the city to try to make this the best project to make sure that we don't overspend, and that we collectively make a very, very successful convention center for the city. Thank you.

>> Mayor Reed: Scott Knies and then Ross Signorino.

>> Good afternoon, Mayor Reed, members of the city council, Scott Knies, executive director of the San José downtown association. The convention center expansion is one of our big deal projects. And I know there is a little bit of a glum tone with all that stuff rolling down from Sacramento on us. But I think this is a celebratory tone that we should have today. You have got the hotel community coming to you with a very conservative \$80 million to celebrate San José and that's a beautiful thing . And it's not surprising. I'm very proud of the hotelliers. That's not surprising for our community. Whether it was our citizens voting in the BART tax last November or uh of got BIDs Pbids, entertainment taxes schedule of fees and charges coming on there, the business exuntd and the citizens are putting in a lot to improve this city and it's not insignificant to me that you're having this discussion on the day of the budget. And I wish our operating engineers were still here. I heard one of them say, you know, we're blaming the employees, couldn't be further from the truth. I know our members and small business community and the nonprofit partners are looking at 20% cuts not just zero based. And this was a year ago. We need our union brothers and sisters to build the convention centers expansion, BART, light rail, and congratulations to the hotel community.

>> Mayor Reed: Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. This is a great meeting. First time I ever heard that if a project doesn't work, you give the money back! Wait until they hear this at the maple leaf doughnut hole on Saratoga avenue. That's a first. Mr. Mayor, what I came up to talk about mainly, is you're tearing down the old Martin Luthur King library and the people that are there, are you going to put them here in the new City Hall and even put them on property that the city owns, so it won't cost us anything as far as rents go? Well, that was the whole concept of when they built this City Hall, that was the thing, put every department here and we would eliminate all those high-rent places that we have and it would pay for itself, this new City Hall, there would be no debt whatsoever, sold the old City Hall, again we would make money. You know what it is? It's look selling the steak. You don't sell the steak, you sell the sizzle and you go for it. That's the big thing I hope this doesn't happen now with the convention center. I think it's a good thing you have to have a convention center. After all you are the 10th largest city in the United States. Mustnt let that go by. you have the old Martin Luthur King library and moving them on city property, that won't cost us anything as far as that goes rent-wise. Thank you.

>> Mayor Reed: That concludes the public testimony in both 9.2 and 8.1. Back for additional council discussion. We do have a motion on the floor on 9.2 to approve the four actions necessary to form the convention center facilities district. Any further discussion on that? All in favor? [ ayes ]

>> Mayor Reed: Opposed, none opposed, that's approved. Now 9.2 we need a motion on that dealing with the physical things that need to be done with the building and moving the people. I'm sorry, 9.2 is the one we just approved, 8.1 is the one we need to take up. Councilmember Constant.

>> Councilmember Constant: Now I'd like to make that motion.

>> Mayor Reed: Motion to approve staff recommendations on the work that needs to be done. Further discussion? Councilmember Liccardo.

>> Councilmember Liccardo: I had just a quick question about the timing of the demolition. I know we're coming back with a financing plan in September and I know we're very concerned about moving forward. My question is, about critical path. And that is, I know we've got to go forward with this lawsuit, and that's going to take some time. We don't know how much but I'm guessing away, six, nine months?

>> City Attorney Doyle: It all depends on whether you get any opposition or any appeal. Best-case is probably three to four months.

>> Councilmember Liccardo: Okay so let's assume best-case. We'll hopefully have a judgment of some kind October or November. The question is, is there any value in waiting until we have a financial study -- or I'm sorry a financial plan in place before we pull the trigger ton demolition. Because I know we're incurring lots of cost and if schedule is one of the things we want to be discussing when that plan comes back are we tying our hands?

>> Bill Ekern: Mr. Mayor, members of the board, right now we would anticipate not demolishing the building until the fall. We would have the financing program in place. We're waiting on the demolition, we're holding back because we want to resolve what the ultimate project is, what the schedule is but we anticipate regardless moving forward with demolition this fall so again we're working under this item 8.2 to try to get prepared to move the city's staff out under that skull, begin moving them out as soon as we can in August and September.

>> Councilmember Liccardo: Okay, so we won't see a wrecking ball until we have a revised financial plan before council, is that right?

>> Bill Ekern: That's up to the council. We are prepared to bid the project and we would come forward to the council with the recommendation in the fall and it's up to the council at that point. .

>> John Weis: It will probably happen to coincide with the period of time that we have the financing.

>> City Attorney Doyle: The point is the demolition contract would have to come back to the board for approval before it actually happened.

>> Councilmember Liccardo: Great, thank you. Just wanted to make sure we're not getting ahead of ourselves knowing that we 98 still have decisions to make. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. I know we want to make sure we don't get the cart before the horse but I think it's also important that we continue to make progress and move as quickly as we can because time is money. And as we all know from our discussions that we've had, money -- there's not a lot of money going around. The sooner, the more expeditiously the cheaper we can do it.

>> John Weis: We do concur. There is a time period of moving the personnel out, there's also a time period of cleaning up the inside of the building. Once that's done we will be ready to do demolition. No matter when that is, we'll come back for your consideration saying we're ready to do that now and we'll see where we are with the financing plan.

>> Mayor Reed: All right, we have a motion to approve. All in favor, opposed, none opposed, those items are approved. I'm just looking at the time, and the hour, and figuring out how much it's going to take to get through here. Looking at the number of cards we have I think we'll be able to complete the afternoon agenda by about 6:15 and then we can take a brief dinner break, I don't know if the City Clerk, I think she anticipated we might be pressed for time. So we'll go through the redevelopment agency agenda here, as the next set of items. The rest of the redevelopment agency agenda. Then we'll come back to the city council items on the agenda. And we do have some speaker cards which we'll take up as we get to them. But I'm hoping that we'll be done by 6:15. All right, on the redevelopment agency agenda, first item is the consent calendar. Any items on the consent calendar anybody wishes to pull for discussion? Motion is to approve the consent calendar. All in favor, opposed, none opposed, that's approved. 6en 1 is amendments to agreement to tree establishment services. I'm sorry, is that supposed to be deferred?

>> Mr. Mayor, Abby Magonfer, that item we recommended to go over to next week as part of our budget appropriation.

>> Mayor Reed: Defer next week, no objections from council we'll defer it to next week. 7.1, reimbursement with shocking technology for capital equipment. I think Councilmember Kalra that is another development in your district .

>> Councilmember Kalra: Thank you, Mr. Mayor. I had the opportunity to meet with the shocking technology they're both here in the chambers and I had a wonderful opportunity to learn more about shocking technologies and take a tour of the facilities and was very impressed with the ingenuity and just so folks know, they develop the voltage switchable Dialtic called ecstatic, what is it's affectionately referred to as goop, because that's what it looks like. It's called goop affectionately, for people like me who aren't technical people it is much easier to refer to

it as such. So the bottom line is calling it goop makes it much more simplistic than it is. It is the most advanced product of its type in the world and it's produced in the Edenvale technology park, I'm very proud of that. So I want to thank Lex and Lee Ann for choosing to do business in San José and continuing to do business in San José. I want to thank Abby Magenfar and Don Burris who spend countless hours assisting shock technologies and others, I don't want to embarrass Don Burris, they all rave about the professionalism and the attention that Don Burris gives to those companies to make sure they stay in San José and prosper in San José. And so I just want to congratulate Lex Kasowski and Lee Ann Stewart for their success at shocking technologies. I want to move the recommendation of staff, and I feel this is a small investment from our agency to a company that has dedicated themselves to our visit and has a very bright future.

>> Mayor Reed: We have a motion, Lex why don't you tell us a little bit more about your product and its goop. [ Laughter ]

>> Mayor Reed: We are really happy to have the jobs. But we'd like to know what you do so we can brag about it more than we would ordinarily do if we didn't know what it was.

>> We'd like to make this the goop capital of the world.

>> Mayor Reed: All right.

>> First of all, we'd like to thank city and the San José redevelopment agency for considering all the support. again, councilman Kalra, it's great that you came and visited us and got as technical as you did in understanding the goop concept. In all seriousness, we understand having a chance to sit through a little bit of the meeting. Before this, what a commitment it is on the part of city given these times and the redevelopment agency, and the faith you're putting in us. So we will make sure we reward the faith both with jobs and tax revenues. Shocking is a very unusual product. Voltage switchable dielectric is a polymer that switches when a very high electric field hits what that does for -- what that does is in simple terms, we'll put it in -- we'll break it down as, our major market will be at least initially will be cell phones. If you ever had to reboot your cell phone, pull your battery out, put it back in, the major cause of that is electrostatic discharge. If things go as they should we'll cure that. That's why there's so much interest in our product. It not only saves space, it adds reliability and it's cheaper than the current solution. The company's growing rather rapidly. We moved in, in August, and I can't say enough about Don Burris and the help he provided leading us through getting this facility, not only -- not only helping us get through this process, but helping us get through the permit process. Having run chemical companies in this valley for a long time, it -- you know, it is amazing how far the city has come in being able to work with us, create a safe environment for the -- safe and clean environment, and at the same time, be friendly to business. As far as future expansion, you know, the company plans to grow. We plan to manufacture here. The technology is in the goop. We really would like to keep it in the United States. We want to keep it in San José. And we want to keep it under our control.

>> Mayor Reed: I'm going to have to cut you off now, because we're short on time. But we really do appreciate your location of your business here.

>> Thank you very much.

>> Mayor Reed: Thank you. Councilmember Oliverio, do you want to speak on this item.

>> Councilmember Oliverio: Just real quickly. I ask does this get reiterate of the ESD wrist straps that you typically wear in a manufacturing facility to limit the static?

>> Yes, it will. Once the chips are mounted on the board you won't need those anymore.

>> Councilmember Oliverio: Great. Well, what's great about your product that is it is an exportable product, great for the economy to be producing it here and thank you very much and my only comment is we're able to do some really good economic development for small amount of money. John you listed three this isn't in it I would put this in my top three, this is a paramount of money we should be spending, use I appreciate all your efforts and thank you for locating in San José.

>> Thank you very much.

>> Mayor Reed: Thank you. We have a motion to approve, the staff recommendation, all in favor? Opposed? None opposed, that's approved. 7.2 is a reimbursement agreement with Borgata development, Councilmember Nguyen is ill and not able to be here tonight. She and I have been out there to see the facility with Borgata redevelopment. If you ever wonder what happens to all those tires that go on all those vehicles, Borgata recycling is the answer to that. She and I have met with the officials much Borgata recycling. I think we have some recs that will speak on this. Is there any staff presentation? All right, Bryan Chrisman.

>> Thank you for inviting us out here and thank you for inviting us to the City of San José a year ago. It's been a year now that we've established here, we've been working with RDA, enterprise zone, recycle zone and to establish a waste tire facilities to provide new solutions some of the solutions that we're working on now that this money is helping us support is shredding of tires. Two imp chip is a replacement for aggregate. That's a natural resource. That's what we're talking about your construction project, how are getting cost savings here in the San José. One is to identify products that you can replace natural resources with. Known cost savings of up to 20 to 40% by use utilizing a two inch chip that's manufactured from a waste tire. So with the opportunity of us being centrally located right here in San José we look forward to being able to provide solutions for the city in both construction and civil engineering products in the road base and construction of new homes and commercial real estate. We also continue our research and development in waste energy so waste energy is the ability to break down the tires that we're doing currently into partners overseas into waste oil and southern part of the county off of 101 close to the power plant. Again, thank you for everything and thank you for your support nor past year it's been great, we've been growing rapidly and look forward to continuing to grow with the City of San José and Don Burris has been my good friend for the past year so thank you and thank you mayor.

>> Mayor Reed: Thank you for our investment if our city. Councilmember Pyle.

>> Councilmember Pyle: I just heard on the radio today that by using that very kind of product, mixed in with concrete, it decreases K A, the cost of building an it's wonderful if there's an earthquake it doesn't crack.

>> Actually, moves and it also increases the life. So by blending in at a -- that's the next level of a mechanical phase. Almost a fine mesh you blend it with the asphalt you can get about 15 years extended life on your roads. They're also blended in to San Francisco into concrete, too. There's a lot of -- there is a lot of growth opportunity here. We're basic, go all the way to the high tech and we'll do it right here.

>> Councilmember Pyle: It was a great news item. Thank you.

>> Mayor Reed: Thank you. That completes the public testimony. Is there a motion? Motion by Councilmember Pyle to approve the staff recommendations. All in favor? Opposed? None opposed, thank you very much.

>> Thank you.

>> Mayor Reed: Approved. 7.3 is an owner participation agreement with black sea gallery LLC. Motion is to approve the staff recommendation, all in favor, opposed, none opposed, that's approved. I believe that completes the redevelopment agencies portion of the meeting. We'll go back to the city council item, back to 31 which is a report of the City Manager. No report from the City Manager. Items 3.2 and 3.10 we'll take together, that is the report of Rules and Open Government Committee for May 12th and may 27th. Motion to approve both of those. All in favor, opposed, none opposed, those are probed. Item 4.2 is a hearing on a public -- I'm sorry hearing on business improvement district reports for fiscal year 2009 and 10. Motion is to approve those reports. I have no cards to speak on those items. All in favor? Opposed? None opposed, those are approved. Taking us to item 4.3, the vision San José 2040 final selection of growth study scenarios. Before we get into that I want to disclose that I've had quite a few meetings, dive Coe West cps Steve Speno, Coyote valley research park, Stewardship in presentation for this meeting. I think we'll have a presentation from staff but there might be other disclosures that councilmembers want to make. Councilmember Campos, okay. Councilmember Liccardo? Louisiana thank you, mayor. I met with Steve Dunn, my staff met with Michael Green from Difco West.

>> Mayor Reed: I think -- I thought I'd mentioned Steve Dunn, I know my staff has met and talked to Mr. Dunn as well. Okay, staff, presentation here.

>> Thank you, I'm Andrew Crabtree from the city's Planning Department and I'm glad for opportunity to engage the city council in the discussion of the envision San José 2040 general plan update . In April the council and task force accepted four land use study scenarios, option different amentsdz of housing and job growth exaft and really each represents a different potential vision for the future of San José. These scenarios will be used in the envision process, as the basis of analysis will be performing a traffic and other environmental analysis as well as economic and fiscal analyses around each of these scenarios and that informing will be presented back to the task force and ultimately the city council as part of our process in which we develop a recommendation. Today we are asking the city council to look at the location for where this amount of job and housing growth capacity would be located in each scenario and council taking action today will allow us to move forward with launching phase 2 at our task force meeting next week where we really will look for at developing the policy, the various policy languages that go into a general plan. The draft vision that's been presented to the council previously is the basis for all of our work, and the staff and the task force recommendation that are before you today are really intended to continue the implementation of this vision. The vision identifies the important principles and goals for our planning process. The vision will also guide us as we go into phase 2. The task force has developed land use and transportation guidelines based on the vision. And these provide very clear guidance to us, as we have entered into the questions of where to locate growth in the city. Collectively, the guidelines really establish several goals. They make it clear that we want to create a series of great places throughout the city, and that we want to engage in planning in a way that the environmentally sustainable, fiscally responsible, and makes prudent use of existing transportation infrastructure and other resources that we have in the city already. So along with implementing the vision and the guidelines, staff and task force have taken into consideration some other major goals or pieces of input that we have into this. And one is, really, to utilize what we're calling the village strategy. This is a tool that's been developed is how to make these great places really identifying places within the city where it makes sense and it's possible to accommodate growth and to transform those into the series of great places. We also have an employment land demand analysis that we're looking at very carefully and in each scenario we're trying to make sure that we have the types of employment lands that will respond to what the projections are for the types of demand that we'll have for those. And then also looking at in the same way at housing. Just quickly, to review the amounts of -- the four scenarios, this table shows the amount of housing growth and job growth that are included in each scenario. On the vertical axis you have the A housing growth and the horizontal the A job growth. The origin point the blue dot is where we are today with the about 300,000 dwelling units and 400,000 jobs. And the current general plan capacity is shown there, that's going to be analyzed as one of our -- as a fifth scenario that sort of represents the no project alternative under CEQA, we look at what the city will look like if we develop according to that. Building out the city's current general plan. And then we have the four additional scenarios. Scenario K at the top corresponds to the most recent projections from ABAG. And that's the scenario with the most housing in it. Scenario E which is below it is a more slightly reduces the amount of housing and slightly increases the amount of jobs to get to a higher jobs to employed resident ratio. A scenario C represents a very modest amount of both housing capacity over our current job plan and scenario J represents the most ambitious amount of job growth with modest amount of housing. It's important to understand that the amounts of job and housing growth in these scenarios strongly influence where we would locate growth. All four of these, plus our current general plan represent an increase proportionately in the amount of jobs we have versus the amount of housing. Really these are scenarios where we're looking at first how to lain for job growth and then second degree depending on the scenario for housing growth. So following the vision and guidelines, for all four scenarios, first, we're maintaining the growth capacity that we have in our general plan, a lot of that job growth capacity in employment land areas, also, downtown, our specific plans, and then we're going in and adding to the degree that's feasible and desirable housing growth along the existing fixed transit system. Those areas are sort of highlighted here with circles on the map. Also for all scenarios we're using what we call the commercial villages and these are the larger commercial corridors or commercial centers in the city where we've gone and identified underutilized parcels where we think is development as a means of commenting growth. Notably, staff and the task force is threamg there be no growth in the urban reserves and this responds fairly closely to the goals that we have in the vision and the guidelines, and also addresses a lot of the community input we've received about really advancing environmentally sustainable and the fiscally responsible plan for the City's future. This is a little bit of a -- this is a departure from our current general plan which includes the potential for development of these areas if certain triggers are met and if council takes action in the future to do that. Where instead of that we would really be saying let's plan for no new housing or growth in those areas. Similar -- just

also, I'd like to add on that another reason that we came to this recommendation is that when we looked at the amount of capacity that we have for job and housing growth in other parts of the city, we didn't see the need to put more housing growth into the reserves. Similarly, for the Evergreen campus industrial properties which have been referred to the general plan update, staff is recommending that the current general plan which plans for job growth be maintained and that we not look at converting or adding housing growth capacity along those sites. And again this is motivated by the fact that we have a lot of job growth that we're being asked to plan for in each of the scenarios and that we have a demand, identified demand for a wide variety of types of employment lands. The cities -- a lot of the city's current job growth capacity is in mid rise and high rise type of employment lands. And there's a significant demand projected for lower-rise R&D type lands as well. So we want to make sure that the city has a real variety of employment lands available so that when prospective options that we can offer to them. So moving into scenario C, scenario C is differentiated from the other scenarios in that it doesn't make use of what we're calling a neighborhood villages. Tease are basically the other -- the growth areas that we've identified that didn't fit into the prior categories, they're not on transit, they're not in employment land areas or the major commercial sites but they're smaller commercial properties or other properties throughout the city that have potential for intensification, scenario C has a very modest amount of growth and we're not looking to those areas in scenario C. Use of scenario C would make use of those villages to some degree, not fully utilizing them but housing growth and some growth into the neighborhood villages and a little bit more into the commercial villages. Scenario K and scenario J which are the higher growth scenarios will make full use of the villages. Scenario K, in scenario K there is a lot of housing that gets placed in villages throughout the city and scenario J, those become grownrtd level retail with office buildings above to provide the sort of growth capacity that's wanted for that scenario. Just to illustrate away a village might look like, the top image is a residentially oriented village development for scenario K. Based on the amounts of growth that-d and the amount of land that we have for a residential val an in scenarioK, O&M you will have 4 to 6 story residential structures over retail. Very limited amounts of job growth but there would be some job growth in the villages just because we're trying to provide jobs close to the housing for jobs that are related to the housing, support the residents. In the scenario J example, the villages have really no housing in it, it's all office over retail. The housing growth would be restricted more to the areas on transit and where it's already planned. And again, the heights are similar, you'll have four to five, six-story office buildings at sort of the core and lower development at the periphery. In terms of staff has been involved in extensive outreach on this, through our task force. We've been very -- we made a very deliberate effort to engage the community and the property owners or the the urban reserves and to communicate -- to take m put and also to communicate to them the staff's recommendation so they would understand what it is that we're proposing, what the task force has recommended at this point. And there's been an effort to contact or notify all the property owners in the Almaden valley and Coyote Valley urban reserves. In terms of input, community members very consistently have strongly supported the staff task force recommendation, principles that we're following of locating new development along transit and is not using the urban reserves. In contrast the property owners from those urban reserves have made it clear that we consider more potential development within those areas so today we're here and asking the council to take action on these geographic distributions and we're available for questions and discussion. Thank you.

>> Mayor Reed: Okay, I have about a dozen cards of people that want to speak on this item, which I want to get done but I'm revise being my guesstimate on time until about 6:30 when we'll get done with the agenda. Councilmember Liccardo, one of our co-chairs of the task force.

>> Councilmember Liccardo: Thank you, mayor. I know that Shirley Lewis wanted to be here to answer questions, she's on a plane right now hopefully somewhere fun. I would like to thank Councilmember Oliverio for his service on the task force and Andrew and Joe and all the folks who have been working so hard on this effort. I think what we have seen is enormous amount of work, up to this point, by a group of pretty sophisticated people. The 37 people or so that we got around the table are folks who have had a lot of experience from different angles of development, from the business or neighborhood perspective and other perspective. One thing I would like to say is we had a lot of concerns from property owners in Coyote and Evergreen and south Alameda urban reserve. Both property owners and developers about outreach issues. And certainly, I'll take my share of blame for any lack of outreach of getting ahead of the problem to be able to notify people of exactly when meetings were happening and so forth. I think this is an issue certainly we're undoubtedly going to revisit. We're pass og a plan that's going to impact the owners of 300,000 parcels, so I'm sure that somewhere down the road someone else will complain that they didn't know. In this case we knew that these were unique challenges, whether it's Almaden, Coyote or Evergreen and probably should have been more explicit with some of those folks with strong interests

out there. It is clear to me, though, from my experience of watching this task force work for two years, and given the sophistication we had on this task force and particularly on really the focus of this task force it seemed to me two really key principles, one was reducing greenhouse gas emission and our carbon footprint and the other are the fiscal impact of development. We had really strong commitments across the board from the three dozen folks around the table on this. I would be very surprised if any amount of engagement from advocates from development in those areas would have altered the vote given anything we heard. Anyway I would like to make a motion to approve.

>> Mayor Reed: Motion is to approve staff recommendations. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I'll keep my comments pretty short and precise. Up first of all I want to thank my colleagues for serving on the general plan update task force and the community members that have agreed to be a part of this. And I didn't realize two years went by so fast. And all the work that you've done. Staff, what I want to talk about is the growth around the transit corridors. And I know that next week, we have the Alum Rock avenue focal point of form based zoning overlay that's coming to council and what I want to do is focus on that from the perspective as we move forward and the task force moves forward in looking at how we build out the city with jobs, housing, also the perspective of how are we including and how are we working with the growth of the schools for the capacity to house children? And the reason why I'm bringing that up is because since I've been on the council we know that we've been faced with a lot of issues of school districts coming to us and saying, okay, you're building housing here but we need to accommodate X, Y and Z and we don't have the capacity and we don't have the land. And for council districts, that may be built out and I'm probably one of those council districts, I'm sure there are a few others downtown and might be another one that might be constrained when it comes to building out, I think that gives a lot -- I've laid out the issue and I'd like to get your feedback on that.

>> Laurel Prevetti: Councilmember, I'm Prevetti, assistant director of Planning, Building, and Code Enforcement. We have been reaching out to the superintendents of all 19 school districts. We started with the city's school collaborative and have been meeting separately with the superintendents. We've reviewed the demographic study with them so they understand how much population might be coming to San José by the year 2040. We've also reviewed the village concept with them. The feedback we've received so far is that they're particularly concerned about what kind of growth the city might be facing in the next five years. That's really of utmost importance given the challenges that they're facing with their own budgets. And we intend to continue to have the dialogue with them as the plan takes more shape and we understand how all of the growth will be distributed within the school district. So that's still a process that's underway. We will be talking about school capacity and planning for schools as part of the update and that will be one of the issues the task force will be taking up in the next year. So it's still in process.

>> Councilmember Campos: Thank you. So in relationship to -- let's just take Alum Rock since that's probably the one I'm most familiar with, as we move forward and we're building out these transit corridors for housing and I know that you're aware that I have been working very closely with the redevelopment agency on a new charter school going close to a transit corridor, so that we're able to accommodate that particular growth that will be moving forward on Alum Rock, is that some of the discussions that you will be having or some of the things that you will be looking at when we start building out some of these I think you called them transit corridors and neighborhood villages I think they called them?

>> Laurel Prevetti: We will be looking at the school issue at a citywide level, and to the extent that we can plan for sites, we will. I think what we would like to do is encourage the districts to be very careful about how they manage their own land assets, so that if they have lower attendance currently, we would strongly recommend that they lease those assets and not sell them off. Because we foresee that in the future we will have more school population. I don't think we're going to get to a point where we're going to have specific locations for all of the new schools but we need to have a general strategy as to how we are going to accommodate new students into our future.

>> Councilmember Campos: Well, that's encouraging. I'm glad to hear that we're looking at that as we move forward in building out the City of San José. Thank you.

>> Mayor Reed: Thank you. I'd like to take the public testimony at this time. Looking at the cards on this item and the cards on the other items and how much we have left I'm going to have to limit our speakers to one minute so we can get everybody in before we have to break for dinner so that nobody that is to come back to the evening agenda. When I call your name, please come back to the front, we have plenty of seats so you are close to the microphone. Chuck Keenan who I think is gone (saying names) and George Stepanenko.

>> Steve Dunn from legacy partners here to support the Evergreen residential alternative. You know, we've been in this process for seven years actually, our third task force. It hasn't been that fluid of a process, I have to say. It's been pretty difficult. But now we're at the end of the third process, and the whole bottom line is, you know, why shouldn't this be residential. You know, the whole development community, the real estate community, they all support that you know, development for commercial development won't go out there. It's just too far out. There's too much in fact this study shows it, that the core areas are where the development is going to be. In 2006, the part of the Evergreen hills visioning strategy, a third party study was conducted that concluded that the conversion of these sites to residential would be a positive net fiscal impact for the city as opposed to commercial uses. Cars, just our side alone if you build residential, there will be 900 cars. If you build the commercial that we're already entitled for, 6800 cars.

>> Mayor Reed: I'm sorry, your time is up. Steve Spino, Michael Green, George Stepanenko and Michael Schmidt.

>> Mayor and councilmembers they also preserved the 50,000 job target for North Coyote. I think that's appropriate and it's also clearly part for both the city's economic goals and also for the city's long term fiscal health. We support that designation but we would like to propose a refinement for your consideration and that's that we would propose a mixed use overlay for North Coyote Valley consistent with preserving the entire 50,000 job holding capacity of North Coyote and subject to initial job targets first being satisfied. I think it's important that we strive to obtain efficient land use, the original North Coyote plan was done in 1983 and looked at 35% F.A.R.s. Today I think you're more likely going to experience F.A.R.s of 50% or more which means you are going to have to accommodate 400 acres of this would be a more desirable and a more sustainable long term development.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Michael Green, George Stepanenko, Brian Schmidt.

>> I'm working with Steve Speno, I'm going to try follow up on his comments. We ask the mix of jobs housing and retail that is that the 50,000 jobs could be created as part of an integrated 21st century transit village. The council obviously wouldn't incorporate that challenge into the economic plan unless the economic benefits and council's approval but we think there are many reasons why the mixed use scenario warrants evaluation. Up first, Mr. Speno said the infrastructure and foot print of transit oriented village that clusters jobs housing shopping community services around CalTrain VTA links to downtown and other parts of San José and the region would exemplify, and entertain outside of San José and finally the 21st free clean energy and cutting edge technology companies are looking for well planned smart environmentally sensitive communities that excite and meet the needs of their workers. Thank you very much for your consideration.

>> Mayor Reed: George Stepanenko, Brian Schmidt, Julie Phillips and Michael Sanchez. Go ahead Brian.

>> Good afternoon, Brian Schmidt committee for green foothills and I'm going to directly contradict everything Mr. Speno said, maybe you didn't need to hear from either of us. But a mixed use scenario for Coyote valley is a very bad idea, I would call it a zombie idea, particularly downgrading the emphasis which really isn't necessary to begin with the city has not been given any flexibility in Coyote Valley planning proposal. There should be one proposal that has no development in Coyote Valley. You can modify the scenario K, eliminate the 50,000 jobs, reduce the total number of housing, keep a one to one development rish yow, keep Coyote Valley undeveloped and that is an option much better than than is currently developed. Thank you.

>> Mayor Reed: Michael.

>> Good evening I'm Julie Phillips, the Morgan Stanley chair of De Anza. Time in Coyote Valley and it is just an amazing place. What's come out of Coyote Valley is a set of curriculum that I just handed to your City Clerk to give to you but the State of California has now approved the state chancellor's office has approved a wildlife corridor tracking program that will be placed in Coyote Valley and surrounding area. We would be delighted to partner with the city in addition we've come out a primary, secondary secondary plan that we sharing with every nine Bay Area colleges De Anza college that is 26,000 students 40% of our students come from the City of San José. We will partner with the other nine colleges to put this curriculum into place in the next two to three years so we have an opportunity to invite you to come out to Coyote Valley with our team and see the very special work that's going on as we do connect our students with education.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Michael Sanchez, Janna Clark, Lynn Sorenson.

>> Garn, I'm Mike Sanchez. I'm here to represent myself. I was born in San José I was a long time resident. I've seen this valley go from the valley of heart's delight with orchards and would like to maintain a small portion of the south valley for critical raptor and bird habitat as well as a wildlife corridor to connect the Santa Cruz mountains with the Diablo range. I have been out there studying the animals, and the birds, and have consistently seen evidence of the wildlife using the habitat for nesting. I have seen raptor nestlings and eggs almost every week I go out there. I see this incredible light happening in that corridor so I'd like to preserve that, thank you very much.

>> Mayor Reed: Janna Clark, Lynn Sorenson, Kristin Lynn Sullivan.

>> My name is Janna Clark, I'm talking about Coyote Valley and Almaden valley out of future plans for development. A letter from Paul Byer and Reed Nost, two internationally recognized wildlife movement corridor. Please allow me to quote from this letter which you will get a copy of. In our opinion protecting and restoring functional wildlife movement corridors between the Diablo range and the Santa Cruz the Coyote Valley provides the best opportunity to connect these two high biodiversity ranges and also has inherent value as wildlife habitat especially for raptors. This letter supports the findings of the De Anza presence of wildlife movement across the valley. It is critical we preserve the open space we have left in our county. In this age of global climate change, economic challenge and dwindling finite resources smart growth high density development.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Lynn Sorenson, Kristin Jensen'.

>> Good evening I would like to first thank the council for taking our comments tonight. My name is Lynn Sorenson and I'm here today as the De Anza college instructor and a concerned California citizen. I spent most of my time today listening to my students' final presentation on endangered species and threat on a common theme throughout the presentation. Most of all, the species presented were endangered as a result of habitat loss due to urban development. Habitat fragmentation is detrimental to wildlife populations. The need for natural populations such as those in Diablo and Santa Cruz mountain ranges to exchange genetic material is key to their ability to adapt to change and disease. Through use of wildlife corridors such as Coyote Valley these populations can continue to remain healthy and viable in a world where urban sprawl is isolating natural populations --

>> Mayor Reed: Sorry your time is up. Kristin Jensen Sullivan, Alejandro Mazola.

>> Good evening mayor city council members staff, thanks for your time. My name is Kristin Jensen Sullivan. since 1849. I know not as long as necessitative peoples have been here for ten to 12,000 years but they've been in the watershed for along time, million graduating from San José normal school, and San José state

university. I'm here to speak on the recommendation from envision 2040 in opposing development in Coyote Valley for the following reasons. First of all as you all know the mayor in your Green Vision plan and the envision task force have been really doing some good work regarding environmental, social and economic sustainability. Economic sustainability can be -- can really be looked at best I think if you look at the recent article that came out in the San José Mercury News, Bay Area can focus on infill was one article and it talks how important it is for infill basis --

>> Mayor Reed: Sorry your time is up.

>> Pardon?

>> Mayor Reed: Your time is up p.

>> One thing I would like to say is our students are really enjoying --

>> Mayor Reed: Sorry. (saying names).

>> Hello, my name is Allejandro significance is to various animal species and what significance represents for us as humans and its significance in the yeefert life cycle. As a student that has taken so much from learning of this area I urge you councilmembers to vote in favor envision San José 2040's recommendations in option of the development of Coyote Valley. Just as San José is known as a leader in technological advancement, environmental issues as well thank you.

>> Mayor Reed: Heather Bronfelt,.

>> My name is Jason from de Anza college. I think it's basically a very, very selfish act because Coyote valley really can balance the ecosystem and the food chain basically it has 171 species and 24 species of mammal, living in this Coyote Valley. If we are going to develop it basically those species of animal are going to be homeless. Let's assume if one of you guys of your home got descruet, what would you do? It is a very, very selfish act so let's think bit, thanks.

>> Mayor Reed: Heather Bontelb and then David Haneld.

>> Hi, thank you. I'm here on behalf of did he Anza college as a student. I just came back from a class in Yosemite, I was very inspired by Coyote Valley. I think it should be preserved and we should this land should not be developed. It is a ridge between Diablo mountain range and the descruz range. If we bridge off then that would be cutting off animals from biodiversity and we could be getting diseases from the animals and in-breeding so I think it's a bad idea. Thank you.

>> Mayor Reed: David Hinalt.

>> Mr. Mayor and city council members, I'm student at de Anza. To my teachers and friends I've been speaking i'm here to ask you to rule on any plans to Coyote Valley and to support the envision 2040 recommendations that were brought before you. I think the debate is very clear in regards to the undeveloped valley. Economically research has already shown no need for further housing or commercial development in this area due to the complexities from moiding the city service and outreach. The valley action as a reminder for who we are. It acts for an outdoor classroom for K-12 and even more so for the local colleges and universities, wildlife Coyote Valley means a haiive haven and gateway. climate changes that are very real today. The more important than all these reasons is the value of Coyote Valley of a wild Coyote Valley as a symbol worldwide for environmentally considered city development. A title that should rightfully go to the premier tech city in the world.

>> Mayor Reed: Sorry, your time is up. That concludes the public testimony on this item. We do have a motion to approve the recommendations. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you Mayor Reed. There has been some division of some people and I'm in that group as well wanting to see more jobs and less housing but in the end we are approving the scenario so

we'll see the spectrum of the different types of scenarios. My preference were to knock out some of those scenarios but I will live with that being that's what the task wanted. I wanted to say though that the task force was 100% unanimous though when it came to not having development in Coyote, not developing the Almaden reserve and not converting the industrial land in Evergreen to housing. So that was unanimous so everyone should know that. And I know there can be studies done that shows converting industrial land to housing is profitable for the city but I'm highly skeptical that converting libraries parks and police and fire and sewers and the like. And finally on the question of outreach that imhl brought out, you know, the groups that are you know in the know are the property owners of those areas. They've seen the council votes in the recent past and those council votes have been no to the commercial no to moving forward with Coyote. So it's been a very well-known fact so I'll be supporting the motion and the task force's work. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to disclose that I did meet with Steve Dunn from legacy and also Carlberg. I want to thank first of all my council colleagues Sam Liccardo for chairing this Pierluigi and Judy Chirco for their fine effort of working on this task force. I'm really grateful for them for their leadership and also the community for participating. I think it's very, very important that the staff, the task force, the members and all the members of the exient that have worked in this process. Your work is absolutely instrumental to the future of San José. I consider myself an advocate for smart growth and my goal has always been to protect open space and prevent sprawl by ensuring that urban development takes place where services currently exist or plan to be available. And as a blueprint for our city the general plan is fundamental in how we want to grow, and where we want to grow. I'm pleased that you have -- that the vote was unanimous to protect our industrial lands. We need these employment lands for the future and I'm particularly happy about the Evergreen industrial lands. We have the potential now, we have safeguarded the potential of locating jobs there. It may not happen today but as we have taken bold steps in other areas today like our convention center believing that we will come out of the current economic be sweys situation and move to the future we need to believe that we can put these village location out in various parts of our community and locate jobs near where people live and have shopping centers and all those things so that we can create a sustainable community. I'm sympathetic to the property owners who have been unsuccessful thus far in locating business on their properties. And I pledge to work with them, and I know city staff will work with them and we will look for opportunities to make that happen. The last thing I want to say is that I can tell that you the residents in my district are going to be very, very pleased at this outcome because they simply just don't want to see a lot of more housing on those hills. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I also want to thank Councilmember Liccardo and Shirley Lewis for chairing the task force, Councilmember Oliverio, Vice Mayor Chirco and the numerous community members who participated. I know you have three dozen people in a room it's difficult at times to come to some consensus and movement, it looks like there's been a lot of really good work done so I appreciate that. And as Councilmember Liccardo indicated regarding outreach and particularly the property owners, I think that we can always you know, no matter how much we try to do that there can always be improvements or there can always be efforts even individually as councilmembers. So certainly if there is anything I can do particularly with those that are in the Coyote Valley area or in south San José I'm certainly willing to do that. I think we circulate continue the outreach process as we all know this is an ongoing process and in terms of the future development, I've always been an advocate of higher density, along the transportation corridors, and I also like now this village concept. I have spoken with Joe and Laurel with regard to the concept, Blossom Hill which is one of the areas looked at and I think we just need to look at becoming denser, and look to that infill development of what we already have infrastructure built. And finally I want to thank the instructors and the students from de Anza college. My alma mater. I did go to de Anza for two years out of college and very proud of the work that's been done by de Anza college, the instructors, the students, in really taking ownership of the issues surrounding Coyote Valley and educating myself and a number of other policy makers, property owners and community members about some of the environmental impacts of that as we move forward we can make intelligent decisions that are not just good decisions for the next 20 years but for the next 100 years. So I just appreciate that work and I'm very proud to listen to folks from a school that I remember very fondly out here today, advocating for something they believe in.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I neglected to thank Eric Shanehauer who has endured many hours of task force work as well, want to echo what Councilmember Kalra said, it's really commendable the way the teachers and students over at de Anza have made the world a classroom and hope we see more of that. One issue I wanted to raise very briefly, it was raised by Steve Dunn, I know he didn't have nearly enough time to explain the issues of development around Evergreen. But I think this is true of each of the sites that are areas of controversy. Just for Councilmember Oliverio, he didn't intentionally reply misstate this but he correctly stated that the scenarios were approved unanimously. I think there were dissenting votes on each of the areas, Coyote, Evergreen and south Almaden. Some of the issues had to do with dissent regarding outreach issues but be that as it may I wanted to just clarify, this is a process that we will fortunately or unfortunately take up again in another decade. Which and really I think what became very apparent to the task force is that we have the capacity to put the housing that we foresee emerging in this city over the next 40 years in the existing sort of opportunity locations throughout the city where we know we want housing. And there may be a day when it's appropriate to build housing out in Evergreen but that day certainly isn't now. And the same goes for south Almaden. And so while a future task force will undoubtedly take that up, as long as we have the capacity to build the housing, along the transit corridors and key opportunity sites, we know that are key for the development of our city I know we'll positive that path .

>> Mayor Reed: All right we have a motion to approve the staff recommendations, all in favor, opposed, none opposed, those are approved. Okay, I'm still hoping to finish this agenda before we break for dinner. We may have to push back our return time a little bit so that councilmembers have a chance to eat during the break. 5.2 is surplus properties. Have one request to speak on that, Gay Gail. Still here? Come on down, Gay. Arounds Joe Gallo. Mayor, given the hour, I think we should hold the presentation oop pps.

>> Mayor Reed: Already.

>> I'm speaking as a resident of Spartan Keyes and I want to thank Sam for his leadership as we look at three of the properties on this list that are in our area. There is one property that has engendered mega-e-mails going back and forth with all sorts of ideas, right? And I believe it's the intention to pull that so we can have additional outreach, is that right, Sam? Okay so I want to thank you for that leadership, thank the mayor and you for coming out to our opening of the neighborhood action center which was our second amenity. We have a mini park now, we have no schools, no community centers, no libraries in our community, so we're really happy that SNI exists to help us grab the community feeling and the community amenities that we deserve. Thank you Sam and councilmembers for your support of SNI.

>> Mayor Reed: Joe Gallo.

>> Mr. Mayor, and members of the city council, I live on Dorell drive in the east side of San José. My fellow citizens have asked me to come here and ask the city what they intend to do with lot number 30, which is a geologically troubled lot from which the homes, some years ago, were removed and sold to outside interests. I guess all they want me to do is see if the city has made some conclusion about what it's going to do with that property. We'd like to see it stay almost like a park, but of course we know that concerns sometimes will not allow that to happen. If you could let us know, we'd be grateful. Thank you very much.

>> Mayor Reed: Thank you. That concludes the public testimony. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd like to move the staff recommendation with one amendment which is, as it was referenced by Gay Gail, moving item 1G, that is the property at 12th and Keyes, down to paragraph 2, to that grouping of seven recently identified city owned parcels that would be subject to additional community outreach, we've -- I've had -- if there's a second I'd be happy to comment briefly.

>> Second.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: We have a motion on the floor to approve with the one modification.

>> Councilmember Liccardo: I've had a chance to talk to Phil and others on staff about this. This particularly site is one that's adjacent to Story Road landfill. I know there's been community conversation for some time about this is a potential park site. I know we're looking at other sites as a potential park site in that neighborhood. I'd like to nail down that strategy if we look to do something creatively in the Story Road landfill site which we are looking to do now .

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, Mr. Mayor. I'd like to make a motion to remove item J from the property located on Dorell drive. Dorell drive has a very steep sloach of 17 degree slope. My research on the records shows that there used to be three houses built on that site, and the city pretty much have to relocate those three houses. And bought up the property because of the geographical instability. So I don't want to see the -- to see the history repeat itself and have really concern of the, for seeing this property meeting the same fate. I'd also like to thank the residents, my office had two community meetings with some over the last couple of months, and I want to thank Phil prince and Neil Stone for joining my office to me with the residents there, but I also like to thank Ed Shikada for the public work for their work on the asset management and looking into the City's underutilized property. So would say I would like to make an amendment or amends to Sam's motion, to remove item J from the surplus list.

>> Councilmember Liccardo: Councilmember Chu, I'd be happy to consider that friendly amendment. I would just like to because I'm not familiar with the issue at all if I could just ask staff to comment in some way.

>> Phil prince, deputy director of Public Works. The issue on the property on Keyes street that you mentioned Councilmember Liccardo was, we missed some of the residents in that area, and so I think it was an issue of where we could make benefit of additional outreach. The issue on Dorell Drive is a little different in that we did two community meetings and this is an issue where the community would like to see this vacant lot stay vacant. That is a legitimate concern that should be considered in this recommendation. Our recommendation on surplussing the property isn't a recommendation to sell -- or excuse me -- it's not -- your approval of that wouldn't be approval of sale. It would allow us to go into the options that are there, land swap, leasing, sale, and then you have some real numbers to compare with the community concern. And those are all legitimate perspectives.

>> Councilmember Chu: Yes, I would also want to add, that piece of property is actually adjacent to the Alum Rock park, right? So that's one of the reasons I'd likely to leave it as part of the Alum Rock park, as an open space.

>> Councilmember Liccardo: Well, I -- I'm -- let me say this. I apologize, Councilmember Chu. I'm simply not aware of the issues surrounding the site. This is the first I've heard of it. I'm happy to take the amendment as a friendly amendment. May I ask that perhaps, if there's additional analysis that needs to be done on this, would this be worth coming back, in the second group as well, that is, to move it down to paragraph 2, so that way all the various options whether it means we add it to the park or that this is part of a swap or something else, I assume that there are open space options that don't involve development that may still involve the transaction.

>> That's correct. We can move it down to the second group. And in fact, a sale of a property that large we need to do the California 54222 process, which includes open space and things like that .

>> Councilmember Liccardo: Would that be agreeable with you Councilmember Chu?

>> Councilmember Chu: Yes, thank you.

>> Mayor Reed: So the motion is amended, okay with the seconder? Okay. That is the motion, move those two items to the second paragraph. Further discuss on these? All in favor? Opposed? None opposed, did you have something else Councilmember Chu? Nancy was just agreeing as the seconder. Okay, all right. 5.4. Happy hollow park and zoo parks bond project. Motion is to approve the staff recommendations. All in favor? Opposed? None opposed, 6.1, report of the transportation and environment committee June 1st. Councilmember Liccardo chairs that committee.

>> Councilmember Liccardo: Move the minutes of that meeting.

>> Mayor Reed: Motion is to approve, all in favor? Opposed? None opposed, that's approved. Okay, item 7.1, the memorandum of understanding of biogas facility out on our water pollution control plant facilities. I would like to say I have met with the Shanehauer group and members of the Zanker road development group in preparation of this meeting. John.

>> John Stufflebean: Yes John Stufflebean. .

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Mayor, I have also met with Shanehauer and the representative from the applicant. I think this is a great addition to the North San José. They're bringing us some really up-to-date technology that would be the first in the United States, so I really welcome the addition of the facility in North San José. With that I move to approve.

>> Second.

>> Mayor Reed: Motion is to approve the staff recommendation. Councilmember Constant.

>> Councilmember Constant: I just want to make the disclosure that I met with Eric and representatives from the company.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Same disclosure.

>> Mayor Reed: Okay, Councilmember Pyle says ditto. Have a couple of speakers from the public, first Eric Shanehauer and then Eileen McLaughlin. If you wish to speak.

>> Good evening, Mayor Reed, members of the council. My name is Eric Shanehauer and the Shanehauer company represents the zero waste company on the otherwise gloomy schedule, we hope use cutting edge of innovation and the cutting edge of environmental sustainability. Both the advanced composting we with will do and the energy production helps achieve two of the ten goals in the Green Vision. This facility will be the first of its kind in the nation. However, we will need to work together with staff on an aggressive time line to ensure that we are still first when we break ground early next year. We'd like to thank the staff for all their work to date. I think the staff report for this is very comprehensive and informative if you haven't had a chance to read it yet. We hope to have your support so we can continue to work with staff to bring you a finished land lease and project thank you very much.

>> Mayor Reed: Eileen McLaughlin I'm a member of the community advisory committee for the water pollution control plant master plan. That is what brings me here today, I would like to make sure that the lease terms have been negotiated, actually integrate with that master plan. Two issues come to mind. One is methane as a power source. The water pollution control plant has huge needs for power in the future, particularly as it becomes our area's recycler. Today it produces just one-third of its power truly sustainably from its oarch digesters. Last month at a meeting, a public meeting about this plan, the staff actually suggested that this is one idea they're considering, processing food waste as well on its plant. So this is a possible source of power for the long term for the plant and what's the cost effective way to do it?

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you.

>> Mayor Reed: That concludes the public testimony on this item. Is there further council question or discussion? Councilmember Pyle.

>> Councilmember Pyle: I would imagine that would not be precluded, would it? In other words, if there's a possibility for us to use the methane for a purpose that would create another product or a better situation,.

>> John Stufflebean: This process will produce methane, and certainly one of the issues we'll be talking with the private company about is the potential to use some of that methane to power the plant, yes.

>> Councilmember Pyle: Traffic.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wanted to disclose I met with Mr. Shanehauer and the principals of this.

>> Mayor Reed: I want to say congratulations, we're not the first in the world on this this technology has been proven elsewhere but it is new technology and makes it possible to do things that will really be good for our Green Vision. Looking forward to seeing the MOU turn into a contract that will be back for approval at some later date. All in favor, opposed, none opposed, that's approved. Takes us to 7.3, the water supply agreement with the City of San Francisco. art Jensen is here. I have served on the Bawsca for many years. over the water so I'm going to let the staff and Art Jensen explain where we are today.

>> John Stufflebean: Again I won't go into the details unless asked but we do enthusiastically recommend approval of this agreement and we think we have agreement that takes us in a positive direction and it's good for San José.

>> Mayor Reed: Thank you. We do need that Hetch-Hetchy water. We have a motion to approve. Second, there's a second. Art Jensen is here. Art, why don't you briefly describe how you managed to get 28 organizations all at the same time.

>> Thank you Mayor Reed and members of the council. First of all it was a pleasure to do this on your behalf and on the behalf of the other agencies. As of dam this morning 19 agencies have approved the agreements, yours will be the twiment, and East Palo Alto, how we did it I'm not going to divulge any secrets. You had laterally been San Francisco prevented this but we still ended one a better agreement than you had a few years ago so we hope it's acceptable to you and thank you again for the chance to work on your behalf.

>> Mayor Reed: Thank you. And I want to personally thank mayor newsom for his efforts that we got treated fairly by his Public Utilities commission.

>> Mayor Reed: Your presence at that meeting was very critical. Thank you.

>> Mayor Reed: We have a motion, all in favor, opposed, that's approved. We have one card which we will take. Steve Mahan was here, I believe he's gone. No one wants to speak on open forum. It's now 6:38 by the little clock on my desk here. We're scheduled to come back at 7:00. I don't know if that's enough time to eat dinner, we could probably kick that to 7:15, give everybody a chance to eat something rather than choke it down which I don't recommend. We'll recess, start again at 7:15. Thank you.

>> Mayor Reed: I'd like to call the city council meeting back in session. We're just finishing our dinner break. We ran very late on the afternoon session, so councilmembers are in the building, and they'll be in here shortly. As we get a quorum, we'll get started. We have a quorum, so we will start with our ceremonial items. Councilmember Chu is in the first item, so I would like to invite Councilmember Chu and representatives of the Junior League of San Jose to join me at the podium. Tonight we're commending the junior league of San José in recognition of the 40th anniversary of their volunteer recognition program. Councilmember Chu has some information about that.

>> Councilmember Chu: Thank you, Mayor. I'd like to thank my colleagues and the mayor for joining me to commend the junior league of San José. Volunteerism is one of the best aspects of humanity. And for an organization that has dedicated its mission to such work towards improvement of our community is truly commendable. The junior league of San José is comprised of over 700 women who annually contribute more than 25,000 hours of volunteer services time, and is one of the 293 Junior Leagues in the association of Junior Leagues International. This year the Junior League of San José celebrate its 40th anniversary of their volunteer recognition lunch which recognizes women committed to promoting volunteerism, developing potential of women and to improve the community through the effective action and leadership of trained volunteers. I'd like to thank and commend junior league of San José for their extraordinary dedication and commitment to contribute to the betterment of our community so I'll ask the mayor to please present the commendation to Shana.

>> Hello. My name is Shana Garsey. And I, along with Suzanne Little, as active members of the Junior League of San Jose, co-chaired this year's 40th anniversary of the volunteer recognition luncheon. We are also joined by Mary Ellen Logens, president of the Junior League. Mayor Reed and Councilmember Chu, thank you so very much for acknowledging this milestone 40th anniversary of the volunteer recognition luncheon. During the course of this event we have recognized hundreds and hundreds of often unsung community volunteers for the work they do. It is our pleasure to accept this on behalf of these fabulous volunteers, the nonprofit agencies that they work for, and in acknowledgment of the wonderful work that they do in improving the fabric of our community. Thank you so very much. [ applause ]

>> Mayor Reed: Too late. Just one more photo, that's all we ask. Next I'd like to invite Councilmember Kalra and members of the the Oak Grove High School Eaglebots to join us at the podium. Today we're going to commend the Eaglebots for winning first place in the 2009 Northern California regional Botball competition. Councilmember Kalra, who is an expert Botball player --

>> Councilmember Kalra: I wish!

>> Mayor Reed: Please come on down.

>> Councilmember Kalra: Would you like to hold the winning robot? Keep on moving down. So fill in a couple rows behind me. Keep filling it in. Thank you, Mayor Reed. San José's Oak Grove High School Botball robotics team, known as the Eaglebots, won the Northern California Botball robotics championships in March of 2009. The 28-member team, 21 students and seven teacher mentors, competed against affluent and more robotically experienced school districts, but were able to succeed through a combination of hard work and clever robotics implementation. The Eaglebots will be competing in the international botball championships in Washington, D.C., on June 30th to July 7th of this year. They're currently trying to raise \$26,000 -- let's throw that out there -- to cover their travel expenses to the international botball championships, and I'm pleased to say that to date they've been able to raise about \$21,000 already. Many members of the team are recent immigrants who are helping to financially support their family as well as working hard in school to maintain their grades to qualify for college. These students standing before us are exemplary students who have shown continued effort, leadership and focus while participating in a team-oriented competition that promotes science, technology, engineering, computer science, and math. I would certainly like to thank all the adult volunteers who have helped to mentor those students, and I want to give a special thanks to Ms. Jeannie Romanoff, a teacher at Oak Grove High School, who has dedicated so much time and love to these young adults. She has spent so many nights and weekends helping these students achieve their goals. And as an Oak Grove High School alumna, I'm just so proud of this team of these students, and they certainly make me proud to say that I went to Oak Grove High School. And so Ms. Romanoff, and the robot -- I think the robot is going to come up, too.

>> Hi, nice to meet you.

>> Councilmember Kalra: And so, Mayor Reed, would you please present Ms. Romanoff with the commendation. Thank you. [applause]

>> My name is Ruit Krishna from Oak Grove High School. First of all, I would thank Mayor Reed, you still inspired us with your will to work. Councilmember Kalra, your continued support and encouragement has -- gives the strength -- gives the team the strength and come up with all the hurdles, so thanks a lot for that. We love you, and we love you, and we love all the councilmembers. I would like to take a moment to thank all the councilmembers who represent the City of San José, the capital of Silicon Valley. You are so kind and generous people who welcome innovation and who have welcomed us today and have recognized us. I truly want to go back and work harder for you guys, and come up with something which are different, which Silicon Valley has been doing for decades now, and which still inspires us. Finally, Oak Grove robotics is not only about robots, but it's also about teamwork. It's about the professional skills. It's about strategy. It's about planning. It's about testing that has created -- problem-solve that's going to solve the problem of the world in the next 10, 20 or 50 years, maybe 100 years. Not only going to serve the Oak Grove robotics, but it's going to serve the whole world. So thank you so much, thank you so much for giving us the opportunity to come here. [applause]

>> Excuse me just a minute. Diane is going to present Mayor Reed with appreciation, and she has a few words to say.

>> Mayor Chuck Reed, this is a token of our gratitude, a photo of our team members at a regional competition. Thank you very much for supporting us. I have no other words -- not many words to thank you. [applause]

>> Councilmember Kalra, this is from the heart of the Eaglebots, it is a picture of us, a group picture in the regionals, and thank you for your personal support.

>> Councilmember Kalra: Thank you. [applause]

>> Councilmember Kalra: Go Eaglebots in D.C. Let's bring back a championship.

>> Mayor Reed: Thank you very much. Good luck. Now I'd like to invite Councilmember Oliverio and Karen Allen to join me at our podium. Tonight we're going to recognize a special member of our fire department. Councilmember Oliverio is going to give us some of those details.

>> Councilmember Oliverio: Thank you, Mayor Reed. The suspense was still building, because she had no idea. But I was going to try to get it on her. But I'd be happy for all my councilmembers to join us as we honor and recognize battalion chief Karen Allen, who will be retiring on June 26 as the first woman firefighter for the city of San José. In 1981, when Karen started with the San José fire department, many people were trying to get her to leave, because she was a woman in a male-dominated field. Now, 28 years later, people are trying to prolong her retirement because they value and respect her. I would like to call forward Captain Ruben Torrez to read a letter. How did you know?

>> Thank you, and I'm truly humbled to have this honor to speak on behalf of my friend Karen, who hopefully will still be my friend after this, since I surprised her. I'd like to read a letter from retired fire chief Vince Clet. It says: "Dear Karen, congratulations on your retirement. As San José's first woman firefighter you had to overcome many obstacles. It must have been very difficult to pave the way for others, women who wanted to follow in your footsteps. You are a shining example that women can become successful in every facet of society. You have proven that even in occupations that have been dominated in the past by men can be done successfully by women. It was an honor and a privilege to have appointed you as a firefighter. Back then, many doubted women were suitable for the strenuous job of firefighting. You not only proved them wrong, you excelled and are retiring a battalion chief. Your achievements and standards stand as an example for us men and women alike. I wish you a long and happy retirement, and well deserved. Sincerely, Vince Clet." [applause]

>> Now I'd like to just take an opportunity to be a little more personal on behalf of the fire department. And when I was asked to say something or to read, one of the questions that I was asked was, how do you describe

Karen? And terms came to mind as far as courageous and caring and different things, but the one word that came to mind, and I would say that all my colleagues and fellow firefighters would agree, is that Karen, the one word that describes you the most is love. And I want to define that. The Good Book says, there's a scripture says that what love is. Love is patient, love is kind, it does not envy, it does not boast. It is not proud. It is not rude. It is not self-seeking. It is not easily angered. It keeps no records of wrongs. Love does not delight in evil but rejoices with truth. It always protects. It always trusts, always hopes, always perseveres. Love never fails. You have never failed in your duties. You've never failed as a friend. And on behalf of all the firefighters in the city, we love you and thank you for teaching us how to love. [applause]

>> Councilmember Oliverio: I just wanted to read part of the commendation. Whereas Karen Allen was the first woman firefighter in San José, joining the San Jose fire department in 1981, rising in rank to fire engineer in 1991, while eight months pregnant, five captain in 1996, and as battalion chief in 2005. And whereas, Chief Karen Allen stood up for what she believed in by navigating around obstacles and naysayers by persevering and staying true to herself by setting a positive example for all firefighters and others whom she worked with to accomplish her goals, and is regarded as a role model for her commitment and integrity as an individual and a team player. So on behalf of the commendation, to present it to Karen Allen. [ applause ]

>> Since this was a surprise tonight, I did not have anything prepared to say. All I would say is thank you so much, and it truly has been an honor to serve in the San José fire department. Thanks. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Campos and Norma Rodriguez to join us at the podium. We're commending Norma Rodriguez, principal of Dorsa Elementary School, for being named 2009 California elementary principal of the year. Councilmember Campos has the details.

>> Councilmember Campos: Thank you. We honored some young people for their innovation and their ability to be able to excel in their academics. I think we all know that behind those young people there's always an educator that believes in them, that creates the space in the foundation that they can be successful. And Norma Rodriguez is that educator. A principal at Dorsa Elementary School, she was awarded the -- a prestigious award to an educator who is committed to a quality education, student achievement, and professional growth, and she was awarded this by her peers, educators and administrators that saw that her ability to be able to educate and create the space so that her children can be high achievers. So today, the council, myself, Councilmember Herrera and the mayor, are honoring her for her achievements. And I hope she is not shy to share some of the things that she was able to achieve in her school, and in the school district of Alum Rock. So with that, mayor, I ask that you present the commendation to Principal Rodriguez for her accomplishments of educator and principal of the year. [applause]

>> Good evening, everyone, and I am humbled, and I thank you for this commendation. But I -- it is a great honor to stand here before you to receive this commendation. I receive it with great honor, and humbled. On behalf of entire Dorsa community, my students, the parents, my partners, the district office, and my wonderful supporting family. I truly believe that this accomplishment is truly the effort of all our collective work. And in being shy about, I need to tell you a little bit about Dorsa. Dorsa is located in a social economically disadvantaged area in San José. We serve a total of 575 students, 98% of them are English language learners, immigrants. And it is -- they come to us with great challenges, but it is a collective effort of all of us believing in them and in their potential and making sure that we, together, break down those barriers so that they can achieve great things. I am myself an immigrant. I came to this country as 14 years old and I am a living testament that education is the key. But our students can only achieve greatness if we work together as a community to ensure that all of us students believe in the unlimited potential. Thank you so much for the city for their support, for making sure that our students and our communities have those tools to succeed. Thank you for your investment in education. [applause]

>> Mayor Reed: Next we have some new youth commissioners to swear in, so I'd like to invite our City Clerk, Lee Price, Aaron Carrera from District 3, and Daniel Stromfeld from District 9 for the swearing-in ceremony.

>> Lee Price: I'm going to ask to you stand pretty close to the microphone, raise your right hand and then repeat after me. I, state your name.

>> [ In unison ] I (Daniel Stromfeld/Aaron Carrera)...

>> Lee Price: Do solemnly swear...

>> (both repeat) Do solemnly swear...

>> Lee Price: That I will support and defend...

>> (both repeat) That I will support and defend...

>> Lee Price: The constitution of the United States...

>> (both repeat) The constitution of the United States...

>> Lee Price: And the constitution of the State of California...

>> (both repeat) And the constitution of the State of California...

>> Lee Price: Against all enemies...

>> (both repeat) Against all enemies...

>> Lee Price: Foreign and domestic...

>> (both repeat) Foreign and domestic...

>> Lee Price: And that I will bear true faith and allegiance...

>> (both repeat) And that I will bear true faith and allegiance...

>> Lee Price: To the constitution of the United States...

>> (both repeat) To the constitution of the United States.

>> Lee Price: And the constitution of the State of California...

>> (both repeat) And the constitution of the State of California...

>> Lee Price: I take this obligation freely...

>> (both repeat) I take this obligation freely...

>> Lee Price: Without any mental reservation...

>> (both repeat) Without any mental reservation...

>> Lee Price: Or purpose of evasion...

>> (both repeat) Or purpose of evasion...

>> Lee Price: And I will well and faithfully discharge...

>> (both repeat) And I will well and faithfully discharge...

>> Lee Price: The duties which I'm about to enter.

>> (both repeat) The duties which I'm about to enter.

>> Lee Price: All right, well done, congratulations. [applause]

>> Mayor Reed: We have one item that is left over from this afternoon's agenda which was set for hearing tonight, and that's item 4.4. That is the North San José development policy. Before we take that up I want to disclose that I've had meetings or my staff has had meetings or I've had meetings and conversations with the Irvine Apartment Communities, the Shanehauer Group, Morley Brothers, representing the Fox Family and Cisco, Equity Residential, Trammel Crow, Fairfield Residential, Boston Properties, Hunter Storm, Bob Brownstein, South Bay labor Council, and Pat Dando, the chamber of commerce, in preparation for this item. So item 4.4, any staff presentation? I know we had a supplemental staff memo. Want to make sure that council is all on the same page with what's been recommended.

>> Joe Horwedel: Thank you, Mr. Mayor. There are in fact several supplemental memos, and so I did want to walk through the recommendation for the city council. Tonight we are asking the city council to amend the North San José development policy to accomplish three things. One, very timely, which is to allow the use of time extensions for development permits in North San José. The second is to build within each phase the affordable housing component so that it does not slide to a later phase, third is to recognize that in North San José it is appropriate and allowed for zoning and general plan for regional retail and hotel uses but we did not establish a traffic fee, traffic impact fee. So we're recommending that the policy be amended to recognize that traffic impact fee. We are asking the council to approve an ordinance amending the traffic impact fee ordinance that would create that fee for regional retail as well as hotel rooms. Staff is then asking the council to defer discussion on the issue of neighborhood plans and the total amount of regional retail and hotels 'til after the break. That staff does want to do some more outreach with both the task force and with the broader community about those issues. We did have a task force meeting last week where we walked through the three changes to the area development policy, as well as the proposed ordinance, and the task force concurred with those changes. They could -- would like another meeting and we will be meeting with them in the end of July beginning of August to walk through the larger issue of the amount of regional retail and hotel rooms and with that, the last point I would note, in the draft ordinance that was published, there is a typographical error, we typed wrong, and the traffic impact fee for the regional retail showed the price instead of per square foot was per thousand square feet. A little bit of difference. The decimal point was off a little bit. It is actually approximately \$14 per square foot and not \$14 per thousand square feet. I did want to point that out for the record. And with that staff is available to answer question.

>> Mayor Reed: Okay, thank you very much. We do have a couple of people who want to speak on this item, I think I'll take them first. Sean Moreley and Eric Shanehauer. Eric's closest now gets the mic.

>> Good evening, Mayor Reed, members of city council. My name is Eric Shanehauer, and the Shanehauer Company represents Equity Residential, Thompson Dorfman, WTI Weiss Corporation in North San Jose. And I just want to say that we strongly support the recommendation in the memo from Mayor Reed and Councilmembers Kalra, Chu and Liccardo regarding time extensions. We feel it's essential in the current economic climate and the challenge in the capital markets to immediately proceed with time extensions of two years for worthy projects. So we hope that the council will support that recommendation tonight. Thank you.

>> Mayor Reed: Sean Moreley.

>> Mayor Reed, councilmembers, Sean Moreley with the Moreley Brothers here tonight on behalf of the Fox family. They own the 30-acre site at the southwest corner of Old Oakland Road and Brokaw. As you may recall the family received a general plan amendment in December 2006 to allow 60,000 square feet of commercial uses on the property as well as 750, up to 750 residential units. There's currently PD zoning application on file on the property. It's a tremendous opportunity for a mixed use development in North San José consistent with the vision that the council has set out. Fat Stanley, though, has been working for the last six months with the staff to see about more commercial development on the site to support sales tax generating uses. With the economy rebounding, the family is preparing to reactivate the PD zoning application in anticipation of initial redevelopment of the site, or as early as next year, if all goes well, PD permit could be obtained early in 2010. We understand there are other projects that may be in similar circumstances. The family would obviously like to seek phase 1 unit allocations, if available. It's a critical part of their project moving forward and encouraging the commercial

redevelopment in these difficult economic times. Of course nobody wants to prejudice a truly viable housing project that may be ready to go as seeking a permit extension. However, it would appear that it's in the best interest of the city to make sure that these phase 1 unit allocations are available for any good project that's ready to go to jump-start the local economy with good jobs that can provide sales tax revenue and important tax increment for the Redevelopment Agency. The recent memos that we saw from the mayor and the Planning Department appear to support this approach. We would encourage the city to act judiciously in extending any PD permits, unless development in the near term can be achieved so other projects that may be more viable can be considered as well. And we hope obviously with the Fox property and the project that we'll be proposing a little later this year is one of those. Thank you.

>> Mayor Reed: Thank you. That completes the public testimony on this. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. First of all a disclosure. I have met with most of the developers that have entitlement in the North San José. And I wanted to thank Joe and also Paul, and RDA folks for participating in the north San José task force meeting last week. Like Joe indicated, that the task force we do reconvene and Joe took them through in, all the proposal and they are very well accepted. I think this is -- we really have a good opportunity to present to get the development community a sense of certainty when the rest of the environment does not. I also wanted to reiterate that as we move forward with the changes to the North San José we should reconvene the North San José task force. It is very important for those people who have spent over 18 months working on the proposal to be kept informed and engaging any changes to the North San José proposal. And with that I'd like to move to approval of the memo set forth by the mayor, Councilmember Liccardo, Kalra and myself.

>> Mayor Reed: I have a motion to approve the staff recommendations as modified by the memorandum that Councilmember Chu referred to. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Just one question, Joe, regarding the traffic impact fees. I noticed a comment from one of the developers about this. There seems to be a little over 3% escalation on those every year. Is there an opportunity for developers to be able to lock in those fees by getting -- by some stage of the development process?

>> Joe Horwedel: They lock them in when they pay for them.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: So it is one because the cost -- those fees are based on our cost to build specific sets of improvements and looking up what construction costs are for those improvements. We did build in an escalation provision so that we were not trying to build with old dollars, so to speak. One of the things, the questions that came up recently was with the decrease in construction costs that the city is seeing, would we go and reset those fees? That is something built into the policy. It's on a five-year cycle to go through and relook at those fees. We are on year like two and a half of the fee schedule, so there's an automatic reset that would be coming in based on where we are right now with projects, nobody has moved anywhere close to paying those fees. I would assume that if anywhere close to that five-year time frame and we're now ready for somebody to start paying that fee that we might accelerate that review to see in fact has it stayed even, is it -- are we high or low.

>> Councilmember Liccardo: Great, thanks. You anticipated my next question. Last comment I just wanted to make related to page 3 of the original staff memo or at least no, the June 8th supplemental, the second supplemental, I'm not sure which supplemental but it's June 8th. And the representation was that there may not be any affordable units actually constructed in the policy area of home buildout. Are the residential units allowed by the policy and I understand the temporal issue which we want to make sure we have units built in phase one, phase 2, et cetera but I also wanted to point out that clearly the fees that are generated are building affordable units. For me the concern is the geographical concentration of those units because up until fairly recently they're all being built in South Rincon south of 101. And I know that's not the vision anybody had for affordable development throughout North San José. I've got three developments within I think it's about a three and a half block area and a fourth quite possibly planned nearby. So what I'm hoping is, particularly as we work out the -- with the inclusionary ordinance, I know we'll be talking a little bit about dispersion but I hope that's incorporated in

some way in the larger North San José plan as well, our vision I think everyone's vision was that there would be affordable housing throughout the area and not simply in one or two neighborhoods.

>> Joe Horwedel: Councilmember Liccardo, that is a conversation that staff has had with prospective developers in North San Jose, affordable developers, the same tendency that you've seen in Rincon South is also occurring in the Baypoint neighborhood, because it's a five-acre parcel, it's really easy for an affordable developer to pick up one of those parcels. We've had a number of phase 1 projects approved on those, so they're easy to switch in and out. One or two in that area makes sense. We wanted to make sure that we didn't have the entire area turn into affordable housing because of the impacts for park fees, and as we were trying to acquire park land with those developments where we would actually go out and be buying land and not just getting dedication. Obviously, the waiver on PDO affects our ability to do that. That is one of the things we can look at as we bring back additional policy work about reminding the overall goal of dispersion. But I think the second thing that we talked about on here that has affected why everybody wants to pay fees is the inclusionary fee is very low compared to the cost to provide. And just like with park fees, when the fee more closely matches the cost of land, if the inclusionary fee more closely matches the cost to provide the units, there is less incentive to write the check as opposed to building the units. Our goal is to build the unit in the project so we build mixed income communities.

>> Councilmember Liccardo: Thank you very much, Joe.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor. Joe, similar to what you were just talking about, my concern is on -- you know, here we will slot out some housing units that have been approved that just don't have the wherewithal to go forward. And then we'll substitute them in with affordables, which will not be paying any park fees at all. And so I think where we had this great North San José plan with large expansive parks is threatened with the current council policy which exempts affordable housing from paying park fees. So I know we took this to Rules almost a year ago, and haven't heard back yet from the housing department, but I'd certainly like to caution my fellow councilmembers that it is a great plan if you get the open space to go with the density of commercial and residential. So I'll still have concerns about that as we move forward on any projects but I'd like to call those out now, as an area of concern.

>> Mayor Reed: Thank you. We got started with amending the North San José development policy in the depths of the last recession. You may remember that at the dot-com boom went bust we had a recession. It was a quiet time and we had an opportunity to look at our policies in North San José. You know, we almost made it through the beginning of the current recession but the bottom has fallen out of the housing market, capital markets have become closed and 8,000 units of housing more or less have just stalled. They can't get financing, they can't move ahead. And the folks in North San José not just the housing developers but the industrial developers as well have invested hundreds of millions of dollars already in these projects so that's why it's important to stent the permits so that we don't lose their interest, because the economy will improve, it will change and we don't want to have to start over from scratch with the kinds of developments that we have already approved, have been through the process. So I'm supporting the motion, I appreciate the councilmembers interest in trying make sure that North San José is successfully developed and would urge my councilmembers to support the motion. Further discussion on the motion? All in favor, opposed, none opposed, that's approved. Our next item is the general plan part of the agenda. We'll take up the consent calendar. We have a motion to approve the consent calendar. Is there a second? There is a second. Items to be pulled off for discussion. Councilmember Liccardo.

>> Councilmember Liccardo: Mayor, is 10.1A being considered with 11.1, is that -- I understand three both relate to the same parcel.

>> Joe Horwedel: They're the same parcel, we didn't move to put them on the agenda together. We're treating them separately.

>> Councilmember Liccardo: Okay, that's fine. Thank you, that's fine.

>> Mayor Reed: Are they both on the consent calendar? If you want to pull them off --

>> Councilmember Liccardo: I was going to comment on 11.1A.

>> Mayor Reed: We'll come back to that, then. Anything on section 10 of the consent calendar? I'd just like to disclose that on 10.1 (c) my staff and I did talk to Dow properties on that matter. I have some requests, let me see if I can sort them out from the public. Nothing on the consent calendar. Councilmember Herrera.

>> Councilmember Herrera: I also spoke with Dow properties on that item.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: On 10.1 (c) I'm concerned about increasing density. I know it will come back from rezoning if I'm not mistaken. And I'm not supportive of increasing density that far east in the foothills. I think that's an area where we want to maintain very low densities.

>> Mayor Reed: Okay, we have a motion to approve the consent calendar. All in favor? Opposed? None opposed, that's approved.

>> Joe Horwedel: Mr. Mayor, staff does have a short introduction We'd like to set the stage for the rest of the amendments.

>> Mayor Reed: All right, text amendments on general plan.

>> Joe Horwedel: So the amendments we do have before us this is one of two general plan hearings we do have scheduled this year known as the spring amendments, that in the fall we will be considering the employment conversion sites pursuant to the employment framework that the council did adopt. There are some amendments in here that do have relation to the employment framework policy of the city where staff has proactively worked to accomplish the objectives of expanding economic development in the city. Those you see as a part of the Alum Rock business district, the form based zoning that we'll be talking about next week, we have general plan changes tonight to actually create employment capacity on Alum Rock similar to what we talked about earlier today on the villages concept. We are also talking about the Parkmoor avenue site a little bit later tonight as a site looking to match a larger shopping center. We'll talk more about that in a moment. Also is a housing element required by 78th law, we do have to update that on a regular basis. Staff has been working with the state of California on the housing element. Housing department has been very helpful in helping us be successful with that major work effort. We just heard back today from the state that they have looked at our draft housing element and are very comfortable with what we are bringing forward. There are some changes we'll again talk about tonight that have, I think really the groundwork as we go through on the envision 2040 plan the types of things that we will be looking at and creating villages and corridors around the city where we will grow in the future. We're trying to set those foundation items now. Some of the things in the housing element are implement tools that will help us with that. Again, the -- tonight is a small piece or step into that process. It is good to remember that since the framework has been adopted it is working. We have not had a net loss in employment land citywide through the work of offsets that we've done along the way. The number of conversion applications that we have received have dropped dramatically to almost nothing. We do consider those now once a year. So tonight there are the two sites that are related, one of which is proposed for deferral to the fall, the rear park site. The Parkmoor site is one that staff did initiate trying to go through and balance an affordable housing project elsewhere in the city, is city-initiated and we think helps on our framework where we're trying to accomplish with the city, and then then as part of -- let's jump onward -- that the amendments that we do have, we are really, our goal is around ensuring that we maintain the compatibility or consistency with the employment framework. That as I said we've been very successful in stemming the amendments that have come in that before were pretty numerous and being able to really stick to that policy. I think the council has a lot to feel very good about of what you've accomplished with that policy. I think it has been a success and had helped put us on a better financial footing as a city. With that we're ready to go forward on the individual amendment.

>> Mayor Reed: First individual amendment then is 10.2, that's a text amendment to revise the general plan text, including appendix C, housing, to comply with the state housing element law and other things that staff has already mentioned. Motion is to approve the staff recommendation. Discussion on that? All in favor? [ ayes ]

>> Mayor Reed: Opposed, none opposed, that's approved. Takes us to item 10.3, little over 2 acres on the north side of Parkmoor Avenue, a thousand feet West of meridian. Before we take that up I want to disclose that my staff or I have talked with Martin Chiechi, Shanehauer Group and Sobrato Development Company in preparation for this meeting.

>> Joe Horwedel: Thank you, Mr. Mayor. As noted a little bit earlier, this is a site that is city-initiated. It is really some of the first proactive general plan amendments to implement the employment framework. Staff did look across the city for sites where the existing general plan and zoning did not match as well as with the existing use. And this was one of several sites that moved to the top of the pile, that staff was look at, because it was fully developed with semi recent development with commercial use and as a part of a larger shopping center of same ownership that we felt that really the benefit was to preserve the consistent general plan across the site, and changing it from residential to commercial would allow future consideration of this property, it is the type of site that while today is not a village being looked at by the general plan task force, is one that would fit that bill, as a potential village in the future near the Vasona light rail station. And so the challenges that this site had faced previously about access for residential use, the neighborhood, and Buena Vista neighborhood not interested in residential development coming back into the neighborhood, challenges with parking and density, staff in support of putting a commercial use on this item. We do feel that that is the appropriate general plan for the site. Thank you.

>> Mayor Reed: Thank you. Well, this is a little bit unusual, because we have a staff initiated, so we don't have an applicant per se, but we do have a representative of the property owner, so I'd like to take the property owner representative first, and then we have one other request to speak on this.

>> Good evening, Mayor Reed, members of city council, my name is Eric Shanehauer, and the Shanehauer Company represents the Chiechi family on this situation. To be very clear, both the Chiechi family who owns the property and Hope Rehabilitation Services who own building have always strongly opposed this city-initiated change on their property. The question here really is about the fairness of the process rather than the merits of the land use decision. Without the consent of the property owner, the city as the applicant is taking away our residential designation in order to give it to itself on another site in South San José. In essence they are transferring the benefit of the residential designation from our property to the City's own property and to the a private developer. This doesn't seem right. In fact several councilmembers in meetings said, this doesn't pass the sniff test. Maybe in this was done as part of a neighborhood planning effort or part of a comprehensive update of the general plan it would be more understandable. But it's not. This property is being singled out to satisfy the city's need on a separate property. In addition there appears to be a double start in the process because in the past when a private applicant proposed converting employment land, the private applicant was required to get the consent of the offsetting property owner. This was the case on the Monroe project near Santana Row that came before you last year. And I know for a fact it was the case because the staff would not bring us to hearing unless we had the consent of the property owner. My client had to pay \$75,000 to a property owner in blossom little to get their consent for that general plan amendment. Also the city seems to treat people inequally. We have been informed that the Sobrato companies was contacted by the city to use their property on Lonest and Lincoln as the offsetting property, and we've confirmed with Sobrato that they told the city they opposed that. So the city moved on and came after Mr. Chiechi instead. So it appears there's a double standard depending who you are. To demonstrate the disregard that the staff has for the property owner outreach, I point you to the staff report, and as you can see in their own words, the city initiated or filed the application to our property on June 6th, without contacting the property owner, and it wasn't until three and a half months later, on September 16th, that they decided to send a letter to the property owner. That seems wrong to me. You would think if you're going to proactively change someone's land use designation you would contact them before you filed the application. So the only fair decision tonight seems to be to deny this general plan amendment and send the staff back to the drawing board. Because the start of construction on the proposed affordable housing project down South is -- it is scheduled to start construction by their own schedule until December 10th, 2010. There's plenty of time for the staff to go back find a willing property other than and bring a general plan amendment to you either this fall or next spring and keep the eden housing project on track. So with that although the city has the authority to change land use at any time it doesn't marine that it's always right in every circumstance. So we hope that you'll vote no and deny this amendment. Thank you very much.

>> Mayor Reed: Jean Dresden, that's the only other card I have on this item.

>> Good evening, my name is Jean Dresden and I stumbled across this application because I was at the Planning Commission meeting when it was discussed and I was appalled. I was appalled that it had come forward without the true owner of the land ever being contacted. I was struck with the number of times staff stated, "Well, it's legal for us to do this. We can do this at any time." I was struck with the comparison to eminent domain, which is also legal for the city to initiate at any time. I'm aware that the Buena Vista neighborhood would rather there not be more residential in that area. I'm also aware that there's a general plan process underway taking a look at where more density should be, where there should be more commercial activity, there's light rail nearby. I'm also aware that there are properties near where I live where private developers have attempted to initiate swaps for lands that have been undeveloped for 20 years, with wrecked homes. But they have not been able to find willing swappers, willing to do so, at a price that they could afford. I would like to see those lands developed. I'm appalled that the city did this and did it in this way. Rarely have I ever stood on the same side as Mr. Shanehauer but I am tonight and I urge you to turn it down. Thank you.

>> Mayor Reed: One more card. Andrea popanastiu.

>> Thank you. Your Honor, my name is Andrea popanastiu I'm the director of housing at eden housing . I just wanted to talk a little bit about our schedule. I note in the memo that it looks like our construction isn't going to start until 2010 however, in order to actually obtain the competitive financing required to begin construction in 2010 or even in 2011, we will need to have the property at Monterey completely entitled until understand the council's support for that project as well. And really deeply appreciate that. So thank you very much. Any questions about scheduling I'm available to answer. Thanks.

>> Mayor Reed: Thank you. That concludes the public testimony. Back to the council for discussion. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. Item 10.3 is about fairness or rather lack thereof. The housing department wants to build an affordable housing project in South San José. The project on its own merits may prove to be an asset for the city however I want to be clear we are not deciding on that project tonight. In fact the project has not come forward yet. Tonight we are being asked to change a zoning or what I would call spot zoning on a parcel that has been privately owned for over 40 years by the Chiechi family. the housing department needs to find a land in South San José so they can use the land in South San José as however instead of finding willing property owners like every other private applicant would, or as required to do so the housing department wants to change the zoning on land without the owner's permission. Per my memo co-signed with Mayor Reed we ask my colleagues to direct the organization to stop going after private property owners who don't want their zoning changed and instead find another piece of property with a willing property owner. The issue of fairness as the memo mentions is that the housing talked to Sobrato development about changing the zoning on one of their other parcels cps chiechi property even though though don't want it. So I guess the difference is a billionaire versus a not billionaire. Don't go after that person because they have deep pockets. The proposed development partner Eden housing is not scheduled before us tonight it's for the future the project again has its own merits but they should abide by the employment lands policy and that -- and some of those things we've passed the policy and this is where it comes in for refinement. You should find someone who is willing to rezone and there are people who are willing to rezone and that should be a private transaction. So with that Mayor Reed and I moved the mayor and my recommendation is written to go forward, I'll look for a second.

>> Mayor Reed: Motion and second so that puts the motion on the floor.

>> Councilmember Oliverio: I just want to throw out to the City Manager that I'm concerned that this is the second time that the housing department has done something in district District 6 without ever reaching out to contact us. I know Mr. Chiechi didn't speak tonight, but if you heard him, he didn't planning Commission agenda tonight. What? And I think that's you know we talk a lot about process here. We talk a lot about outreach. It is a consistent theme that we talk about at least every other council session and I think that needs to be taken to heart both with the councilmember, and the true property owners.

>> Joe Horwedel: Mr. Mayor --

>> City Manager Figone: I'll be chatting with the staff and maybe Joe wants to speak to this.

>> Joe Horwedel: Yes, the flog really belongs in my direction versus the housing department. That we really, in helping the project move forward in South San José my staff took on the work to go and find a site around the city to do the conversion on or the adverse conversion on. I will clarify that the city contacted the record owner, based on the tax records, which those bills go to hope rehabilitation services, that that is where we certainly the information to. We found out afterwards that Mr. Chiechi did own the we did meet with hope beforehand and that was who was showing up as the other than of record. Staff was trying to do the outreach in the proper sort of way. We did not hit the mark, clearly. And that is something that we're -- have been talking with staff about as a part of this application because the issues that we're dealing with on this and I think Mr. Shanehauer talked about, we are dealing with one here and had this decision been tied into the neighborhood plan or an update maybe there would be a different response back. We will be these discussions over the next probably three years as we general plan changes and zone changes and if we are going to aspire to what is in what we just talked about an hour and a half ago, we are going to be doing that where the property owners are not going to be happy with that. So that is really the dilemma nah that we will face. I think tonight is a good wakeup call for staff that how we handled this was not appropriate. You know we could have done better and I apologize to the property owner as a part of that. We've talked with them many times on it and sometimes it just comes to an agree to disagree let's call the policy question. So I am sorry for that.

>> Councilmember Oliverio: Joe, I really appreciate the explanation and I still always hold you in high regard. Again, we learn through going through these things but I think to your point, you know if we're going to rezone an area, you know, per the general plan 2040 or a specific plan where we have a greater idea, I'm okay with that and I understand our role as government of city council, we can do that. But when it's doing just to do a one-off that's my great concern and that's what we have here tonight but I appreciate the candor and as I think my colleagues.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks, I just wanted to disclose I met with Eric Shanehauer and Mr. Chiechi and I do support the motion.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. In regards to the Ford road property and I thank eden housing for being here to clarify the time line of when entitlements will have to go through, Joe, is there -- I mean what obstacles are there, will you just go back to the drawing board in terms of finding more sites in order to get that done in a time reply fashion by spring of next year?

>> Joe Horwedel: That is what staff is looking right now. I was talking with the housing director yesterday and today on this. How to allow that project to move through the entitlement process because they still do need rezoning and permits so that they can be competitive at the state level. We do have a couple of small sites that we've already done reverse conversions on. We have the gassization that was on the consent calendar about 7/10 of an acre. I don't know if we're already to the right amount of acreage, we might need to do some more this fall . We know there's a couple of sites tonight like the gas station where the property owner would like to go ahead and renovate their site, it's got residential general plan on it but it's on an intersection where really commercial is the right thing to do, that's how it's built, we'll go back and look at those, we'll do it on a much smaller scale and do a lot more of them to goat there.

>> Councilmember Kalra: Okay, but it sounds like you have some of the acreage, need a few more spaller acreage to make up for the Ford road site in terms of acreage?

>> Joe Horwedel: Yes.

>> Councilmember Kalra: I want to thank you for stepping up it's initial for taking responsibility. I know that particularly when I was on the Planning Commission with you, sometimes things don't happen the way we like to

see them happen but I'm glad to see that you take responsibility for it and I certainly appreciate that and as Councilmember Oliverio said, I think this is more just about the process in this case, didn't work out the way that I think an ideal situation that we would all feel comfortable with. But I'm glad to see that there's still options going forward and moving forward with the Ford road site without having to have this rezoning approved.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I think this raises an important question about how we're going to implement the employment policy going forward whether it's going to be in collaboration with property owners or with them kicking and screaming and I'm venturing to guess that reconversions are going to be unpopular, at least 99% of the time. If that's the case, then we probably ought to be honest with ourselves about that. And make a difficult policy decision up front rather than putting staff through what will inevitably be many painful processes. So I hope we can address that squarely in the coming months. I know that we will have this conversion policy with us for at least a couple more years until at least when our general plan is approved. So I imagine we will see this arise again I guess that's my first opinion. Second is I appreciate the motion and I will support the motion out of concerns for process. I do think on the merits, though, of this as you look at that parcel, this 19 or 20 acres is an extraordinary opportunity if the parcel is kept together to do something fairly interesting, and along the lines of a mixed commercial and residential development, an urban village along the lines of what we've generally been imagining in our general plan. And this could be certainly a great future development but not if it's developed residentially piecemeal. Now obviously, I understand that's not the point of the motion here. It's not on the merits. But I expect and hope that in the general plan process we'll be looking at parcels like this and deciding, we really need to keep them together and I know there's consideration for different land use designations, we'll be creating for opportunities for urban villages like this one. I also met with Mr. Shanehauer and Mr. Chiechi.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I wanted to thank Joe for your proactive action on this and also wanted to disclose that I have met with Mr. Chiechi and Mr. Shanehauer.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just wanted to disclose also that I met with Eric Shanehauer and Mr. Chiechi and I will be supporting the motion. Thank you Joe for your forthrightness and I think that this does highlight -- it's a prelude to our dealing with other discussions about our employment lands policy so I think it's a good heads-up and good heads-up for council here to see that in the future and I can see you why you would look at this and see this as an opportunity.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Mr. Chiechi and Mr. Shanehauer are pretty busy. They came to see me, too.

>> Mayor Reed: Thank you. I think that concludes the council's comments. I had one last comment. I'm going to support the motion but if you look at the outreach to the property owner section of the staff report it wasn't that there was no outreach. The staff was talking to hope and Mr. Chiechi as far back as September then October and again in November by phone and some meetings so it's not like they didn't make the effort. Maybe it didn't work out as well as as they would have hoped. But it's clear that there was an effort to do the outreach. So I'm going to support the motion, the motion is as outlined by Councilmember Oliverio in the memo.

>> Councilmember Oliverio: And you're correct with that, the contact was with hope services but they said no as well to the conversion.

>> Mayor Reed: On the motion, all in favor, opposed, none opposed so that's approved. Item 10.4, is an amendment on approximately .85 acre site on the east side of Almaden road north of Redmond avenue. Councilmember Pyle, this is in your district. Do I have some cards from the public on this.

>> Councilmember Pyle: Yes, I would Mr. Mayor, I would want to go to a tentative denial from the general plan request, to change from medium low density to medium density residential. It is a .85 acre site located on Almaden road and I would like to make a further request which was on a blue memo that I put out just recently.

>> Mayor Reed: I'm sorry, was that a motion?

>> Councilmember Pyle: That's a motion for denial.

>> Second.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I would like to direct planning staff to present the findings regarding the direct Almaden expressway access to this site, and the other three undeveloped parcels to Red mopped and the City of San José planning department to both fleetwood drive prior to the woodrum property to council. And then communicate with the fourth property owners simultaneously and then develop an access plan for all four parcels, that considers neighborhood integration, ingress and egress, development standards, safety and neighborhood traffic concerns. Tall order. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: I think I'm just going to disclose at this time that I did have -- my office did have a call with Jerry Strangess.

>> Mayor Reed: Okay. I can't tell from the cards if the applicant wishes to speak. If so, the applicant please come on down and we'll let you go first and I'll take the public testimony. Jim Larkin Karen Larkin Dennis wheelright. Please come on down as we call your fame. Kelly Rodriguez, Connie Page, Douglas Page.

>> Good evening, my name is Jim Larkin and I've been asked by the president of the Almaden hills homeowners association to read the following letter to you this evening. Dated today, June 16th, 2009. Honorable Mayor Reed, honorable councilmember Nancy Pyle and distinguished councilmembers. The awsmmed hills homeowners association represents 136 households with approximately 500 San José residents. Our development is north of the parcel being discussed tonight and situated next to the three other separately owned parcels attempting development along Almaden expressway. We are in agreement with the San José planning staff's recommendation to deny the proposed general plan amendment to increase the density of this parcel. We strongly support leaving the density medium-low. Additionally, we are in full support of councilmember Nancy Pyle's recommendation to the planning staff in her memo dated June 15th, 2009. We appreciate Councilmember Pyle's attempt to streamline the decision making process by including timely communications to all four separate property owners and the homeowners associations next to the project. We intend to be actively involved in this process and will support our neighbors in the fleetwood drive homeowners association. As councilmember Nancy Pyle noted in her memo, it is very important that the new development blend with and enhance the existing neighborhoods. That is the primary reason to maintain current density and find suitable access to this and the other parcels via aalmeden expressway. Sincerely yours, George Bettsworth association president. Thank you.

>> Mayor Reed: Karen Larkin, Dennis we'llright, Kelly Rod regs.

>> Honorable mayor Reed and distinguished councilmembers, my maim is cairch Larkin, I live on fleetwood drive which is directly north and East of the property being considered this evening. We who live on fleetwood drive ask you to support the Planning Commission's rulings on May 27th, 2009, as well as its staff recommendation to deny the land use change for this property from its current status of medium-low density, of residential, to medium density residential. Retaining the medium-low density residential land use, will keep the lot sizes closer to those on fleetwood drive. I also want to commend you, our city council members, for the leadership and sacrifice each of you have demonstrated by agreeing to the sail decrease during this harsh economic times. Thank you. .

>> Mayor Reed: Dennis wheelright, Connie Rod regs,.

>> My name is Dennis wheelright, I live my property is directly behind the proposed chieng here and I'm in favor of the recommendation to deny this change from low density to a medium density. And mainly because I want to see that the neighborhood stays the same in general shape and size of homes and property, parking and that kind of stuff. Thank you very much.

>> Mayor Reed: Kelly Rodriguez, Connie Page, Douglas page.

>> Good evening, I'm Kelly Rodriguez. I too live on fleetwood drive and I just want to ask the city council to take staff's recommendation to deny the general plan amendment. Thank you.

>> Mayor Reed: Connie Page, Douglas Page.

>> My name's Connie Page and I'm here to again thank the city council and to thank Councilmember Pyle for all the help and support that she has given the neighbors on fleetwood drive. And we, too, want you to support the staff's recommendation in denying the density of the property for the woodram property. It would not make the rest of the homes compatible in our area if this were infilled with more than the seven homes that are really going to be compatible there. There is street access off of the end of Almaden road, which would give us connectivity. However, if you go do a planned development, there are no sidewalks that I'm aware of. We have a planned development in back of us on flowering plum. It currently has no sidewalks so therefore, if we don't go with higher density, we're not going to have the compatibility and the usage of the properties that we do today. Thank you.

>> Mayor Reed: Douglas Page is our last speaker.

>> Obviously I followed my wife. I too am -- I completely agree with staff on this one for the first time ever, to deny the amendment to the general plan. And I think the other point that I would like to make is, that if we call this and zone this R-8, I would like to see it applied to the other two properties as well, R-8, period, get it done once and for all so I don't have to come down three more times to take care of it or to talk against it, let's put it that way. And let's keep it R-8 not R-8.2, R 8.5, R 8.8. R 8, if it doesn't fit, I'm sorry, it's R-8. And that's a maximum number as far as I know. I happen to be a mechanical engineer that works in the field and has been for 50 years, so still am. Thank you very much.

>> Mayor Reed: That concludes the public testimony. We have a motion made by Councilmember Pyle, Councilmember Liccardo.

>> Councilmember Liccardo: Want to disclose a member of my staff met with Jerry Strangess.

>> Mayor Reed: Any other council discussion? We have a motion that's made by Councilmember Pyle. All in favor? Opposed? None opposed, that's approved. Item 10.5 is an amendment on a 3.5 acre site on the southeast corner of ridder park drive and fox lane. Councilmember Chu.

>> Councilmember Chu: Does staff have a presentation? Joe?

>> Joe Horwedel: Councilmember Chu, Mr. Mayor and council, the staff has recommended no change on this amendment. We are concerned of the impact to the larger area of kind of for once term the domino concept that we see occurring here. It is one if the council is inclined to approve it your policy would have it come back to the fall general plan hearings. Aces noted staff is very concerned about the addition of the mixed general overlay, we did proactively create for this type of use and really feel that the applicant's proposal because the use has moved into the building without benefit of permits really has compromised our ability to make an objective decision on this, and so would ask that the council support a denial.

>> Councilmember Chu: Mayor, do we have any cards?

>> Mayor Reed: We do have two people who wish to speak on this matter. I'll take those nows. Francisco Manez and able Rios. Come on down.

>> Good evening, Mayor Reed and councilmembers, my name is.com, the Sr. pastor of new harvest Christian fellowship. Allow the council and the city staff to fully reufs review our application. When we came into the building and when I went there we were under expression that it was zoned for commercial. After about a year, we were brought to our attention that it wasn't, that it was rezoned so some through that process, we were under the assumption that we were okay to be there. I had no understand -- no recollection that it was shown differently so when they came to our attention we came to apply to rezone the area there. And I believe that it's, if you look at the memo, it's surrounded by a school, 25 feet right, you open our front door and the school is right across. There is a redeveloping of homes around the area. On the other side of the railroad track they're going to be building more homes there and I believe for that area, and there's I believe a low-income housing across the street, as well. I believe for the community, and for that area, the church will be suitable there. It will help out that area of people there, and what we do is to help tout public. We're here to bring better -- to make better citizens of the community, help young people, help families and couples to establish better relationships, to become more successful, encourage young people getting a education, helping men to get out of prison, young teenagers who are involved in other things, to help them become better productive for the community that is what the church is about, helping people out. I would like you to consider that memo and thank you very much for your time.

>> Mayor Reed: Able Rios, you are able Rios, so Francisco Manos this time.

>> Mayor Reed, members of council I want to thank you this evening. I know that my pastor came up here. I'm the assistant there at that time new harvest church and I would like to ask that we support Councilmember Chu's memo to defer the general plan amendment application to the fall so that the staff and the councilmembers can fully review the application before you. I know that it was kind of brought about in a tile sensitive manner, however, we were like pastor mentioned we were under the impression that the zoning was correct and we were never notified by the landlords of the building. After that we did make the investment, we did become productive citizens there and we believe that we are in the prime location of a redevelopment area. We have 400 homes to the north and another 200 homes directly across from us. There is a large school, little orchard school right across that we've become a safe house for. The principal there did come and at that time, elected us to be the safe house for their school in case of any you know tragic events or you know, what have you. So we believe that we are in the prime location, we do have the support of the community members in that area, large number of the businesses in that area. We do have their support. And we do help produce productive citizens in the youth and we are helping to reach a lot of teenagers, the abstinence programs, we do a lot of things for the youth and for teenagers and I believe that us being in that prime location where the redevelopment begins, I believe we can be a positive role model for the community in that area and councilman Chu's recommendation we would like to support it.

>> Mayor Reed: That concludes the public testimony. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Joe, just so I could clarify based on what we're looking at on this screen, it's been a while since I've driven 30 there, but it seems to me that entire blue area is all currently industrial, is that right?

>> Joe Horwedel: That is correct. It's belt with industrial buildings. Most of them built in the late '80s.

>> Councilmember Liccardo: What's going on in that striped magenta area to the East across the railroad tracks?

>> Joe Horwedel: The portion that's sphripped that's red and brown, that is the project that Mr. morely wants to get last year I think it was for a commercial development.

>> Councilmember Liccardo: That's for commercial but not for housing?

>> Joe Horwedel: It's not for housing, that's correct. It's a retail mixed industrial overlay.

>> Councilmember Liccardo: Okay, for the most part, west of West Oakland school you have industrial ?

>> Joe Horwedel: That's correct.

>> Councilmember Liccardo: I appreciate the good work that's being done by this church and certainly one question I have also Joe. My understanding assembly uses would be permitted in any commercial structure, is that correct, commercial zoned?

>> Joe Horwedel: Commercially zone such as the shopping center an Brokaw, the area further up Oakland road towards Montague, there's now about 40 acres that is still left it's general plan where they could get a use permit to locate.

>> Councilmember Liccardo: This church, particularly one doing wonderful osocial uses in the neighborhood, we'd welcome them and i'm sure there are many in other districts as well and we're going to see many more in a tough economy. I don't think there's a fake opportunity opportunity for jobs, job producing lands and what this overlay will ultimately do is perpetuate I think what Joe referred to as the domino effect. Because you're going to have assembly uses there, then adjacent industrial uses will deemed to be nuisances, will have to curtail their activities and additionally we may see additional conversions down the road. I appreciate the intent with which the motion is made but I can't support the motion. Because this preservation of industrial land is so important to our economic future in the city, and it seems to me now more than ever we do have really ample stunts for assembly uses and I'd be happy if they didn't find one of their district to come downtown.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I didn't get a chance to make a motion so I would like to formally make a motion to defer this until the fall.

>>> The K-8 school, the orchard school and also residential development and retail establishment. There are a couple of churches there and also a martial arts school and they provide excellent, an opportunity for the after-school care for the children inner charred school district and therefore when I visited the site, I just felt that the fact that we have allowed so many school to be built there and also so many residential to be built around it. And there's really no amenity or support facility for that school. And the couple churches there, there's a Chinese language church as well as the martial art academy provide like I stated an excellent after school activities. So I urge my fellow councilmembers to support my proposal of deferring this amendment to the general plan this fall, so we have -- to give time to consider this project and I want to thank the people for coming out tonight to speak to us, as well as Joe Horwedel's work on this issue. With that I'd like to make a motion to defer this?

>> Second.

>> Councilmember Chu: That you.

>> Mayor Reed: We have a motion to defer this to the fall general plan hearings. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and I want to follow up what Councilmember Liccardo says regarding the work of the church that's being done and it's certainly a positive establishment so have in our community. I will support the motion that Councilmember Chu is putting forward. However, just to let the applicant know that as you proceed forward, that that's not necessarily an indication that the rezoning will be looked upon favorably at the next hearing. And so I would strongly suggest if the motion passes, that in the interim you certainly look at other alternatives as well as what Councilmember Liccardo suggested and let you know. But at this time if Councilmember Chu indicated that there are other sites nearby that are doing similar activities and I don't see how it would hurt us to at least give the applicant the opportunity -- they'd inthiectded, they had mistakenly believe that they had the right zoning. And now, as they proceed through this process that they want a little bit more time to try to make their case, I'm 79 with that spearl since Councilmember Chu is recommending it. I know that he probably knows a lot more about this application than any of us do. However I would just state that certainly continue to look for other sites that may are appropriate as well and not necessarily just rely on this application.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. I'm going to support the motion for some of the same reasons that Councilmember Kalra just mentioned. As he also said, it does not mean that the ultimate result will work in the applicant's favor in the end so I would look at other options. But I was moved because I happened to turn on the Planning Commission the night this was heard so I actually heard the Planning Commission discussion, and noted that there were other churches, and martial arts studio and other thing, and schools, and schools can locate where they want and that creates something for us in terms of planning. another I wonder about, you know, the church exists, they deserve a little more time to make their case. They're a going concern, they're providing rent to the owner of that building and these are not exactly great economic times where landlords want to lose people renting out of their facility. I believe that's another concern and finally industrial conversion, protecting our industrial lands I take very seriously. If this threr a location which would be a little heavier, further north I definitely would be opposing this. At least it is not one of the heavier industrial parks in that area. I think that I would just favor giving them a little more time to present their case.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I wanted to thank Councilmember Chu for all his good work and advocacy in the area. I did, start work in this area in the early 1990s. Every six months I would look arounds and say? What happened to that housing park, it I personally lived through this area of conversion and I'm telling the applicant the same as I wouldn't be supportive. But speaking or thinking outloud I don't think I'd be supportive then, I appreciate not mentioning it at this time. You about I appreciate how much my colleague from district 4 does.

>> Mayor Reed: There were a few items in the staff report that weren't clear so my memory isn't perveghd on this. When we I thought we had some discussion and some language about adding mixed overlays in order to -- so that we weren't squeezing the churches out of the areas where they might conceivably go. We daunt want chimps doing conversions, but I know we've had a church or two in which we've had conditions applied to them. When would he those kinds of conditions for a church or splee use in this area, when would those come into play?

>> Joe Horwedel: I think Mr. Mayor, the conditions you're talking about is the FCC project we did quown in Edenvale, where the church agreed on restrictions on the type of uses she would occur, as well as, one of the things that the attorney's office and staffer tried to be really clear about what the council, with the use permit that does run with the land and with say a ten-year use permit, the applicant does have a prudges for renewal under our zoning code, that we have to show that the use queantsz some is essentially jurious to the surrounding. It is a very start strong standard. We haven't had churches leave other than the market has pushed them back on their own. But when they're alone they really don't leave.

>> Mayor Reed: That would be part of the conditional use permit that they would be eligible to apply for one if this general plan ordinance was passed.

>> Joe Horwedel: Correct.

>> Mayor Reed: Was there any policy dialing with what we would consider for mixed uses making it possible for churches to locate in some areas of the city? J. there's one discussion with the council in how the framework ultimately, contradictions to it so we're trying to work our way through that. And I think in this case I would say that it is the concern that we have is not so many from a loss of jobs perspective on this particular side William because you are correct that when the question documented the framework we added some provisions that allowed conversion do spur commercial uses from the, different types of jocks they are okay and as the mixed industrial overlay is very similar to the combined industrial-commercial. The concern that we have with putting the mixed industrial overlay in this location is because it allows simply uses, which typically allow by right daycare, school uses which are sensitive receptors under the state standards for hards materials. It puts on notice how they operate that is really our concern is if we put the mixed industrial overlay here, where do we stop for adjoinl properties and the domino theory from that end. And that because it does -- as we plopl those sensitive receptors then, you start drawing circles around the surrounding property. We still literal take the majorities, that they have extra layers of regulations put on them because of these other uses have come in. That's really the crumb of what staff has, that is, no disagreement, we just peel we have other sites we've planned for them you know even on

this map there are sites that would allow us with a use permit, that without a general plan changes, we already thought this through and say, with additional restriction.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Question to Joe, can we do an offset or a swap? Because the other location that you have identified is out there in the woods but this property is right next to the school already. So there's some restrictions already on the use of the property around the school site. And this is a marking lot that separate this property to the Jensen property and then three streets on the odor remaining three street sites of the property. And again, I emphasize if fact that this property was right next to the school and provide lot of after school activities for the children. That is why I am not in support of this particular conversion.

>> Joe Horwedel: Councilmember Chu, to do the mixed industrial overlay or remove it from another . We want to main sure that hash places of worship and gymnasium and other type uses that have traditionally tried to find homes in these industrial areas because ever cheap land prices and rent, we are able to find things where areas that we don't want. While this does have the school this is a sensitive receptor, it does stretch that boundary and the issues we're dealing with is bigger than the property own it's really following where the air currents go arched so there's -- it's dances that are in the hundreds of feet is what we're having to deal with. By doing this its essentially moves the boundaries further into the industrial area than it is today.

>> Mayor Reed: One more question regarding the conversion policy. I don't fully understand why we are crk this conversion tonight as opposed to the fall hear? We're supposed to be looking at the major projects including conversions.

>> Joe Horwedel: We had a pending court case if the answer was no we would want them to mooch around and find another sooner, rarn waiting for the fall. It was trying to go through and reduce their expenses if there is no hope for them at this location?

>> Mayor Reed: Thank you. Am not committed to a single ruling, I know staffer has considered it, and the policies, and I think we can do that in the fall when looking at other conversions. If the act didn't want to tie the risk, it's their choice that they may not get conversion. Any further discussion on this, motion to defer it to the fall, all in favor, opposed, one, two, Oliverio and Liccardo opposed. That motion carries. Taking us to 10.6, land use and text amendments on approximately .85 mile segment of the Alum Rock neighborhood business district between king road and Interstate 680. I want to disclose that I had in preparation of this meeting.

>> Joe Horwedel: Mr. Mayor, a fun project that has been a couple of years in the making that Councilmember Campos is really start development projects over the years but we really weren't achieving I think anyone's goals of how to create a influence business district a vibrant new community on Alum Rock avenue between 680 and 101. Staff has been working, Department of Transportation staff, attorney's office on how to go through and really take a new look and land use in the city. It has taken much longer than we ever thought it would take to sort through some of those issues. Tonight is the general plan changes which works to implement the employment lands framework, how to preserve employment opportunities but also to encourage mixed use development, encourage street oriented development and doing that in a corridor where we're hopeful that bus rapid transit will come and dealing with issues of sidewalk frontage. So next week you will see the nuts and bolts pretty picture of it and now is the policy piece of how we move forward in setting that vision forward.

>> Mayor Reed: I have one request from the public to speak on this matter. I'll take that now. Paul Ring.

>> Good evening hoinl mayor and councilmembers. My name is Paul Ring, I work with core companies. We have a plim that we did on mixed use commercial last year and we have been working with staff and so I'm here tonight to express my support for the city initiated general plan amend that facilitate transit and pedestrian oriented development along this Alum Rock corridor. I'm also here to highlight two concerns that I had just related to the timing. What you have before you is the general plan. There's also form based zoning piece that is still in development, and I would want to welcome the council to encourage projects to come before you prior to, if the form based zoning is not enabled, then you do choose to approve the transit corridor commercial this evening, that that would still not delay the projects as they came forward. The second is, the vision of the transit corridor

commercial, general plan designation, has a lot of details that are flow out through the form based zoning. And I have a letter that I sent to the Planning Commission with a number of concerns there, and I wanted to just reiterate how important it is to make this corridor flexible and to truly facilitate and not restrain the development along the corridor. So with that, I just thank you for your time.

>> Mayor Reed: Thank you. That concludes the public testimony on the amendments, is there a motion? Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. First of all Joe, thank you for setting up the discussion around this particular item that we'll be voting on today. Joe said that this has been in the works for a couple of years. I would say that I think I met with the both of you seven years ago. So we have put a lot of time and energy, and they have compiled extensive lists where we reached out to all the property owners as well as business owners in this area. So I don't have the extent of the list, but I met with various property owners as well as businesses along this corridor, and core was one of them as well as Imwalle and a few others. I would just ask my colleagues support the motion that I am putting forward regarding the Alum Rock avenue form based zoning overlay process and look forward to being able to bring this to council next week if this moves forward, to share with my colleagues the vision of Alum Rock, a historical area, that we're hoping to really set the stage for not only East San José but the line that directly goes into Downtown San Jose and connects one part of San José to the core which is Downtown San Jose, with the vibrant business district that really shows and lends to the city an area that can really transform itself to residential, commercial, as well as hopefully in the future, as time goes, another arts community in the City of San José. Thank you.

>> Councilmember Constant: Second.

>> Mayor Reed: Okay, we have a motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Joe, I appreciate this moving forward. I know it's been much anticipated. I just had a quick question about form based zoning, because I know it's been discussed a lot in academic circles. My question is, if it seems to be a good thing to be doing here, why wouldn't we do it just in all of our neighborhood business districts? Are there countervailing concerns? .

>> Joe Horwedel: We're kind of prototyping it with Alum Rock. And that's probably why it's taken so long is that it is not a tool that we've used before in San José. We kind of have a very light version of it that we use in downtown but what we're putting together with Alum Rock is performance standards takes guidelines and vision and puts it into performance standards so it allows the property owners and the developers to know what's possible, the community has some flexibility, you won't be seeing PD zonings for each individual project, it will be going through site development project it has taken a lot of time, planning staff agency staff consultant staff to go and really refine that tool to make sure it was something that was not going to be an impediment to development but something that would encourage and facilitate development. Once we get this one finished it is one of the tools that I anticipate we will be using as we implement the new general plan is to go and be look at other corridors around the city, to use this same concept. And so we've approached it with that thought, that this is not something just solely created for Alum Rock, but we wanted something that we would be able to pick up and use in other parts of the city and then adjust it to the particulars of that particular street or that particular neighborhood.

>> Councilmember Liccardo: Great, thanks, I look forward to seeing it take off in Alum Rock and will support the motion.

>> Mayor Reed: We have a motion to approve the amendments. All in favor, opposed, none opposed, those are approved. That includes the general plan amendments. Now, we need to on 10.7 is to adopt a resolution approving all of the actions taken this evening. Motion is to approve the resolution. All in favor, opposed, none opposed, that concludes the general plan items, taking us to items on land use, and we have a explernd we have one item on the consent calendar which is 11.1A.

>> Joe Horwedel: That was the one that Councilmember Liccardo wanted to pull.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Since there was only one item, should I be registering opposition now at the zoning or should I wait until the C.U.P. comes forward?

>> Joe Horwedel: It is I would say good to share that concern at this point. I'm not aware that this is an offsale location that will require an ABC approval to come before the city council. Not all of them do. It's really based on the amount of licenses in a given area whether it's impacted and the crime rate in the area so I don't know at this point if it would hit either of these triggers. So it is the concern that you do have with gas stations, as I understand it, selling offsale alcohol is that you'd like staff to be aware of and at the Planning Commission in considering a use permit.

>> Councilmember Liccardo: Okay, well in that case I'll oppose the request to change the designation on the ground of my opposition to the change in the council policy back in 2005. I thought that it was a mistake at that time to allow offsale of alcohol at gas stations. I think folks should be leaving gas stations with a full tank, and -- of gas and not much else, anyway. Thank you.

>> Mayor Reed: A motion by Councilmember Constant to approve. Is there a second? Is there a second to the motion? There is a second, Councilmember Pyle, to approve, this is in district 7, Councilmember Nguyen is not here to speak to this item. Anyone else on it? I have no cards from the public, let's -- motion is to approve, all in favor? Opposed? Herrera opposed, Liccardo opposed, that motion carries. Next item is 11.2, a rezoning, southwest corner of Edward avenue and south first street in district 3. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I'd like to make a motion to approve with one specific amendments. A direction to staff, in light of the fact that we have an alternate discretionary use policy at work here because of the high density roughly 50 units to the acre, my understanding is there are requirements to exceed city design standards and be of exceptional quality. I make a motion to approve with direction to staff for staff to consider and work with the applicant regarding along any of several potential improvements in terms of design, including adding additional retail frontage, possibly finding a safer location for that tot lot, as well as pedestrian or bike improvements that may include something like wider sidewalks or improving the number of bike park spots there. I understand there's a requirement of 25 spaces but we have 50 units there. As well as looking at potentially increasing the height of retail. Any of those kinds of improvements to the design to create the smart growth transit oriented kind of development that we've been trying to encourage in the district.

>> Mayor Reed: I think that was a motion.

>> Councilmember Liccardo: That was a motion.

>> Mayor Reed: And there was a second. Okay, anybody else on the motion? All in favor? Opposed? None opposed, that's approved. 11.3 is an administrative hearing in consideration of the appeal of the Planning Commission decision to approve a conditional use permit. Disclose that my staff has met with Yen Shu of imperial real estate appearing for the eener. i have no cards if the from the public to speak to this one.

>> Councilmember Constant: Thank you, Mr. Mayor, Planning Commission decision and approve the conditional use permit.

>> Mayor Reed: We have a motion to approve. Somebody wants to speak, I don't have a card. That's okay, come on down. It's pretty simple when there's only one or two people.

>> I would have put in a card. Sorry. I'm the appellatant in this and I thank Mayor Reed and members of the city council for hearing our appeal of the Planning Commission's approval of the conditional use permit for karaoke establishment. My name is June Oberdorfer, 40 unit PUD that's just east of the proposed facility. And our concerns about this have to do with the importance of our peace and safeties and our homes in an R neighborhood. And the Planning Commission's approval of this project violates a number of city council's policies but I'd simply like to bring your attention to two of these that are on the handout that I have right here, the illustration. One of these is for late-night uses. There are to be no late-night uses within 300 feet of residential property. The residences are within 60 feet of that property. And furthermore, that policy states that there can be

even greater offset if there is public opposition or based on neighborhood input. And there's been a great deal of neighborhood opposition to this, 31 people attended the community meeting, 16 letters and e-mails were sent to the Planning Commission, a petition was signed by 70 neighbors. And five people spoke at the Planning Commission hearing. The other issue, policy has to do with attention being paid to late-night noise problems. And this is really related to the restricted parking at this strip mall. The entrance to the karaoke facility is here, if that karaoke facility is full, it has an allocation of 52 parking spots, would occupy most of that parking area. There is an additional late-night, one late-night business that would occupy more. If there are customers waiting to get in they would occupy more. The net end product is that with the entrance way at this northern end of the facility, people are almost -- customers are undoubtedly going to be parking on this residential street. And it's people coming out, these are not families that are going to be there at midnight, these are going to be young people in a party mood, you know, which is fine but not next to our residences, please. So we are concerned about loitering and late-night noise. Proponent to the project pointed out in the hearing that there are three similar facilities located near residences without approximate. Those facilities are located in much larger facilities with adequate street parking so that street parking is unlikely and inconvenient. Such larger commercial areas with abundant park are certainly-you know the type of sites for this business and there are a number of such commercial facilities available with space in San José including one immediately across the street. So our request is really to you know, apply this city policy which required the 300 foot offset between late night uses and residential housing and to deny this conditional use permit. In lieu of that denial, we guess our alternative request that I put up there and one would simply -- something that was raised in the Planning Commission hearing, to restrict hours to midnight for the first year so that policies could be put in place to prevent any sort of noise and disruption in the neighborhood. And the second request would be if you do issue a permit that the time on that permit be reduced from ten years down to five years which is the normal length and that would simply have a review process in a much more timely manner. Thank you.

>> Mayor Reed: Okay, thank you. We have the applicant here as well. If you'd like to speak.

>> Good evening, mayor Chuck Reed and city council members. My client's been in business in Richmond for the last nine years and he's run a successful business and he's going to have a similar one in San José. And he's -- there's residential property also within 100 feet of the shopping center which councilman Pete Constant has gone to that location. I pulled reports on all three establishments, in Cupertino, Gamba karaoke. The one in Cupertino have 16 tenants in four buildings and they have 12 parking spaces. The one in Santa Clara has nine total tenants, they have 71 total spaces. The one in music, 500 parking spaces and the current one that is subject, the subject property, has 111 parking spaces and it's going to be staggered meaning during the working hours, they're not able to use all the rooms. Only half of them are going to be available for use. And after the other tenants are completed with their business at 5:00 to 6:30 the others will be open. Two items I kind of wanted to bring up. One is in regards to the -- under the resolution number 9, could be current conditions, item number 12, the age restriction, it mentions all the patrons under the age of 18 must be accompanied by an adult. We have tapioca ordinance says a person is under the age of 16 cannot be in a public place without adult supervisors from the area of public place within the city without adult supervision between 11:30 p.m. and 5:00 a.m. And the reason for this is since through Thursday we do close at 11:00 p.m. and you know, if someone wanted to come by for coffee or a drink they have to be under 18. Under this one it wouldn't work. The second one is, the number ten noise measurements it stated for the first six months that my client's in operation that noise levels at the property line shall be monitored by a qualified noise consultant once at midnight on a Friday or Saturday night. For a small business owner like my client spending 2,000 dollars month for a noise test every month I believe is a little bit excessive. They have conducting a noise study currently and the property is currently a vacant shell. It abides by the city combines. Once the tenant improvements are allowed to go inside, the windows are going to be noise, sound proofing. You don't want to hear somebody singing in one room and in another room, you won't be able to hear, from one room to the next room so I'd like to make an amendment to have that changed from the first six months every month to have to check that first so pain the six-month feared so -- I believe my client is, you know, a small business owner that has been successful. We are looking to outreach and work with the city as well as all the neighbors but they cannot compare us to Britt Annnia arms, which has alcohol, and we can't can a exceed with them.

>> Mayor Reed: That concludes public testimony on this item. Councilmember Constant.

>> Councilmember Constant: Thank you. I just have one with request of the Planning department. What condition was that again?

>> Joe Horwedel: Ken condition 12.

>> Councilmember Constant: You can tell me how we came up with that if there is no dawlted, type uses?

>> Joe Horwedel: I'm trying to determine if that was one that came through staff or in discussion with the public hearing. One of the concerns that during the process has been about loitering activities occurring on the site and so this is a crch that has been used elsewhere. Whether this came from staff or the commission that I don't know. But there were responsible adults there for all uses that would be potentially on did site.

>> Councilmember Constant: Okay, I'd like to amend my motion just to change that angle after 10:00 p.m, rather than all the time. I don't know who seconded it but if it's okay with the seconder?

>> I want to explain my mome briefly. We have met with the business owner and their representatives and as they mentioned, I drove up to Richmond up there to see what type of establishment it was . There were a couple of things that really surprised me. The first thing that surprised me is how much of a family establishment it was. I saw groups of people coming and having a really good time. Parents with their kids, teenagers coming there in groups ever four and five. I spent a lot of timing looking at the park lot and it's a very busy mall up there. It wasn't six people coming to a room driving six separate cars. Then I went inside the establishment and I was amazed at how unnoisy it was. The business owner and I were able to walk through the interior corridors talking at a normal level wul are without having trouble or diment I he mentioned the location where we were at had quite a few, new facilities was going to have fulling modern sound insulation. As I went back outside the back door of the entrance, the service door could not see one sound coming from inside the business. I really barrel hear muffled sounds. I then went outside the front of the bit which is a typically glass frontage was often to the business and stot 20 feet away from that and could barely hear the murveg coming into the idea that this is a loud rowdy obnoxious sound that you would hear at a bar or night club is just not the case. I think this is will be an asset to the community and I sincerely think that the community members, we have had one that I think after they visit and see the establishment in operation for a couple of months they'll see that their fears are unfounded. I want to address location a little bit. This is on souts de Anza boulevard which is a major corridor, decades and decades, if there's ever a place you want this type of establishment to be located it's in those major commercial corridors where you expect to have those type of retail businesses with high traffic so I urge my colleagues to support this. I assure the residents that we will take all complaints of violations of the C.U.P. very seriously and we will make sure and the owners have assured me that they will operate within the confines of the conditional use permit.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I was going to suggestion comfortable with the amendment that -- the self-amendment you made to your motion and I actually had a question regarding another issue that was raised p by the business owner in regards to the noise measurements. Having had these coirgs before, seems that one a month does seem excessive for small businesses. I just wanted to get your thoughts Joe on how that is going?

>> Joe Horwedel: Comments on number 12 that make a suggestion for number 10 that at the first month of occupancy that we do a noise reading and that there not be a requirements for a noise reading there on out. But that if in was a complaint that staff could ask for one.

>> That could also be an amendment as Joe stated.

>> Mayor Reed: Ask it okay with the seconder, I forgot! Comlt.

>> Complll not be loud to sing in the establishment.

>> Councilmember Constant: I can assure you three asked me to sing in Richard and I told them I didn't want to break their keyboards or at least the.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: It might be the chance of able to, there were some concerns by the then neighborhood, at least one per that's representing the neighborhood, from your end what would you be doing to work with them to help alleviate some of their concerns since we won't be putting any -- since the councilmember hasn't recommended any conditions? I know that if there's a preliminary plix that may have alcohol we may ask that a condition for them to come back in a year, for you to come back in a yier and in there are any things that are outstanding issues, whether it's police complaints or anything and I know that that isn't a condition right hire now. So how will your department be working with the community to reassure them?

>> Councilmember Campos, condition 13 is a condition Weaver used in the last year in permits where there is a potential for community concern or impact and we've created what we call a community relations manager, responsible for the business, that there are a number of brigs for each individual to outreach to the community to taunt neighbor meetings, to ensure that dplr contact information for that individual available, posted oncite so that it's -- you don't have to hurchlt for it. The maintaining of logs, the complaints that come in and then if we get complaints from the community what we do is match up with the lotions. Ever they catching the same situation that they are observing or the naked is going to start with. And we can start at that point that they're paying attention what's going on dabble take it, if second thing that rks compliance rube. And it -- they asked staff over the last two years to monitor the compliance and at the end of the two year period staff will go through and looking do we have complaints that have come in from the community. As police gotten complaints about the excite. And to assess how it's been going. And if there have been problems that thus far haven't warranted formal enforcement action but it's been kind of a number of things that get fixed an then come back that we could actually schedule by the plannings, didn't feel the need because alcohol was not involved here and that they had looked at allow their business was operating in Richmond found some level of comfort how the business operated, they perms so thrat unable did have something to go back to and say look, you know, applicants you agreed to do this, staff you agreed to do thootion things and so we need to make sure that that happens. I think there are a number of things built in here recognizing that it's not a night club it doesn't have alcohol, but it is something that does have late-night use, groups of people coming in. There is a potential for loud, to make sure the operator is dealing with that.

>> Councilmember Campos: Then my last question is, after the two yiers if the scenario that there are issues, how do you flag the particular council district so that they're aware of the issues?

>> Joe Horwedel: Yes, if there are issues going on we will open up a case on the property and then work through a resolution, complaints or that we're working through that. It is one I think that we've now introduced ourselves to the neighborhood, between the council staff and the applicant and the neighborhood, if there are issues going on how to proceed with that one of the things that did come out of this was the complaints about Britain yah arms. Staff has gone back and we are looking through Britannia arms, we are going back through that with them to make sure that in fact they're operating in a responsible manner. So it's one that if we're aware of the situation, we will proceed on it. The biggest challenge is that not letting the neighborhood kind of dwell, you know fester on something and externalize something, come talk to us, come talk to the council offices and we will deal with it.

>> Councilmember Campos: Thank you.

>> Mayor Reed: We have a motion on the floor that has been amended a couple of sometimes but basically it's Councilmember Constant's motion with a couple of changed condition. Any further discuss on the motion. All in favor? Opposed, none opposed, so that's approved with those modifications to the conditions. Next item, I think the last item, 11.4, rezoning property Northwest of the intersection of Los Esteros road and Zanker road.

>> Councilmember Chu: Move to approve.

>> Mayor Reed: We have one request to speak, Eric Shanehauer, if you can snatch defeat from the jaws of victory.

>> Eric Shanehauer representing the applicant. Just wanted to thank staff and the Planning Commission recommended this unanimously. thanks so much.

>> Mayor Reed: Further discussion on the motion and second? All in favor? Opposed? None opposed? That's approved. I have no cards to speak under open forum. I believe that is the last item on the agenda unless the clerk says we have to stay longer we're going to adjourn. Thank you very much. One more meeting.