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--Audio Difficulties--

Generally, the public hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda such as to accommodate significant public testimony or may defer discussion of items to later agenda for public hearing time management purposes. First item is 3A. Ordinance amendment. An interim ordinance of the City of San Jose establishing a temporary moratorium on the establishment of new bail bond establishments pending the review and possible amendment of land use regulations applicable to such establishments and setting forth the findings to support such temporary moratorium. Staff.

>> Good evening, Mr. Chair. (inaudible).

>> Acceptance of processing permit including a building permit related to the establishment of new bail bond business citywide and prohibits establishment of new bail bond business city wide for which no permits would be required. The ordinance does not prohibit an existing bail bond establishment that is already occurring. Conditional use permit to operate between 12 midnight and 6:00 a.m. The proposed interim ordinance will also allow the city to examine its own bail bond establishments to determine whether any new ordinances are needed. I would like to turn your attention to a supplemental memo that was just passed out just prior to the meeting and this memo summarizes community input, received at a community meeting held on July 20th, just last Monday after the packet was distributed. I wanted to make a comment regarding the meeting itself. Community residents, impact on these emphasis on the surrounding neighborhood. They expressed concern regarding proximity of these businesses to schools and parks in the area, distribution to bail bond establishments and littering of in their yard of bail bonds advertisements and lanyards. Indicated that ground floor commercial uses were more problematic than those located on upper floors. Neighborhood residents suggested that staff look at the regulations of other cities, question the need for bail bond businesses to be located near the jail, asked in zoning regulations could include separation requirements for bail bond businesses and sought confirmation that the city was enforcing the current requirements. There were also representatives of bail bond establishments there and they expressed concerns of current zoning requirements and the conditional use permit requirements for operation after midnight. One bail bond representative indicated his business had been in operation in its current location for many years and had never been aware of the ordinances. not caused by their clients but were associated with people brought into the area by the light rail. They requested that staff look at police statistics to determine whether bail bond businesses were creating crime problems and negative stereotypes established by bail bonds businesses was not an accurate indication of their businesses. Also five additional e-mail communications were received by staff after distribution of the Planning Commission packet and those are attached. And I just wanted to point out that one of the e-mail communications from William landson asked a number of questions much of which staff anticipated answering during the analysis of zoning regulations, should the moratorium be approved. Staff recommends approval of the proposed ordinance to establish a temporary moratorium on the bail bonds businesses. This concludes staff report. Thank you.

>> Commissioner Do: Thank you, Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. I'm going to abstain from the vote on this after conferring with the city attorney's office, I, although there is no conflict of interest, the perception of a conflict of interest could exist given my employer. So therefore, I will not be participating in the vote. Thank you.

>> Commissioner Do: Thank you, Commissioner Campos. There are a number of speaker cards so I will go ahead and call them in the order we receive them. I will call three names at the time. As I call the name please come to the bottom of the stairs. Each person will have up to two minutes to make their remarks. First three persons, I think it's John Kems or Karas, I'm not sure. Okay, the next one is Dave Truslow and William lambson. .

>> My name is John Karas and I live on third street so I'm in the Hyde Park neighborhood. I want to say that I'm in favor of the ordinance amendment. I think that one of the biggest issues that I think you'll hear and you've probably already heard is there is an overconcentration of bail bonds businesses in the Hyde Park neighborhood. And these businesses are also very, very close to schools and residences and parks. And all -- I think the ordinance would enable the city to study whether or not reasonable separation requirements could be made and some other reasonable restrictions. And I also think it can also help determine whether the source of

some of the other problems that have been raised, you know, such as loitering and littering and things like that, whether they are caused by the bail bonds clients or not. I know there's an issue of facts about that. So that's all I have.

>> Commissioner Do: Thank you. Good afternoon, thank you. I'm Dave Truslow, I have lived in the neighborhood for over 25 years and since that time since the jail was constructed I've seen a large increase. And basically I'm in favor of is the neighbors who operate bail bonds businesses. I think they serve a legitimate role. My brothers are, actually several relatives are criminal lawyers. But I'm here to ask that the moratorium be sustained. And the reason for that is we need time. If we had to do it all over again, the jail would come under I believe a CEQA requirement to look at the cumulative impact that the ecosystem around criminal justice has created, and that didn't happen. So we're now faced with a problem where we have this excessive concentration which you've heard about and the impacts including noise litter Public Safety traffic parking and the impact and also we've had some crime cases now. Is this due to their clients? Don't know. But I've seen that increase in the 25-plus years that I've been in the neighborhood. I think what we really need to do is have some means where we can put the services, the valuable services that these folks offer in an area closer to the jail itself, perhaps near the San Jose police headquarters, that area. That is away from any residential area, closer for the clients and so forth. But that will take some time to get that done. And I've already been in touch with my representative on the Board of Supervisors to see what can be done because I believe this is really a county problem but we here in the City of San Jose are facing it. So for that reason I'm asking that you do allow this, give us some time to get these things straightened out to work with the city and the county to see what we can do so this ultimately which be a win-win for everybody. Thank you very much for your time.

>> Commissioner Do: Thank you very much. After Mr. Lambson I will call two additional names. Buffy Austy and John Morenos.

>> Good evening. My name is John lamson. I've been a Japantown resident for over 25 years. I'm a member of the Japantown residents association. Over the last few years, I think when the residents, when you look back over time, they're what they co-existence between the residents and the bail bonds businesses. They serve a very, very important function for our overall community but I think what's happened here is with the growth in a number of those businesses have come into the neighborhood they have unfortunately brought impacts to the community that the residents are not pleased with. As was mentioned the loitering, the littering, our youth, the proximity to schools and what our youth are seeing. The community would very much, would support the staff's recommendation to put a moratorium on the number of businesses that can move into the community until it can be studied and understand the true impact. Five bail bonds businesses is one thing. When you're talking about 40 and 50, it completely changes the dynamics of a community and has huge impacts. So we strongly encourage you to take a look at this, understand the impacts before we can start making decisions. And definitely, there is a true need and a true support of the community if there needs to be more type of segregation between the bail bonds businesses and the residents working with the community to see potentially that these businesses could continue to be located closer to the jail but not so close to our schools and to the residents of this community.

>> Commissioner Do: Thank you, sir. Thank you very much.

>> Good evening. I'm buffy Auster, ther of buffy's bail bonds, I was licensed here in 1975 in San Jose. I've been in the business all that time. and owner of the buffy's bail bond company. I want to tell you I'm against the moratorium on the bail bond businesses. I'm a little surprised that we are being placed in kind of a box that we are the blame of some of these neighbors' concerns. I was at a deal a couple of days ago, and they were saying that there was yelling, there was violence, there was drugs, there was all kinds of things that I've not seen in the years that I've been in this -- in business here on North First Street. I would like to ask the council to bring us some police reports and complaints that prove or show that there's anything possible like that even happening. Because I been in -- my office is adjacent to an apartment building, there has been, in the 30 years that we've been there, there has -- or I've been there, there's been no complaints whatsoever, with that residency. And if there was a problem, I think we would have heard about it by now. Now that's not to say that there might be one or two bail bond companies that are causing the trouble. There are, if that's the situation, then why are you bringing us all under the same umbrella? I think it's detrimental, and if you put a moratorium on us --

>> Commissioner Do: Mr. Austy, thank you for your remarks. Your time is up.

>> Okay, thank you.

>> Commissioner Do: I'm sorry, sir. Could you come back to the podium? There's a question from a commissioner, Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. The question I have for you, did you attend the community meeting that was two days ago?

>> Yes, I did.

>> Commissioner Kamkar: And the reason I ask that question is, I'm surprised that you say you don't know of any problems. You know, what was your impression of the committee meeting?

>> Well, my impression was that the neighborhood has -- is angered about the problems in the community. And I'm sure there are problems. And they're ready to strike on -- to try and solve that problem. In some regards, they've come to believe that the bail bond offices are causing this. And that is not the case. And I still reiterate that there may be one office, maybe there's two, that may have a problem. But in all the years that we've been conducting business, having moms and dads, grandma and grandpas come to our office, posting bonds, they're not there yelling and in drunkenness, they're there to post the bond, get their loved ones out of custody and go home, that's all they're there to do. Unfortunately people do get in trouble and they need to be helped late at night. And to prohibit that situation, then where do we go? Do we want to take mom and dad to a Denny's and things like that? That is not the proper thing to do.

>> Commissioner Kamkar: Okay, thank you. And then the second question is regarding your hours. Are you a 24-hour operation?

>> Yes, we're 24 hours, we're licensed by the Department of Insurance and we post bonds. We talk to people a lot of times on the phone, and we negotiate the bonds, we ask the people to come down to meet with us and sometimes that's late at night. They're coming out of town, and they need to secure a bond to have somebody released from custody.

>> Commissioner Kamkar: Okay. The residents that were testifying before you, they mentioned something about if there was a way for you to be closer to the jail or closer to the police headquarters. I know there's no such plan in the works but, if there were, do you have any objections to it?

>> Well, I do. I have been in that location, that location has been there for over 50 years. I've been there for 30. I own the building. I don't see why I should be asked to go closer to the jail. That's not the -- that's not requirement. The requirement is, is to have, to meet somebody near the jail. Not next to it.

>> Commissioner Kamkar: Okay. So if I misunderstood them and they didn't mean you moving but the new people coming in, being located closer to the jail, do you have any feelings about that?

>> Well, I don't have any feelings about that. I'm just saying that the -- if there are people that move, you know, closer to the jail or that's entirely up to them. If there's someplace that they want to move to --

>> Commissioner Kamkar: Okay. You've answered my question, thank you.

>> Commissioner Do: The commission still has questions for you, sir. Commissioner Cahan has a question for you.

>> Certainly.

>> Commissioner Do: Thank you.

>> Commissioner Cahan: Thank you, Mr. Chair. Could you give me an idea of approximate number of people that come in daily and then specifically between the hours of 12 and 6:00 a.m?

>> Would I say approximately in a week's time we may have -- and there's somebody can answer that question better than I -- but that works for me that's here today. But I'm guessing at probably about a dozen beam that would come during a week that would come after that particular hour, between 12:00 and 6:00. Not many. It could be more, it could be less.

>> And the people that come to your facility, they have to have, what, 10% of the money themselves, the bail?

>> That is completely negotiable. They don't have to have the full amount of the money. They can come in with payments. Times are hard now, people don't have the money. We're here to assist them and get a bond posted and we will, you know, have them come down with a down payment and they will make some arrangements to pay later.

>> Commissioner Cahan: So what I'm hearing is you work with them, which would prevent them from going door to door asking for bail from random neighbors?

>> I don't know of anybody that would be knocking on anybody's door asking for bail on neighborhood doors. That would be just completely ridiculous. It doesn't make -- I mean, people don't come down to -- down near the jail and start randomly knocking on doors. If we're having -- if somebody's coming to meet with us, it's normally set up ahead of time. There are people that are -- that will see our sign and come down, and meet with us, that haven't talked to us. And -- but that's because they know we're in the bail bond business, not in a residential door somewhere.

>> Commissioner Cahan: And do you hand out a lot of literature and items like shirts? Seems like Bad Boys shirts --

>> I understand what you're saying, councilwoman. There are a lot of offices that hand out literature, they have lanyards and tee shirts. We don't do that type of marketing. It's unfortunately we -- I'm a past president of our state bail association and I try to fight this for years, to stop that type of business. It unfortunately -- I went to the city, and asked them to stop it. Because they were on the city sidewalks. And they said no, they -- we can't do anything because it's free commercial speech. I went to the county, and they asked them to stop it. Because it was all this information, all this literature was going inside the courtrooms and the court lobby. They said no they can't do anything because they're not prohibited outside the courtroom to hand out literature. I went to the Department of Insurance. Hours regularly in office. And I said, these people are soliciting people outside the courthouse. Is there anything we can do through the Department of Insurance? They said no, they thought it was a municipal problem. So unfortunately, we have tried our best to try and stop that type of practice. And we have not been able to.

>> Commissioner Cahan: So it sounds like you would agree with the neighbors, that that particular issue is a problem?

>> I unfortunately agree that they -- there are a lot of -- I've heard a couple of nights ago, one of the local neighbors complaining about lanyards on her tree and around the neighborhood and stuff. I think that's -- I think that's terrible. I am against that kind of stuff. I don't know what -- I mean, if I could go to the owner of that company and say, please don't do that anymore, and they would stop, I would be doing that. But they're not going to.

>> Commissioner Cahan: Okay, thank you.

>> Commissioner Do: Thank you, Commissioner Cahan. After Mr. Reynolds, two other speakers, Steve Sparasino and Eric Ganti or Canti.

>> I'm John Reynolds. I've been a bail bonds officer for several years. I work for buffy Arasino. I think a lot of the blame for the problems are absolutely being misplaced. And my biggest concern was bringing a moratorium and altering our business practices is without any substantiation of the allegations. I mean, to just come and say these

things are caused by us, I'd like to see, where's the proof? If you're having troubles in your area with someone knocking on your door in the middle of the night, call the police. That's what I would do at my home. We have a lot of trouble with the light rail. Right directly across the street from our office. After we left the last meeting, as soon as we got to my office, there was an arrest right there at the light rail, the guy's drunk, screaming and yelling and carrying on. Oftentimes they'll come behind our businesses, they'll drink, urinate and defecate behind our walls. To come and curtail our activities and our livelihood for things that are going on in the community that are not attributable to us I don't think is right in any way, shape or form. You know, if something bad is happening to the community as a result of what we do, I know I want to fix it. I don't want it to remain a problem. But to curtail what we do, I don't know. About moving us, if moving is closer to the jail, you can't get much closer to the jail. The light rail station across the street from our office says civic center. You go to any other county, just about almost unilaterally, and most bail bonds offices are close to the jail. The record's office is just across the street. The empire block is city services, police department --

>> Commissioner Do: Sir, your time is up. Thank you for your comment. I'm sorry, there's a question from a commissioner. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. If you could please educate me a little bit. I understand that bail is 10% of -- or the bail bond is 10% of whatever the judge sets the bail at?

>> Yes.

>> Commissioner Kamkar: Is that 10% negotiable? If I was in favor of increased competition does that mean 10% can be negotiated lower or is that a base law?

>> The 10% is a percentage regulated by the state. You have to charge what's regulated back. You can rebate back, I forget the exact number but you're able to rebate back, as in any business, we can fluctuate on that, depending on how solid a person is, their employment, connection to the community, collateral, requirement on the bond. We want to make sure they get back to work. That's our job. When people do not appear, we go out and arrest them and bring them to court. As far as the price for that, what's negotiable is how much can be rebated back.

>> Commissioner Kamkar: That certainly affects the bottom line.

>> Oh, sure.

>> Commissioner Kamkar: The other question I have for you is, do you have multiple locations?

>> Our office has -- we have one here in San Jose, which is -- we've been there forever and then we have a Fremont office we started a few months back mainly because I live in Fremont.

>> Commissioner Kamkar: But within the civic center you don't have multiple locations?

>> No, no, no. And I don't really know of anybody else that has multiple other than one other outfit and that is just their retail office, not another outlet.

>> Commissioner Kamkar: Okay, thank you.

>> Good evening, thank you for your time. My name is Steve Sparasino. Buffy Sparasino bail bonds. My grandfather started our business in 1947. I could say I'm a bail bondman, although we're the focus ever this meeting at this time. I wanted -- I wanted to ask what -- from you folks to can define the term proliferation in our business. The reason I asked that and the concentration in the area, at the meeting two days ago, the community meeting, the Planning Department said they loosely did an investigation on how many offices there are in the first street area. And the number they came up with was 50 to 150. And that was an Internet based search. Okay? Now, you asked the question as to whether or not we have multiple offices. No, but do companies have multiple names? Yes. And the reason being is that through the years, you've purchased certain companies and have taken on that name and phone number. But the reality is that there's not much more than maybe 15, 16

actual physical offices in the First Street area. The proliferation -- I asked to define proliferation because I brought a yellow page book, we have several of these throughout the years dating back to the 1960s. This is from 1978 which puts us 21 years ago of which if you open it up there are 46 bail companies. Now, we've heard that, you know, if there was only 40 or 50 or whatever the number is, I ask you, is that proliferation? If they're saying that the accurate number now is 50 offices, as opposed to what they were advertising in 1978 which was 46 we've only gone up by four. But the reality is, is that we're subject to changes of the economy like anybody else. There's new businesses that pop up every year.

>> Commissioner Do: But there's a question from you from Commissioner Platten.

>> Commissioner Platten: Thank you, Mr. Chairman. As I read the moratorium, this is a temporary moratorium for new bail bonds businesses. Existing bail bonds offices would have the opportunity to apply for new modifications if business warrants. I think bail bondsmen serve a very important part of a criminal justice system. Not everybody who is arrested is guilty of a crime, and that is a service that your industry provides which I think is an important service to the community. But having said all of that, will there be any adverse impact to you or the members of your community if this temporary moratorium is impacted?

>> Sure.

>> Commissioner Platten: You can clarify exactly what that would be? Because from my perspective, I'll just tell you from my perspective it seems to me that all staff is asking is that we temporarily freeze the status quo and allow a process to go forward so everybody can make their positions clear. So clarify for me exactly what the objection is from you, as a business owner, and/or from your business community.

>> Well, first off, I want to make sure that we're clear. Part of this issue which is clouding it a lot is the classification of personal services. And that to me I guess is a separate issue as to where you want to classify this. Personal service is not necessarily the right classification. You are asking me how that would adversely affect. Temporary moratorium, when I was reading through that there was a sense of urgency as to why there should be a temporary moratorium. Yet there was no justification or research done by the police and sheriff's department, admit bily if department themselves. You wanted to know adverse affects.

>> Commissioner Platten: For purposes of our conversation I'll concede that with you.

>> I was telling you about the 46 ads in the 1975 yellow pages. It may or may not be 50 now, but that hasn't fluctuated. Now you've said should other businesses go out and new businesses can't come in and obviously this may or may not affect my bottom line. You've anonymous reduced the standard -- the status quo as to the variety of the different bail agents that the post could go to. And we negotiate, we do negotiate bail, different ways. We do underwrite our bonds differently and if it doesn't work for me, if a bond doesn't necessarily work for me but to another became bond company the way they want to write it, that may come from a new bail bond company that's popping up.

>> Commissioner Platten: Let me reiterate what you're telling me, some of your competitors may no longer stay in the business, there is the risk to the general public that the number of competitors and therefore the service and therefore the cost to the accused may go up, because the amount of service providers could go down, and you'd be handcuffed, not to use that term identity of line --

>> To some extent sure.

>> Commissioner Platten: We'd are handcuffed to providing the services to the public that needs them.

>> Absolutely.

>> Commissioner Platten: Okay, I've got it clear, thank you.

>> Commissioner Do: Additional questions. Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. Mr. Sparacino, I have to concur with Commissioner Platten. I don't really understand the negative impact to businesses that are existing and as community members have pointed out their goal is not to force somebody who is currently legally operating out of business. But let's say you're right and there's some perceived negative impact, I wanted to ask you about your concern about the sense of urgency, council asked staff in December of last year to come forward with a team of time line on how they might be able to move forward with looking at whether or not it would be appropriate to continue your existing zoning guidelines, or to consider some other zoning guidelines. It's now eight months later. And we're still talking about this. So that doesn't feel like a rush to judgment or any kind of extreme urgency. And I think --

>> I apologize for interrupting but that's how it's written into the ordinance. It's stating that a temporary moratorium is -- that there is an urgency.

>> Commissioner Jensen: And perhaps can clarify but it may be that that's simply boilerplate language that staff uses in drafting temporary moratoria or temporary ordinances. So there may be just some traditional planning jargon that's being used there. I had a comment also. You indicated that at the community meeting you were concerned that the range of 50 to 150 potential bonds agencies in the north 1st area when I think that what staff said was within the City of San Jose. I was also concerned about --

>> We got in the exchange -- oh.

>> Commissioner Jensen: I was also concerned about that number because it's 1 to 300% difference of how many agencies may be there. So I did a quick Internet search myself and I found 30-something just in the downtown area around where the current jail is, not all on first street but all in that general area. One out on north 13th street, one on East Santa Clara. But the vast majority in the north first, north second, Hedding area. A lot of the firms go under different names, reside at the same offices. It is unclear if they have different business licenses, they have different phone numbers. It seems like there are a lot of questions that need to be clarified. I had the pleasure of attending the community meeting on Monday night as well. And at that community meeting, towards the end of the meeting, I heard two of the bail bondsmen say that they agreed that there was a need for additional study.

>> Sure.

>> Commissioner Jensen: And that's what the moratorium is simply asking for, is the opportunity to have some breathing room and do that study.

>> But in the interim you stopped the continuous practice of new businesses coming in. You yourself the have found out there was 36, loosely on the Internet.

>> Commissioner Jensen: Just a quick search.

>> When, in 1986, there were 46 physical addresses for different businesses. I'm just throwing it out there that I don't think there's a proliferation. Maybe our signs have gotten a little bit bigger, maybe we have some neon that makes us stand out more. But the number of offices I don't think has -- coining your term, proliferated.

>> Commissioner Jensen: There are a number of concerns and I heard on Monday community members called the gentleman who were in the room with them professionals as you guys referred to yourselves as well, I heard the community state very clearly that they considered you professionals, and that they appreciated very much your attendance at the community meeting on Monday, and that they indicated themselves that the opportunity to have that conversation was very much appreciated and they felt that it had gone a significant distance in decreasing the animosity that had -- that meeting startled out pretty acrimonious, and by the end, it was -- I don't think people were singing Cumbaya, but it was significantly better. There was movement forward in terms of people being able to work together and the temporary moratorium won't affect you, it won't affect you guys. And I think most of you are all at the same agency. And it won't affect anybody who is currently operating legally. It gives staff and the community and you the opportunity to do in investigation. And hopefully you'll be able to support that. Thank you.

>> Commissioner Do: Thank you, Commissioner Jensen. Thank you. Please come to the podium. The next two speakers are Mitch McVear and Neil McNeil. Please come to the bottom of the stairs. Please state your name for the record.

>> My name is Eric cantu with Pacific coast bail bonds. I'm a co-owner. I'd like to state that I'm against this temporary moratorium for the reason being that I feel that a lot of the research may not have been done, Mrs. Jensen said she did an Internet search. I find that unreliable. I did an Internet search too and a lot of those people who were advertising were under several other DBAs. And they were also some businesses no longer in business still advertising and a national business whether it's a P.O. box or not, I don't know if that was included in your research. Also at a meeting two night nights ago, a question was asked of the bail bonds agents whether or not reports from the police department were obtained? They said they were working on this situation. This is like a fire sale without the proper research being done. Also, another comment was, the moratorium will not affect the agents that are currently in business like myself. But what's understood, it is our business, whether or not we can continue to do business, and the hours of operation are brought into question as well. It's indirectly affecting us as an industry, if a new company wanted to come in, in would be no option during this moratorium. Myself, I think you know, I look at the bigger picture as far as the industry as a whole rather than just an individual business in this county. So all I would ask is that more research be done before you even put up the moratorium so that way we could find out the facts.

>> Commissioner Do: Thank you, your time is up. There is a question for you from commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. It is my understanding the doors of the jail are not open between 12:00 and 5:00 a.m. What type of service are you able to provide if the courts are not open?

>> Unfortunately the courts it are not available after 4:00. Are you talking about the jail or the offices?

>> The services that we provide are sometimes a family member is arrested some figuratively speaking, 7:00 p.m. The father or the mother who's bailing out or the relative, grant you, anybody the loved one of the person who's detained has to work the following day, and they don't want to -- us to go to their house and they need a location for them to come so that way we can plead them and underwrite the bail bonds. Mind you, the person is booked in, the time would be between 11:00 and 1:00 a.m. We underwrite did bail bond. Mind you, the person that comes in is allowed to sign for the bobbed. These are contributing people to society. These aren't the people who are loitering and whatnot. The people who come down like I said they're eligible to post a bond. Not anybody can post a bond as far as the underwriting employee. The cosigner that come down, we underwrite the contract, we also secure the premium, the 10% an any collateral required for the bond. After that transaction which normally take any time from ten to 20 minutes at max, unless it's something extremely different. They come and see us, give us copy of their documents, and the client then leaves . It's our responsibility to post the bond thereafter so during that time, you know, we can't post a bond until 5:00 a.m. So we come back right at 5:00 a.m. I think it's a convenience and part of the industry. This is the only county that is closed throughout the state.

>> Commissioner Cahan: So there's no reason that they would stay after they --

>> No, absolutely not.

>> Commissioner Cahan: After they do business with you?

>> I can't be responsible for anything my clients do before they get to my office or afterwards. They're in our place, they come take care of business and they leave. A lot of times some of the clients will request you know, when does the person get out? Now, that's completely entirety up to the jail, when the defendant themselves are released. But we coordinate that with them. All right, well, tonight it's going to be anywhere from two to four hours. The jail, this is where they'll be released. We try and inform them as much as possible to eliminate them, no one wants to hang around a jail, especially my clients, and especially the people getting out, right?

>> Commissioner Cahan: Thank you.

>> Commissioner Do: Thank you, Commissioner Cahan.

>> Commissioner Platten: Mr. Chair, I had a question.

>> Commissioner Do: I'm sorry, Commissioner Platten had a question.

>> Commissioner Platten: Do you have any idea either for yourself or your industry, how many new bail bonds operations have come into place in Santa Clara County specifically in San JosΘ over the last five years?

>> Over the last five years I can definitely get that information for you but I would have to say on one hand, less than five, I would say, myself. Now, as far as locations on first street, I think there have been three new locations within the five. I may be wrong. But that's just off the top of my head. In Santa Clara County I can say there has not been more than five over the last five years.

>> Commissioner Platten: As you stands here tonight, this is a difficult question if you don't feel comfortable answering it I understand.

>> Sure.

>> Commissioner Platten: Do you have any reason to believe if this moratorium is put into place for five years, which may be the case before the ultimate resolution is put in place, more than two or three businesses might come to San JosΘ?

>> That I can't say. There are a lot of companies who advertise and are national companies, statewide company rather. That maybe interested. But I'd have to say everybody who is a national company who contends in this market is already here.

>> Commissioner Platten: Very good.

>> So to answer that I couldn't tell if you there is any other mom and pop shops that may open up.

>> Commissioner Platten: Thank you.

>> Commissioner Do: Thank you, Commissioner Platten. Please state your name and you have two minutes.

>> My name is Mitch McVickor. I'm against this moratorium. I'm kind of concerned it's focused on our industry. I think there's a lot of other factors as to why these citizens are having complaints or problems in the area. You know, I just -- for example, actually outside I was working, I posted a bond late at night, probably about midnight, I had to get gas in my car. I went to the shell station near 880 on first street. While I was there I got hit up by a homeless person asking me for money and it kind of made me think about this whole thing we're having here. So I think for some reason, it's aimed at us, at the bail bond industry and I think it really should be researching figure out why they're having this problem. I don't think it's the result of our business or our industry. I think it has as to the moratorium affecting our business, I believe it would affect in some way because you know for example, let's just say I'm at my location now, my landlord decides to sell the location, I have to move. Say if I want to go next door, am I allowed to do that? Probably not under this temporary moratorium. So I think it would affect me somehow if you guys are doing this, and you're talking about doing this for 22 years ago. It could go longer. Things have a tendency to stay longer than what you're claiming. But just for the record, I do go against this whole moratorium and that's all I have to say.

>> Commissioner Do: Thank you for your comments.

>> Thank you.

>> Commissioner Do: Oh, I'm sorry, I keep missing the light here. Commissioner Kamkar has a question for you. Please come back to the podium, thank you.

>> Commissioner Kamkar: Thank you, Mr. Chair. Let's say you were on the same street and you see a competitor's lanyard on the street. I should do something bit because if I don't regulate my business then others will, you know?

>> Right.

>> Commissioner Kamkar: Was there any attempt to try to clean that portion of the practice up, and you know, tell people if you're going to pass this stuff up at least clean it up?

>> I do understand what you're saying. You know I've never seen any lanyards hang from trees. I do see hand out cards at the jail, it kind of disgusts me, seeing those there, I always mention it to people trying to clean it up. I like to work in a clean environment just like anybody else does.

>> Commissioner Kamkar: There's several practices, it's the card, it's the lanyard, it's parking the truck as a billboard and just feeding the meter every time, you know parking attendant comes by. It's not just one thing, there's several that you know --

>> Well, I believe the meter feeding is another issue. But I don't think it requires a moratorium on bail bond industries to resolve that issue. You.

>> Commissioner Kamkar: I agree. My understanding is it's not just one thing, it's a combination of many things that have the neighbors fed up.

>> It's a concern. Why isn't there a moratorium on attorneys because they have the same clientele as we do. Why is it aimed at us? I don't ups.

>> Commissioner Kamkar: Good question. Probably should investigate that.

>> Commissioner Do: Thank you, Commissioner Kamkar. Next speaker, please. Mr. McNeil please approach the podium and state your name for the record.

>> My name is Neil McNeil. I live at 1125 north second street. I'm here to speak against -- or for the moratorium. The moratorium I think is necessary basically because the issues are fairly complex and I think they need some time to be worked out. I think one of the reasons that's become an issue, in the neighborhood, is not so much the proliferation, is the word that's been thrown around. But I think it's more the concentration of the bail bonds businesses in this particular area. And I would ask the commission to think of this in terms of other businesses. I mean, let's be honest. When you drive through a neighborhood, and there are, you know, every other building is a massage parlor or a liquor store or a payday loan place, or you know, that type of business, it degrades the neighborhood. There is just no getting around it. When people ask me where I live, and I give them directions to my house, they say "oh, that's right where all the bail bonds places are." I think that needs to be addressed. We have regulations about how many liquor stores and how far away from schools they request be, so on. I think the same type of analysis needs to be applied to the bail bonds business simply for the fact that it is a -- it has a negative perception in the neighborhood. And I'm not going to stand here and argue that we don't need bail bonds operations. That they don't perform a valuable service, et cetera. It's just that they are so concentrated, in this one area. And I think -- I think that needs to be studied and it's going to take a while to work it out, I think. So a moratorium is appropriate.

>> Commissioner Do: Thank you for your comment. There's a question for you. Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. Mr. McNeil, you live on north second. You are near a number of agencies. Have you seen or witnessed any of the inappropriate behavior that the community members are complaining about?

>> It's hard to say. I live kitty corner across the street from the shell gas station. And there are loud and sort of dangerous arguments that erupt there pretty regularly in the late hours. And I don't know whether they're -- they

have to do with the bail bonds that are -- there's a bail bonds office that's practically right next door to the gas station.

>> Commissioner Jensen: And when you see these potentially violent arguments did you call the police?

>> Personally, I did not.

>> Commissioner Jensen: Okay, all right, thank you.

>> Commissioner Do: Thank you, Commissioner Jensen. There is an additional speaker, Phoebe Martin. Please come to the podium and state your name for the record, please. And you have up to two minutes.

>> Hello, I'm Phoebe Martin and I'm 14 years old. I live on 1014 north second street and I'm with the Hyde Park neighborhood. I'm for the temporary moratorium. Yeah. First of all I'm going to say how this affects me as a youth. Every day when I come from school right across the street I see a bail bonds. I walk down first street, I see two more bail bonds. Every time I walk past the bail bonds, it makes me feel insecure and unsafe to know there's two bail bonds on one block. Does that mean there's lots of bad people out there? Also, I've noticed that a lot of people complain there are too many bail bonds. I was wondering if we could solve the problem for both sides. Can't the number be reserved so they don't have to move? And then the economy is bad. So isn't keeping a lot of number of bail bonds expensive, and isn't it hard to keep? Too many causes competition, and amongst all the bail bonds. The last thing I want to say is, maybe bail bonds should set the example for the youth. I mean, bedtime is bedtime. Don't bail bonds sleep, too? I know I do. I need my sleep. That's all.

>> Commissioner Do: Thank you very much. Motion to close public hearing? All in favor? All opposed? Public hearing is closed. Staff, do you have anything to add to -- on any of the public's comments?

>> Yes, Mr. Chair. Staff would like to clarify that the estimate of bail bond establishments was identified as a rough estimate, it was citywide estimate, and based on a review of the specific North First Street area, I believe in a prior report to the city council we identified that we expected that there were as many as 20 in the area immediately surrounding North First Street. So just wanted to clarify that. And that is something that we would need to explore further if we are asked to -- through the moratorium to examine bail bond establishments and the city's regulations for those establishments. I would also like to respond to the question about whether this ordinance is something that there is urgency concerning. And based on information from -- testimony from the community regarding yelling, physical violence, soliciting money from residents to make bail, the trail of bail bond literature and drug paraphernalia and beer bottles strewn over front yards, that based on this testimony, the city council did initiate this moratorium, and it does imply that there is some potential concern about the impacts that could occur, if the moratorium is not put in place while the city does the analysis to determine what, and if, should be done to the City's ordinances. So it does imply that the proliferation of bail bonds establishments is an urgent issue, and that because it is a complex issue, it may take time to examine and that, in the meantime, this moratorium is needed to hold things in the current situation during that examination.

>> Commissioner Jensen: Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. Staff, I noticed that one of the bondsmen specifically asked a question regarding if they were to lose their lease, or for some other reason, need to move their physical location, but they already are a business, a licensed business in San Jose, would they be able to relocate to another physical location?

>> I can go ahead and answer that. Right now, within the proposed ordinance, there are some exceptions. If you are lawfully operating, that you are not prohibited from going ahead and applying for permits that might be needed to address various situations like an immediate health and safety issue, complying with a court order, or modifying your business in which that wouldn't however the way the ordinance is currently drafted there is no exemption from if you're going to move from one site to another. So the exception from the moratorium really is pertaining to changes that you would want to make on the site, versus closing your business on one site and moving to another site.

>> Commissioner Jensen: Thank you. So for the sake of full disclosure, I wanted to let you know that I attended the council meeting in May where the council unanimously approved direction to initiate a temporary moratorium. I attended the community meeting earlier this week and I've spoken to some community members as well as doing site visits in the North First Street-Hedding area. I'm going to make a motion in order to get the discussion going, although I'm sure this is going to be a very lively discussion. Recommend approval of the proposed ordinance to establish a temporary moratorium on the establishment of new bail bonds businesses, as recommended by staff. And to that, if staff could provide some direction because there was some leeway, and the intent was not to prevent legally operating businesses from continuing businesses, but preventing new businesses from coming in. Perhaps there is some direction staff could provide, with respect to Mr. Cantu, should he need to relocate his legal business, enable him to do so. During the council meeting, it was -- I'm going to skip that one. I haven't been contacted by anybody on behalf of bail bonds agencies but I would be interested in knowing whether or not any of my colleagues have been contacted by community members, or by anybody else interested in this. I was also learned, as I mentioned earlier, surprised to learn from the staff report that there is no clear definition of how many agencies are currently operating in San Jose and the number was indicated to be somewhere between 50 and 150. So as I mentioned earlier, I did go online and Mr. Staracino or Mr. Cantu, whoever raised the issue, I did find a number of agencies who list themselves as having a San Jose office. I called a number of them. Some of them have an agent operating in San Jose out of their personal residence. And understandably, they were reticent to provide that address and they indicated that that agent would provide services over the phone, over the Internet or meet the parties in need, wherever the parties in need, needed to meet. A number of agencies indicated that they provide service within a very short time period, some as little as ten minutes, some as much as 20, 30 minutes and most indicated they could do most of the business over the phone. A number indicated they seven credit cards as well. And as I mentioned earlier, although Monday's community meeting began somewhat tensely, it did appear to become less contentious when both the community and members of the bail bonds agencies agreed that there was a need, in fact, for more study. And I believe that that's what this temporary moratorium provides. As Commissioner Platten pointed out, over the course of possibly two years, perhaps two or three new agencies might be prohibited from starting a business here in the San Jose area. And if, as you said, there has been no proliferation, then certainly there would be no negative impact to new agencies. And anybody who's currently operating legally would be permitted to continue doing so. I have a question also for staff, in reference to grandfathering. (inaudible) certainly. (inaudible).

>> Commissioner Do: I'm sorry. Okay. There is a motion and it has been seconded. So Commissioner Jensen, please make additional remarks.

>> Commissioner Jensen: Thank you. I have a question for staff regarding grandfathering. There was an agency that mentioned on -- that Monday community meeting that they'd been in operation for roughly 60 years. And that they hadn't been aware of any of the zoning changes. And I know the city is reticent to penalize organizations that have been operating since prior to existence of regulations. There was a question asked on Monday as to when the original zoning was put into place which called out the bail bonds agencies as personal service businesses. And I was hoping perhaps if you've had an opportunity to clarify that.

>> Mr. Chair, if bail bond businesses were operating legally at the time they were instituted and continue to be in conformance with the requirements that were in place at the time they were instituted, they would be legal nonconforming, and could continue to operate. It's possible that there are some business out there that are legal nonconforming, and we can provide direction as to how to go about determining that. The city has classified or considered bail bond establishments as personal services for a long time. We do not believe that that is probably the issue that would -- that would cause a bail bond establishment to be -- to claim legal nonconforming status. At one time, personal service uses were allowed in the CO-commerce office zoning district. So it's possible that some businesses operating in the -- or it was really the predecessor of the CO-office zoning district. The current CO district does not allow personal service uses. But previously, the office district did. So if those businesses that are currently located in the CO district were there, when the previous office district was in place, it's possible that some of them may be legal nonconforming. And that is something that we would be happy to explore with them and we do have a process for that. We have not undertaken to determine that for the businesses yet. So that's something that could be done.

>> Commissioner Jensen: Thank you. And so -- and I'm reminded that we are not being asked to change the existing regulations here this evening. That's not what we're being ask to do. We're being asked to give staff time

to investigate the current investigation and make logical conclusions following that investigation, and it sounds like to me there's ample opportunity for the existing businesses to continue their operations and continue their services to the community. And it also seemed to me on Monday night that there's a big opportunity to work with the community because all y'all seem to agree that it's not you who is the challenge. And that was what I heard here this evening, as well. Thank you.

>> Commissioner Do: Thank you, Commissioner Jensen. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. I am extremely torn on this issue. I am hearing that the neighborhood is suffering with personal property issues, and loitering, and so on. However, I'm also hearing that there's no proof of where this is coming from. And I fear that the bail bondsmen are being singled out because of the impression that their clients bring to the table. I previously worked in that area with multiple trips to the court during days and never had any issues with bail bondsmen and have spoken to a few attorneys that are still working in the area, and they have not had any issues. Now, that is all daytime activity. So I don't know what's happening at night. And I'm -- I have the fear of singling out one profession, when they may not be responsible at all. They are providing a service that we absolutely need to have. And they are in a logical place for that service. Additionally, we have such a wide range here, and the estimate of how many bail bondsmen are in the city. The estimate of 50 to 150 is a very large range. And if only 20 are actually on North First Street and we do in fact have 150 on the entire city, that's less than 15% of bail bonds actually being in that area. So it -- that does not prove a high concentration to me. And so I'm also concerned when the effects of the existing businesses for those who do not own their building and with the bad economy, there's a good possibility that they may not be able to be in their current location and would have to move during the moratorium. Perhaps there's a way to solve that right now. Additionally, I don't view them as being in the same category as liquor stores and massage parlors. There is an additional incentive for them to come back later in the evening in an impaired state. The people coming to the bail bonds offices are professionals, at least they're there, they just want to be there for a short amount of time. They want to get it done, they're in and they're out and they don't want to stay. Again I'm very torn on this issue. I'm having -- I don't know at this point how I'm going to vote. Thank you.

>> Commissioner Do: Commissioner Cahan. Commissioner Platten.

>> Commissioner Platten: Thank you, Mr. Chairman. I will support the motion if we can amend it slightly and recommend that section 2 specifically of the proposed ordinance be modified to indicate that in subparagraph or subclause C, that -- and this is on page 3 of the proposed ordinance -- that it be clarified to state, to modify its business or the site on which the business operates, if there is a change in business location due to sale or transfer of ownership of property. And my reasons for requesting that amendment is to make it clear that if a business is forced to change location through no fault of its own that it should be allowed to continue to operate during the term of the moratorium. So I'd ask the maker of the motion first if that amend is acceptable.

>> Commissioner Jensen: You can clarify again? I thought you were referring to the business location and not the business itself.

>> Commissioner Platten: The business location, that's correct. In other words, if somebody loses their lease or that location, three would be able to relocate and continue to do business.

>> Commissioner Jensen: Wouldn't that be then referring to the business itself, rather than the physical location where they are forced to leave?

>> Commissioner Platten: I don't care how you term it, it is the location of the business.

>> Commissioner Jensen: Yes, I believe I asked staff if we would be able to have the businesses relocate.

>> Commissioner Platten: I'll ask the maker of the motion for the we are lock in perhaps at a competitive advantage those that are now providing the service which is a very critical service to public safety. I want to emphasize that point. The right to reasonable bail is a constitutional right. It is a procedural protection that is afforded to all of us, as citizens or people who live in the United States of America. Bail bonds people perform a community service. Make no mistake about that. And it makes perfect sense that they're going to tend to be

located near the jails. That's where their business flows from. Just because an individual is placed under arrest, doesn't mean that individual is antisocial or guilty of any crime. Due process with regard to the criminal justice system is engaged and part of that process is the right to reasonable bail, afforded by our courts of law however recognizing that it is very clear that there is an issue genuinely raised, authentically raised by citizens in these communities that are concerned about conditions that they believe may be tethered to the operation of the businesses in these locale. It is incumbent upon these individuals and staff, who are very well qualified, that is our inability to provide enough money to get these kinds of jobs done timely that they are asking for a moratorium which may stretch up to the legal limit of two years. That's regrettable but necessary under the economic conditions we face. So on balance, by adopting this measure, as indicated by Commissioner Jensen, Kamkar and myself, although it is an anticompetitive thing, that is, it is going to protect those already in business, it is a wise policy choice. For that reason I'll be supporting the motion.

>> Commissioner Do: Thank you, Commissioner Platten. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. I think Commissioner Platten you know described it very eloquently. The only item I wanted to add is are regard the dishes guess the number 1, we had testimony regarding maybe only fives new bail bond businesses were added in the past five years. To me that is one a year. It is not a rush of people trying to come in and we're holding them back. That's one of the reasons I'm supporting the motion and second and I'm seconding it. Second item is I think the industry itself should police itself. And circulate remove the negative images, sidewalk handouts, so that you know, the image, you know, the image that's portrayed is not of only bad people, need bail bondsmen but everyday people, normal people, people with teenagers need bail bondsmen, you know. I think that's what the industry needs to do so the results of this moratorium study comes out favorable to what you want. But I'm supporting the motion. Thank you.

>> Commissioner Do: Thank you, Commissioner Kamkar. Commissioner Jensen.

>> Commissioner Jensen: I would like to ask staff if there are other instances in our regulations that identify specific rules for specific industries. Perhaps in the area of overconcentration. Perhaps in the area of hours that they may operate. Or the number of agencies that are allowed within the City of San JosΘ.

>> I'm not sure I understand the question. But generally when we are dealing with land uses, we are trying to group them into categories that have like characteristics and land use impacts. And there are some that are treated uniquely, if they have unique land use issues. The offsale of alcohol is one. And that isn't -- the offsale of alcohol can occur in a number of situations. But that is singled out for special regulation. We have a number of other categories. Some of them fairly broad and some of them narrow, that are also singled out for special regulation. And one of the task force we'll have before us if the council adopts this moratorium and asks us to look at the issue will be to determine what is the most appropriate category for bail bonds businesses, and what are the most appropriate regulations for them.

>> Commissioner Jensen: Thank you. And if I understood the conversation along the same lines on Monday evening, I understand there's one retail industry which is allowed to have only six physical locations in the entire City of San JosΘ and that would be the pawn shops?

>> Yes, there is a discrete limit to the number of pawn shots in San JosΘ and I don't believe that is the zoning ordinance that places that number. But there is a limit through the police permit requirements.

>> Commissioner Jensen: So then it's not unusual to identify specific requirements for specific industries?

>> Our police permit requirements do require those kinds of provisions, yes.

>> Commissioner Jensen: Thank you.

>> Commissioner Do: Thank you, Commissioner Jensen. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. As a result of what happens here and any first investigation, I want to make it clear that it is not my intention at all to limit the hours? And say they're not able to operate

between the hours of 12:00 and 6:00 a.m., after the explanation that that provides a time frame for people to come who are employed and not able to miss work, I want to make sure that we provide that time frame so that people who have work during the daytime don't become financially hindered because of our time limitations. So again, I do not want to take away the 12:00 to 6:00 a.m. time frame, because as a result of all of this investigation. Thank you.

>> Commissioner Do: Thank you, Commissioner Cahan. There are no other speaker lights. I need to ask staff my own question, which is that I -- you know, it appears fairly clear that there are problems within the neighborhood. It's not clear as to who are the causes for the problem. And it's also clear to me that some studies need to be done to understand what the situation is and how to improve that. My question is, why -- given that this industry, the way it sounds like, is that it's not a -- it's not so-called a high growth industry. It's not as though there are, you know, new firms, new companies being established all did time and so on, so forth. In other words, there's not a lot of change in the industry. So given that, why is the moratorium necessary in the first place? In the sense that why couldn't studies be done without a moratorium? I mean, what are we afraid that may happen if there were no moratorium? Thank you.

>> Thank you, Mr. Chair. The number of bail bond establishments along North First Street has increased. And there is a concentration of them in that area. And it is my understanding that the city council heard testimony from the community regarding the impacts that they have experienced from those businesses and the council felt that it would be best to at least they initiated an ordinance that would hold things constant while the staff were looking at the issue to determine recommendation for how these businesses should be regulated in the future. And so the city council, it appears, heard enough concern on that issue, that they have taken the action to initiate this ordinance.

>> Commissioner Do: Okay, thank you very much. I think that -- I guess for me, I guess I'm going to vote against the motion only because I'm not completely convinced that the moratorium is absolutely necessary. I mean the studies need to be done, for sure and we need to solve the issue. But I'm not sure that a two-year moratorium on an industry is necessary. But regardless the motion will be passed. Thank you.

>> If I could just make a quick clarification, that the original ordinance for you I think is for 45 days. And that's set forth in state law. So I believe, as has been noted, by staff and by Commissioner Platten, it is anticipated that staff will be coming back with a proposed extension, up to the maximum allowed under state law which is two years. But this original -- this ordinance before you tonight for your consideration and comment is for 45 days. And just to give an example of the types of reasons why a moratorium can be something that you want to consider, let us say that as staff performance its investigation, there is purely hypothetical, please note. That it becomes clear that after-midnight uses are not recommended. And so, as we all examine and watch the staff analysis proceed, it becomes clear to the industry that staff is headed towards a recommendation that after-midnight uses not be allowed. So then there's a rush of applications by bail bonds businesses to apply, to be able to operate before that prohibition on after-midnight uses goes into effect. So let's say you have a rush of an additional five, six, seven and so now those have been processed and then your after-midnight prohibition goes into effect. There is a concern, how effective would that be if there was a rush to try and get your application in and approved or acted upon before the after-midnight prohibition went into effect. So that's sort of the typical reason you might consider a moratorium. Because there's a concern that while you're examining the issue, that there may be applications or a rush of applications that cox in that would then undermine the effectiveness of the regulation you ultimately decide you would like to put into effect. I hope that sort of gives you an example.

>> Commissioner Do: Thank you, counsel. Actually that's pretty persuasive and sways me to change my vote. Wouldn't a moratorium have the same effect, if the moratorium, if the same bail bond company, if they know a moratorium was about to get into effect, wouldn't three rush to duet okay to the scene first?

>> That's interesting. Just given the typical normal processing times, in even someone would put a application in now, if this moratorium issue, if it were adopted it could be in effect before the applications could fully process.

>> Commissioner Do: Thank you, counsel, for your explanation. I change my vote based on that. With no additional speaker light, let's vote by light. The motion pass 5-0-0 with Commissioner Zito absent and Commissioner Campos abstained. The next item on the agenda is P -- is 3B. PDC 09-003. Planned development

rezoning to allow up to eight single family detached residences and one 12,000 square foot office building on a 2.98 gross acre site located on the west side of San Felipe road approximately 600 feet South of Delta road. Staff.

>> Thank you, Mr. Chair. I have two pieces of additional information regarding the project tonight. First I'd like to note that at the planned development permit stage as this project, the project itself will be conditioned to comply with the City's green building policy which would require the developer to submit a green building checklist at the building permit stage. And second, I'd like to note that at the beginning of this meeting additional comment letters were passed out to you that were received after the printing of the staff report and all the letters are in support of the proposed project. And finally planning staff recommends that the Planning Commission forward a recommendation of approval of the planned development rezoning to the city council because the proposed project would facilitate infill development that will provide housing compatible with the surrounding development pattern and will provide commercial growth to balance the existing and proposed residential development in the area, which moves us towards the goal of creating an equitable distribution of jobs and housing. This concludes staff report.

>> Commissioner Do: Thank you. Is the complicate here? Thank you. Please approach the podium. You have up to five minutes to maim your remarks to the Commission. Please state your name for if record. Thank you.

>> Good evening, my name is Riad catwan. I'm the applicant and the other than of the property. Thank you for allowing me to speak. I'm going to say the least amount possible here. I came before you some time ago, when we came in to request a general plan amendment on the portion of the site to change the use to commercial. And I think you've gotten a dose of what some of the issues at that time. The one thing I do want to mention is we did quite a bit of outreach to the existing neighbors. We met with community leaders, with people that I always see here like Bonnie Mace. It appears that she's not here tonight. I hope she's okay. She seems to speak at every one of the Planning Commissions. And also, complete with previous chairman Zito when he chaired the commission. He had made some recommendations on the site, and we've replanned and taken into account some of the neighborhood comments. And try to accommodate everybody's -- all the stakeholders' needs. And I do have support from the adjacent neighbors that immediately surround our site. And if you have any questions, I'd be happy to answer them. I do want to thank staff. I want to thank the planning staff, and especially Leslie for doing an exceptional job and would urge you to approve our project.

>> Commissioner Do: Thank you, there are no questions from the commission so thank you very much. Okay. There is a question from Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. The issue of, I guess, the riparian setback, what is -- what is the latest proposal? Are you within 50 feet, 75 feet, 100 feet? What's the minimal setback?

>> Okay, what we have is, we have staff in the -- an the environmental documents approved the minimum of 50 foot setback for this site. But what we have is, we've gone beyond that, and we're up to -- we have no structures within 75 feet of the riparian corridor setback. One of the things that we're doing is, we're doing quite a bit of enhancement. Currently the site is developed, you know, within the riparian setback area. We're going to go ahead and remove those structures and do enhancements along the creek which would be a community benefit. So that's one of the things. We're also removing leech fields. There's no septic tanks, no sanitary hookups to the system so there's leech fields for our selves and our neighbor. One of the things we're going to be doing is remove the leech fields and we're going to provide sewer hookup for our neighbor and she's going to be able to remove the leech fields off her property and this would provide a great community benefit I believe and get water away from the creek.

>> Commissioner Kamkar: Greatly, okay, so question number 1, when you say there's no structure within 75 feet does that include fences?

>> There will be some fences. And in some case on the commercial side we have the parking lot. If you looked at the -- you know, the way the plans had evolved when we initially came in, the plan looked significantly different. And we actually have pushed our product, you know, closer to San Felipe road. And try to move as

much as possible away from the creek. But still allow the residences that abut the creek to enjoy the creek setting there.

>> Commissioner Kamkar: I see. So looking at sheet 3 I guess of your -- of the plan sets that we got, just want to make sure I'm reading this correctly, you have your 50 foot setback, you have your 75 foot setback. And John if I have the latest one or not but office building seems to be --

>> We have an encroachment on the office building, that's correct. Sorry.

>> Commissioner Kamkar: Oh.

>> We have an encroachment within the 75-foot setback. That's the only encroachment that we have.

>> Commissioner Kamkar: Okay, I just wanted to make sure I'm understanding this correctly, then. Okay, that's my question so far. Thank you.

>> All right, thank you.

>> Commissioner Do: Thank you, Commissioner Kamkar. There are no other questions from the commission. Is there a motion to close public hearing?

>> So move.

>> Commissioner Do: All in favor? All opposed? Staff, is there any additional information you'd like to --

>> Thank you, Mr. Chair. I'd just like to point out that on the riparian, part of the riparian corridor has exceptions, disproportionately long riparian frontages that's the case with the site that's why staff is recommending approval of 50 feet of setback and 75 feet for buildings with the exception of the small portion of the office building. Thank you.

>> Commissioner Do: Counsel.

>> Thank you, Mr. Chair. I also wanted to make an additional note that while Commissioner Zito is not here this evening he did earlier this week ask the secretary to the commission to please place into the public record an electronic message that he sent to the entire commission, with regard to his comments on this item. And the -- I know the rest of the commission has it, but the secretary to the commission is going to place that e-mail into the public record for this item, as well.

>> Commissioner Do: Thank you, counsel. Are there any questions from the commission? Is there a motion? Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. I move that we find the MND complete and in compliance with CEQA, and I recommend the city council approve a planned development rezoning to allow up to eight single family detached residences and one 12,000 square foot office building on a 2.98 gross acre site as recommended by staff. and I do -- I do realize that Commissioner Zito did enter some recommendations into the public record. But this is the rezoning, and I think that staff at the PD permit stage staff can continue to work with the applicant. I know that one of the things that Commissioner Zito had recommended was the possibility of losing units. But I think there's the language in there that says up to 8 units should give you flexibility to, you know, work out whatever needs to be worked out, if that. But I certainly support the recommendation as it stands. Thank you.

>> Commissioner Do: There's a motion and there's a second. Is there anything else you'd like to say, Commissioner Campos? Okay, Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. Just a couple of weeks ago, we had a similar item which had residences being built out on a creek bed, associated to a creek bed. And on the eastern portion of that we recognized and respected the 75-foot setback. And I would strongly encourage staff, I appreciate Commissioner

Campos' statement that this is in fact the rezoning and not the PD development stage, the PD permit stage. But it is highly doubtful in my mind that if we approve this as it stands right anonymous, that respect will be made for the 75-foot setback. So I unfortunately will not be supporting this, because I do support the riparian corridor. I have a note, and this is a question for staff, I have a note to myself regarding the memo from the Water District. I don't see one in this packet so I'm wondering if I'm confused with a previous project. Did we receive Water District input regarding use of a 50-foot setback?

>> Thank you, Mr. Chair. We did receive a letter from the Santa Clara Valley Water District. A majority of the letter talks about the type of plantings that will be along the creek. None of it comments on the setback of the buildings.

>> Commissioner Jensen: No comment on the setback?

>> No.

>> Commissioner Jensen: Okay, thank you.

>> Commissioner Do: Thank you, Commissioner Jensen. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. Can I get clarification from the staff as to why the recommendation is allowing 50 instead of 75 feet?

>> Thank you, Mr. Chair. As I stated before, the riparian corridor policy allows setback exceptions for properties that have disproportionate amounts of riparian setback. So given the biological report and the current state of the riparian setback, staff felt it was appropriate to approve a reduced setback to this site to 75 feet for buildings.

>> Laurel Prevetti: Mr. Chair, if I may, if it would be useful to the commission we could put up a map and show what a 75-foot setback would look like for the development, because you will see that it severely constrains, and I recall that some of this came up in the discussion of the general plan amendment and that's why a portion of the site is actually designated for the private open space. So staff has an exhibit and we appreciate that we also have a commissioner who has put those lines on the map, and so staff may want to also refer to the document.

>> Commissioner Cahan: Mr. Chair, if I may continue. I see from the work that we were handed that the designs that a 75-foot would impact where you have the office space. And so I absolutely understand that, being a concern on the development side. And I don't want to hinder development, especially it sounds as though this is a good project and would be beneficial for the area. But I am concerned about us continuing to encroach upon the riparian corridor. And yes, this is allowed for potentially, but if we make these changes to the 100 foot setback each time, then we're going to lose our riparian corridor, if we continue to encroach upon it. Thank you.

>> Commissioner Do: Thank you, Commissioner Cahan. since there are no speaker lights, let's vote by light. The motion did not pass. Commissioners Do, Campos and Jensen voted for the motion. Commissioners Platten and Cahan voted against it. Is there a motion? Back to square 1. Commissioner Kamkar .

>> Commissioner Kamkar: Thank you, Mr. Chair. One of the things that would get plea to change my vote is getting the office building out of the 75 foot setback and doing away with either the fences or somehow make a fence where waters, flood waters can flow through. One of my concerns is, the reason we have a setback, not just for riparian corridor and habitat to grow, but also to be able to deal with floods, and you know, flood waters and stuff like that To be able to go through and, by having a fence in the way, I feel we are defeating that purpose. So you know, I'm not happy with 75-foot setbacks to the building, but given the constraint of the site, I understand it. But then the fences, you know, I just can't get past the fences blocking the flood waters. And I don't know if they can switch to the kind of fence where flood waters can flow through, so at least -- so that is not blocking. But as it is, I can't support it.

>> Commissioner Do: Commissioner Kamkar would you like to ask the applicant this question or is that your intent?

>> Commissioner Kamkar: Well, we are not at did PD permit stage you know, so I, you know, understand that may not be a appropriate question to ask. But I think, you know, just so the applicant knows what our concern is.

>> Commissioner Do: Thank you very much. Thank you. Is there a motion? That was a motion.

>> Commissioner Kamkar: I should be offering that as a motion, is to change the setback to 75 feet whether it's from the -- from a solid fence line or if it's not a solid fence line, you know, then to any solid object, you know, no more than 75 feet, don't encroach it. But in the Office building you know, that also has to obey the 75-foot setback. So --

>> Commissioner Do: So I think we probably need to restate the motion exactly. Would you like to do that?

>> Commissioner Kamkar: I'm going to take a shot at it.

>> Commissioner Do: Thank you.

>> Commissioner Kamkar: I will say planned development rezoning to allow up to eight single family detached residence and one 12,000 square foot building on 2.98 gross acre site, located on the west side of San Felipe road approximately 600 feet south of Delta road. Hawkstone properties, I'm reading the description, sorry about that, one more time. Well, I guess first thing on the motion, I need to ask a question. Finding a mitigated negative declaration complete. Does that mean we accept the 50 foot? Okay, no. So I can find it complete and go with the 75-foot minimum. Then that's what I'm proposing. Find a mitigated negative declaration complete and in compliance with CEQA and recommend the city council approving a planned development rezoning to allow up to 8 single family detached residences and one 12,000 square foot office building on 2.98 gross acre site, with 75 foot setback, you know, on all solid structures. Be it the walls of an office, walls of a building, or a fence. So I think I'm -- that's the motion.

>> And that's the 75-foot riparian setback.

>> Commissioner Kamkar: That's correct, thank you.

>> Commissioner Do: Thank you, Commissioner Kamkar. Is there a second? There's a motion and there's a second. Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. I will not be supporting the motion. I think that -- and if I -- if memory serves me correctly, that we knew that the setback would be, you know, in these parameters at the general plan stage and so I think that we dealt with that, we asked questions it ultimately went to council, council approved the GP. The project is before us, I don't think anything has changed in termination of considering the riparian setback. So for those reasons I will not support the motion. Thank you.

>> Commissioner Do: Well then, director would you like to make a comment?

>> Laurel Prevetti: I just have a -- I would like to make a clarifying question. According to the die dram, it does show parking within the 75-foot setback. Is it the intent of the maker of the motion that those parking structures would be able to or those parking spaces would be consistent with your motion?

>> Commissioner Kamkar: The parking spaces will, in the sense that they will allow flood waters to pass through. So yeah, I would have no problem with that. Thank you.

>> Commissioner Do: Thank you. Without any additional comments then let's vote by light. The result is the same. Commissioners Do, the result is the reverse, commissioners Do, Plant and Campos against. We're back to the situation. commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. I think we've experienced stale mates with a missing commissioner in the past. And what -- you know, what obviously could happen is kinds of like playing Tic Tac

Toe. If counsel could clarify, if becomes one of the option it fails on a 3-3 tie and it just goes to the city council, is that what happens next or could happen next?

>> Thank you. So the commission has a few options. The commission can attempt to formulate a motion that would carry with a quorum. Alternatively, the zoning code provides that if the Planning Commission fails to complete a public hearing within 60 days, that it's deemed a motion that the proposed ordinance not be adopted. And then, the city council can take it up notwithstanding the failure of the commission to complete its public hearing or submit a report or a recommendation to the city council. So again, the commission can either attempted to formulate a motion that would garner a quorum vote of the commission, or the commission can fail to complete a public hearing and make a determination, in which case, the city council can layer the item and the commission's failure to come up with a recommendation will be deemed a recommendation that the proposed ordinance not be adopted.

>> Commissioner Do: Thank you, counsel. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. The question to counsel is continuance an option where a seventh commissioner can be present and cast a tying vote -- cast a break?

>> Thank you, commissioner. It is possible. So long as the commission is able to complete its vote within the 60 days notice. Has this already been continued?

>> Thank you, Mr. Chair. This has been continued from the July 8th commission hearing.

>> So the commission would needs to --

>> Commissioner Do: In an effort to break the logjam if I may ask staff one question, this may require the applicant to answer the question as well. It seems that the issue between the two motions, the issue is that the -- it's not so much -- well, it's a 75 foot setback but it has to do with the building. The bulk of the encroachment into the setback is the parking. And it doesn't seem to be -- the park doesn't seem to be at issue here. So it appears that, you know, not to play architect again but it appears as though the office building could be redesigned without -- could be reconfigured without losing square footage, to get away in a rectangular shape maybe perhaps into an L shape or something like that, so that the building itself can stay out of the 75 foot setback, and while the motion can still -- the motion can are -- and being chair I cannot make the motion. So that the motion could be, as staff recommended, with the exception of the building itself being reconfigured to stay outside of the 75-foot line. I'm bringing that up as a suggestion. And actually, I'd like to know from the applicant whether that would be acceptable, whether that would be something that the applicant may consider. So motion to reopen public hearing. Please approach the podium.

>> Maybe I can answer that question and address a couple of issues. In that particular there was extensive biological environmental studies. And in that particular location, we're -- most of the enhancements is happening in that particular area, where we do have the building. If you'll note, only 41% of the site actually gets developed. So out of the three acres that we have or the 2.9 acres own.41% of the site gets developed. In that particular area, the previous residents, the caretakers of the property or whoever was on the property before, dumped a lot of debris in that corner where we have that setback. And part of what we're going to be doing is we're cleaning up the area. And so, you know, the -- everything around the site is completely developed. And naturally their setbacks are significantly less. And I know that doesn't set a precedence. But we -- one of the things that we tried to look at in our development is how much value is there, we are in an in-fill site and we have, there's like three different things that we can go to, to the calls for a smaller setback. And that's what we tried to do. The reason I'm doing this site is I have -- my partners are physicians in the area that currently have offices in shopping centers. And I'm building this building for them. I'm their partner, and we're -- you know they've been long business people in the Evergreen area and they'd like to stay in Evergreen. And so the reason for the 12,000 square feet is that's how much space they needed. And we tried many different configurations, Commissioner Do, to try to make the plan work. And it's very difficult. We'll end up losing parking. We had to kinds ever do the balance between parking, the situation had to be economically feasible. There are a lot of other things at play.

>> Commissioner Do: Can I ask you a question, the public hearing is only reopened to answer the commissioners' question.

>> Sure.

>> Commissioner Do: I assume north is up the sheet. North is the other way. The eastern corner of the office buildings, continually the building be reconfigured so it pushes -- I wish I had a pen --

>> We just lose space. One of the things, one of the comments from the neighbors Commissioner Do is they didn't want a three-story. So we went down to the two-story. And so we end up -- we can't make the foot print any bigger and it's very difficult to fit around.

>> Commissioner Do: So basically the answer is no, you'd like to stay with the project as-is.

>> Yes. I know you're answering your questions, I'd like to say to Commissioner Kamkar. We're not anywhere near a flood zone and the fences are clear fences.

>> Commissioner Do: Are there any questions? Commissioner Kamkar please.

>> Commissioner Kamkar: Thank you. Question, lots 1 and 2, do you have a drawing in fronts of you?

>> Yes.

>> Commissioner Kamkar: Okay. If you were to take lots 1 and 2 and turned them 90 degrees, wouldn't that allow you, you know, some space on let's say on the Northwesterly side, where you can squeeze your office building over so you're not in the flood zone, you're not in the 75 foot riparian setback?

>> I'd be happy to show you, this is like our 75th version of the plan. We have so many variations.

>> Commissioner Kamkar: I hate you to lose units, you know, but, you know, I --

>> It's like I say, it's you know the deal last to work for us from the economic standpoint. And with the -- you know, the current situation we're in, we -- this is -- you know, this is where we ended up with -- there was a lot of work that got us to this stage.

>> Commissioner Kamkar: I understand. Okay, thank you.

>> Commissioner Do: Thank you, Commissioner Kamkar. Are therewith any questions for the applicant? Motion to close public hearing please. (inaudible).

>> Commissioner Do: Okay, thank you, sir.

>> Thank you for allowing us to answer the questions.

>> Commissioner Do: Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. There was a question whether or not this item had been continued. As I recall at the July meeting, staff made a motion to defer this item so the commission never heard this item. I wonder whether that has some bearing on what the counsel was talking about?

>> So the actual language in the zoning code is that the commission fails to complete a public hearing within 60 days after the date noticed for the public hearing, so what governs in this sense is what is the start of the running of the 60-day clock would be the date that was on the public hearing notice.

>> Thank you, Mr. Chair. The date on the original public hearing notice was July 8th. And it was deferred, the commission didn't discuss it but it was on the deferral calendar for that agenda.

>> So it would be 60 days from July 8th.

>> Commissioner Do: Thank you, Commissioner Jensen. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. Unfortunately I haven't had the opportunity to walk that section of the riparian corridor, I've only been on the street. I have a question of staff about that portion of the riparian corridor. Is it a dry creek bed? Is there some natural habitat issues that we need to be concerned about? We just had this meeting prior to the commission meeting about making sure we preserve natural habitats. So I'm concerned about taking away portions of the riparian corridor. On the flip-side, if it's not something that is actually really an active portion, then perhaps the concern is unjustified. So I wanted classification on that.

>> Thank you, Mr. Chair. Let me take a first crack at it and then Leslie may want to add to it. I guess where I would start Mr. Chair and response, it's important to remember when we're dealing with the riparian corridor there's really a continuity issue. The word riparian is quite important, as the applicant may have indicated or perhaps staff, there's stretches, most of the stretches through the creek down leer don't meet the 100 foot riparian corridor. So having said that, it's still important though, to provide an adequate riparian setback, that allows both for drainage concerns as well as migration corridors or movement corridors for animals. Given the topography of this site, and the way the creek meanders through it, I think that, you know, we could argue that you could accomplish the intent or the objectives of the riparian corridor policy without needing to have the 100 foot setback, because it still, even the 50 to 75, still provides adequate movement through this particular stretch. And I think that's what again was vetted quite significantly through the general plan amendment process, because this is such a tough site in that regard. Because of its configuration and how the creek winds through the property, to do a 100 foot setback takes us -- virtually wipes the site out, and as we can see on the exhibit on the overhead, even the 75-foot setback takes out quite a bit. I think staff's comfortable and I think Leslie is looking at the environmental documents, the biology report. But if memory serves me correctly, I think the biologists were okay with the reduced setback. The first thing is that we have one that's of some minimal adequate width and we think that we've got that here in this particular case. So I hope that answers the question, Mr. Chair. If it didn't, we'll take another pass at it.

>> Commissioner Do: Thank you.

>> Thank you.

>> Commissioner Do: Commissioner Cahan do you have additional questions?

>> Commissioner Cahan: The portion of the office as it is right now, how much square footage is that that encroaches into that -- beyond that 75-foot?

>> As you can see on the overhead, it's not a significant amount. One of the questions I would have to move that out of the 75-foot setback is, there is a tradeoff in my mind anyway, there is a potential tradeoff between height and the riparian setback. I mean, certainly the applicant indicated that some neighbors in the vicinity did not want the office building to go three stories. But perhaps, if on balance, the riparian corridor setback is more important, then perhaps the height of the office building should be allowed to go up, so that the applicant could then maintain the amount of square footage that they need. So that's another -- that's another option. I think certainly from staff's perspective some you could -- you could redesign the office building footprint in such a way to get out of the 75-foot setback. But again, as the applicant was indicating, this site is so tight that once you start to tinker with it, you start to unhinge other aspects of the development. And it's a challenge already with the access. So --

>> Commissioner Do: If I could just respond to that very quickly, I know Commissioner Cahan may have additional comments. But simplistically for me, simplistically speaking, you could rotate the parking by 90 degrees and allow the office building parking to extend on two sides .

>> Mr. Chair, you're suggesting that the narrow side of the office building would actually front onto the street?

>> Commissioner Do: That's correct. The bulk of the area within the site is parking.

>> Mr. Chair, it's another one of those tradeoffs from an urban design standpoint. Typically -- staff would like to see more of a physical building presence out on the street. balancing all of those considerations maybe that's a viable solution that could be explored at the PD permit stage perhaps. And again, I would just add, I think that the applicant indicated that they did go through a lot of design alternatives. Getting to this point. And so something that we could consider at the PD permit stage would be to have the applicant pull out some of those various alternatives, and see if there's something that might work better, should the Commission decide that the 75-foot setback is really the paramount issue with design. Thank you.

>> Commissioner Do: Thank you, Commissioner Cahan, would you like to speak still? Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. Commissioner Kamkar has pointed out to me that there is dig and fill lines well within the 25 foot setback. So that's additional damage being done to the riparian corridor. I'm prepared to make a motion that I hope will get us out of this quagmire. I'd like to move that we continue this item to the August 12th Planning Commission meeting, which is well ahead of our 60-day deadline.

>> Commissioner Do: Is there a second?

>> Second.

>> Commissioner Do: Do you have any further comment?

>> Commissioner Jensen: No, thank you.

>> Commissioner Do: Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. I see the current fill lines that needs to be done the grading that needs to be done to locate the office and the parking lot where they are. And they are well within the -- even very close to the 25-foot setback line. By turning the office, you are -- you are avoiding most of that issue, and I think -- I think that that was a great suggestion. Consider turning the office 90°.

>> Commissioner Do: Thank you, Commissioner Kamkar. There are any other questions or comments? If not, we vote by light, again. Okay, this motion passed, with all commissioners supporting, except for Commissioner Zito who is not present. So, moving on, on the agenda, item number 4, possessions and communications. Public comment on nonagendized items. Please fill out a speaker's card and give it to the technician. There are none so we can move on. Item 5, referrals from city council, boards, commissions, other agencies.

>> Laurel Prevetti: There are none, council's in recess.

>> Commissioner Do: Thank you, director. Good and welfare.

>> Laurel Prevetti: There are none.

>> Commissioner Do: Commissioners comments from committees. Norman Y. Mineta, international airport. Commissioner Campos.

>> Commissioner Campos: There are none.

>> Commissioner Do: Envision 2040.

>> Commissioner Kamkar: Thank you, Mr. Chair. We will meet this next Monday and I will report. Thank you.

>> Commissioner Do: Synopsis July 8, '09, is there any comments or is there a motion to approve? Is there a second? Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. On the synopsis, item 3B, PDC 09-007. I would just like to confirm that the two friendly amendments that were proposed were included in that motion, one of which was that the two trees of heaven be removed, and the other was, the 75-foot setback for the eastern property line. Because this isn't -- doesn't clarify for me that those two amendments were included.

>> Mr. Chair, thank you, they were included and you will see those in the city council memo that I signed today. And so both of those items, as well as other discussion points that the commission had at the meeting, are included in the council memo.

>> Commissioner Jensen: Great, thank you.

>> Thank you.

>> Commissioner Do: Thank you. So the motion will need to be revised to include those changes. Then Commissioner Platten, is that okay? Okay. All in favor? Okay. The next item is consider proposed study session dates and/or topics. Staff?

>> Thank you, Mr. Chair. I think staff would just like to highlight for you that there is the environmental issues brainstorming session coming up on August the 26th, as shown on the revised calendar. We also added September 24th for the annual retreat date. We still need to decide on a venue and the actual hours but at least it's showing up on your calendar. And since those are now solidified, there were some other suggested study session topics that staff will bring forward at the next meeting, Mr. Chair, with some suggested dates to fill out the calendar for the rest of the year. Thank you.

>> Commissioner Do: Thank you very much. So last item is subcommittee reports and other business. Are there any reports on subcommittees? Is there a motion to adjourn? All in favor? Thank you.