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>> Mayor Reed: Good morning. We have a quorum. Today's meeting agenda is unusual. Because it's the last one of the year. Fiscal year. But we'll start out the usual way, we'll have our labor update then we're going into closed session and then we'll be back here into open session 10:00. Or thereabouts. And we'll take up all the other orders of the day and other things at that time. When we have a full council. But we can get started now with the labor update.

>> Gina Donnelly: Good morning, Gina Donnelly deputy director, employee relations. We did receive one proposal, last Tuesday from ALP, that proposal is in front of you. It's also posted on our Website. It's the proposal for an agency shop agreement. That's the conclusion of our update, thank you.

>> Mayor Reed: All right, I have no requests to speak on this item, so we'll adjourn into closed session be back around 10:00, I think.

>> Mayor Reed: (gavel strike) Good afternoon, I'd like to call the City of San José city council meeting to order for June 19th, 2012. The last council meeting of the fiscal year. We started earlier this morning and did part of the agenda. But we're going to take it up sort of at the beginning with the invocation. Councilmember Oliverio will introduce the invocator.

>> Councilmember Oliverio: Thank you, mayor Reed, Councilmembers. I'd like to introduce rabbi Dana Magat from temple Emanu-el. In our College Park, and rabbi, thank you.

>> Thank you, councilmember. (indiscernible) Our God and God of our ancestors, we ask your blessing for our country, for its government, for its leaders, and for who exercise just and rightful authority. The members of the city council who administer all affairs of San José fairly, so that peace and security, happiness and prosperity, justice and freedom may forever abide in our beautiful city. May the citizens of San José be blessed with leadership, that understands that all citizens of San José regardless of religion, country of origin, race, sexual orientation, and economic status are equal and are all children of God. May the peoples of this city forge a common bond in true harmony to banish all hatred, bigotry, ignorance and to safeguard the ideals and values of our city. O God, we all pray that our leadership will be responsive to your will, so that our nation may be to the world an example of justice and compassion. May we all deepen our love for our city and country and our desire to serve them. Strengthen our power of self-sacrifice for a nation's welfare, teach us to uphold our city and country's good name by our own right conduct and with our proper integrity. May God grant each of us strength to feel the blessings of our multicultural community and may those blessings guide us to a life of wholeness, completeness, and peace, as we say together, amen.

>> Mayor Reed: Please stand for the pledge of allegiance. [ pledge of allegiance ]

>> Mayor Reed: We've already approved the orders of the day and as noted in the orders of the day, this meeting will be adjourned in memory of Anthony colon and Tiffany Glen. Anthony colon was a retired sergeant of the San José police department who died this last May. Originally from New York, he attended the Citadel Military College and served his nation as a member of the Air Force before coming to San José to work for our police

department. While on the San José PD, Anthony colon worked in many capacities, served on the violence crimes enforcement team, internal affairs, narcotics enforcement team, and airport security. He received numerous professional awards for his work with the department. Anthony colon lived a life of service and worked hard to protect the residents of San José. He is survived by his wife Susan, his children Dominic and Alexandra. He will be missed. We thank him for his service, and we thank his family for their service to our community. Councilmember Campos, did you have some additional comments? Okay. This meeting will also be adjourned in memory of Tiffany Glen, who was a Ballet San José dancer and passed away at the age of 33 after a six-year battle with cancer. Vice Mayor Nguyen has some comments.

>> Vice Mayor Nguyen: Thank you, Mayor Reed. I'd like to adjourn this meeting in memory of Tiffany Glen who performed with Ballet San José. Tiffany passed away yesterday at the age of 33 after a six-year battle with cancer. Tiffany was diagnosed with stage 2 breast cancer in June 2006, at the age of 27. After undergoing a mastectomy, radiation therapy and chemotherapy, she returned to Ballet San José with a shaved head to dance in the nutcracker that December. In 2009 she choreographed a temporary three-part ballet to a trio of songs from the soul singer John legend. Her ultimate goal in life and career was to be remembered as the creator of the glen movement, a style of dance that exposed people to the idea that ballet doesn't always have to be done with classic am music. Even when the cancer returned this spring, Tiffany continued dancing while undergoing treatments. The ballet announced her retirement at the end of this spring season. She will be missed by the ballet San José family and also by the entire community here in San José. Thank you.

>> Mayor Reed: Thank you, Vice Mayor Nguyen. Next item is the closed session report. City Attorney.

>> City Attorney Doyle: Mr. Mayor, we were given authority to file in one action, which upon filing, we will disclose the names of the parties.

>> Mayor Reed: We'll now turn to our ceremonial items. I'll now invite Councilmember Constant and Mike Lazzi to join me at the podium. Today we're commending the department of California Korean war veterans association,

in recognition of its efforts to honor the service and sacrifices of our local veterans of the Korean war. Councilmember Constant has some of the details.

>> Councilmember Constant: Thank you, mayor. With us today is Sergeant Mike Glassy from the U.S. Marine Corps, retired, Joséph Ki Bong Na from the Silicon Valley Korean American Federation, and Ki Seek Min from the Korean War Meritorious Veterans League. Today we are honoring the sacrifices of San José's Korean war veterans. The Korean war as many of you know started on June 25th, in 1950. And we will be honoring this June 25th the 62nd anniversary of the 1950 invasion of the Republic of South Korea by the Communist forces from North Korea. The Korean war veterans association was chartered by Congress June 30th of 2008. And the California department founded in 2007, by sergeant glassy, who by the way is a neighbor of mine, lives just a few houses away from me. Their mission is to make sure we don't forget the people who sacrificed who served for our country and those who lost their life serving. This is the first time that the City of San José has taken the time to commemorate this event and to raise the flag of the republic of South Korea here next Monday the 25th at 10:00 a.m. in city hall plaza. I invite everybody to join us when we do that. We'll be honoring the 11 known San José veterans who were killed in action between 1950 and 1953. That was seven marines, three Air Force, and one navy. Overall, our country lost 36,516 Americans in the Korean war. Along with thousands of brave Koreans who fought for their nation's freedom. I myself, my father served in the Korean war, so this is especially special for me, to be able to have a part in this ceremony. Next week we'll be having a visit from Korea, from Major General Choy sun Wu, who is retired. He takes his own time and his own money to continually honor the Americans who fought in the Korean war for freedom. This will be his first visit to the West Coast. He will be here in San José to participate in the flag raising. And additionally he's the governor-general of Yeson county, Korea. So Mr. Mayor, if you can present the commendation to sergeant glassi, and I believe he has a few words for us as well. [applause]

>> This is unexpected. Flowers for an old sergeant in the marine corps? I reaveled Korea on three occasions. In 1994, 2000 and 2003. Each time, each time was always amazed at the appreciation received from the man on the street. Many years have passed since the July 1953 armistice. I believe time has come to reciprocate with our appreciation towards the republic of Korea. Appreciation for what you may ask? My answer is, being one of the

few friends of the United States supporting U.S. politically, economically and militarily. I commend the mayor and the city council members for their action of appreciation, by flying the flag of the republic of Korea, at City Hall, on June 25, 2012. You answered the call. And on behalf of the Korean veterans, the Korean-American community, I invite you to witness history, the 62nd commemoration of June 25, 1950. Thank you. [ applause ]

>> Mayor Reed: Want to invite Councilmember Liccardo, Patricia Ernstrom and Greg Jamison to join me at the podium as we are celebrating the 2012 U.S. Olympic trials in Gymnastics to be held in San José June 28 through July 1st. That's just next week. United States Olympic committee and the U.S.A. gymnastics has selected the City of San José and HP pavilion at San José to host the 2012 Olympic trials in gymnastics. The country's top gymnasts will compete to earn a spot on Team USA and represent the United States at the games of the 30th Olympiad in London, England which you're all hearing about, about the road to London goes through San José for gymnasts this year. So the city of San José and San José Sports Authority have long been proud contributors and supporters of the Olympic movement. This is not the first Olympic event we've had in San José, but it is one of the most exciting, for sure, because it is the finals for United States gymnasts. We had many great Olympians among athletes in San José sports hall of fame. We encourage our residents to participate in the Olympic movement to watch Olympic gymnast trials at HP pavilion and get off the couch and do some flips or something. It will be good for you. Patricia Ernstrom will have a little more detail here.

>> Thank you, Mayor Reed. Hosting the Olympic trials in gymnastics is both a privilege and a serious undertaking for the entire city of San José. I couldn't be more proud and honored that our community has been selected to be the steward of these trials. Thank you to Mayor Reed and the entire city council for your support and commitment and the recognition of the impact that major events like the Olympic trials have on our community. I would also like to thank and recognize HP pavilion at San José for their leadership and tremendous effort that goes into hosting such a major event. Without HP Pavilion, and their commitment, an event like the Olympic trials would not be possible. I'd also like to thank Kim Walesh and the staff of the Office of Economic Development for all their help and work on the trials and dedication to great things in San José. Thank you to Team San José and San José hotels, Inc., as well who are key partners in hosting the trials. The ten-day count

down has begun so please take part and celebrate as San José takes center stage now as gymnastic city U.S.A, thank you.

>> Mayor Reed: Tickets are available, right? It's not sold out yet. Like to invite Councilmember Campos and representatives of faces organization to join me at the podium as we recognize June 12, 2012 as Philippine Independence Day in the City of San José.

>> Councilmember Campos: Thank you, mayor. Good afternoon. I want to start off by thanking everyone who came out to the Philippine flag raising ceremony here at City Hall on June 12th. The Filipino American community is a strong and integral part of the San José and it is my hope that we can make the event an annual tradition. Actually, it's my commitment to make the event an annual tradition. Philippine Independence Day is one of the biggest holidays of the year in the Philippines. It celebrates the anniversary of the day when the Philippines became an independent country in 1898, in Kavit. On June 12th the official flag which was made in Hong Kong was revealed and the national anthem was introduced. The declaration of independence was written by Ambrosia Rensares Bautista and carries tremendous importance in Philippine history. Having said that I'm thrilled to share this event with over half a million Philippine Americans that reside in Northern California. More than any other region in the country. Our city is fortunate to have a large population of Filipino Americans and we are a city that embraces a unique tradition and vibrancy of the Filipino community. The contributions by Filipinos have been immense, we are fortunate to be able to have the opportunity to embrace their culture. I want to personally thank Sara Gonzales, Angel Valbuena and Titus Roseles who join us today. The extraordinary work each of you do in our community is to be commended and we appreciate the commitment you have not for your own communities but for the entire City of San José. With that I would like to have the mayor to present the proclamation to the group. [applause] And you're free to say a couple of words if you like.

>> Good afternoon, everyone. It was indeed a wonderful, wonderful evening last Tuesday. The mayor came down so did our consul general from our Philippine consulate from San Francisco. I heard you had a grueling budget day all day, but thank you for coming down and honoring that event. I would like to thank the office of councilmember Xavier Campos and his wonderful staff for helping put together that event and this afternoon's

presentation. And I would also like to thank faces, which stands for Philippine American city employees. Headed by Mr. Titus Roseles. Right there. And they helped so much in putting the one -- we had two events. It started on Sunday at Eastridge, there were like 3000 in attendance to the kickoff of our Philippines independence day celebration and that ceremony on Tuesday. So once more I thank city council, I thank the community, and I thank the good lord for allowing this day to happen. Thank you.

>> Mayor Reed: Now I'd like to invite Councilmember Liccardo and Chuck Hammers to join me at the podium as we commend Chuck Hammers, CEO of pizza my heart, being the top prize winner of the international pizza challenge award. I think this is probably Olympic quality pizza, just keep on the theme.

>> Councilmember Liccardo: It's appropriate that we're honoring Chuck Hammers today for a couple of reasons. As the mayor alluded to, we are celebrating the fact that San José is going to be the place where Americans will be shipped off to great international competition which we affectionately call the Olympics. We've got an Olympic winner right here in Chuck hammers who has successfully created the first American pizza to win in the traditional division of the international pizza challenge. And that is our very own pizza my heart. Chuck has also been a long time pillar in our downtown community. He started I guess making pizza back in 1985, over near San Pedro square. And being the CEO of what is now a growing pizza empire wasn't always the way it looks, not so glamorous as he looks today. Back then he was putting on running shoes in between shifts running through Naglee park dropping off door hangers on doorknobs throughout the city trying to encourage folks to use coupons at his pizza store pop. Now he has a pizza chain that includes 22 stores throughout Northern California. We're thrilled with the great success of pizza my heart. We're also very grateful for Chuck because we're also counting ballots in the property based improvement district downtown, Chuck is president of the property based improvement association and they are the folks who are responsible in case you're wondering for that incredible team we call Groundworks that are out there eliminating graffiti, making our downtown sparkle, planting flowers, painting murals, installing great art on art boxes, it is fantastic what they're doing downtown and we're so grateful for chuck and his leadership. Chuck would I like to ask the mayor to present you with a commendation for your great success and success of pizza my heart. And forgive me, I forgot to mention that the person behind the camera is Chuck's wife, Mary Babbit.

>> I'm really proud to call San José my birth place, I was born eight blocks down the street and the birth of my business, eight blocks the other direction San Pedro square. It is one of the reasons I like to continue to give my time to downtown. I love the downtown. And I thank you guys in advance for considering the Groundworks proposal today. We look forward to serving downtown for ten more years. Thanks. [applause]

>> Mayor Reed: Just let everybody know where we are on the agenda and to give the clerk a chance to correct me as to where I think we are on the agenda, if I got it right or not. I think we're going to next convene the joint city Diridon development authority. We have already done the consent calendar and a whole bunch of other things including 9.2, 3 and 4. So after we do the Diridon development authority matters we will take up items starting with 5.2, 3 and 4. And 4.1 gets in there somewhere, that's public hearings on business improvement districts reports for 2012-13. So we'll do the does it matter if we do the joint city Diridon authority first or the P bid? They're both noticed for no earlier than 1:30, correct?

>> Dennis Hawkins: That's correct, Mr. Mayor, if we could do the Diridon authority next so we could get the direction and casting those ballots and then 4.1.

>> Mayor Reed: You'll have to have some time to count the ballots.

>> Dennis Hawkins: Yes, we'll need 30 minutes or so to do the tallying.

>> Mayor Reed: Okay, we'll do joint city Diridon development authority first so let's convene those items. That's item 7 that's a separate item on the agenda.

>> Dennis Hawkins: Mr. Mayor, that's page 32 of the agenda.

>> Mayor Reed: All right I think we're in the right place at the right time. Is it past 1:30, yes, we can start. We'll convene the joint city-Diridon authority, development authority agenda. We have actions related to the expansion

and renewal of a property based improvement district in downtown San José. We are going to have a hearing. I have no cards to speak. Chuck hammers has already made his feelings known. All in favor, opposed, none opposed, those are approved.

>> Dennis Hawkins: Mr. Mayor, if I --

>> Mayor Reed: That is category 2. On the agenda. Now. Okay, tell me what to do next clerk. Want to make sure I do this properly.

>> Dennis Hawkins: Mr. Mayor, at this point I'd like to ask if anyone has any ballots to turn in, and if so, to please come forward at this time, so we can complete the gathering of ballots.

>> Mayor Reed: Anybody got ballots? I see nobody moving this way so City Clerk you have all the ballots you're going to get.

>> Dennis Hawkins: So we'll close the balloting process and we'll commence the tallying and I will be casting the votes as directed for the city, for the authority.

>> Mayor Reed: Okay so we'll give you some time to do that. I want to back up and make sure we did the right things here. I'm looking at agenda items A through E. And we get down to D here which is directing the clerk to report the results of the tabulation of the ballots.

>> Dennis Hawkins: Correct so --

>> Mayor Reed: Then we have to tape E correct?

>> Dennis Hawkins: That's correct. We're basically doing A B and C now you'll direct me to go do the tabulation that will be item D and then we'll return in about 30 minutes with the results.

>> Mayor Reed: Okay, so directed.

>> Dennis Hawkins: Thank you.

>> Mayor Reed: Then we have -- we'll come back to items E, but we have an item 3. Still to take up. Before we return. And that's the interim delegation of authority, resolution on contracts and contract amendments et cetera.

>> Councilmember Pyle: So move.

>> Lee Anna Legansky with the city attorney's office. I just want to note there is corrected contract language. It is up on the screen now. It is changing the level of authority we're requesting.

>> Mayor Reed: The motion contemplates incorporating the revised recommendation. We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Do we have anything else before we move on temporarily until the ballots are counted? I think not. So we'll come back once the ballots have been counted to finish up the matters on that. Item 4.1 I think is next in order. What we need to take up. The city agenda. That's hearings on business improvement district reports for FY 12-13. That was to be heard no earlier than 1:30 so we're okay on that. We have a motion to approve. But let me just check and see, before we vote on this, whether or not there is anybody who wants to testify on any of these items. Do we have any written protests from any of the affected business? City Clerk?

>> Dennis Hawkins: Mr. Mayor, we did not receive any written protest from any property owner in any of the three business districts.

>> Mayor Reed: All right. So again, does anyone wish to speak on these items? We have no cards. All right, we have a motion to consider. On the motion, all in favor, opposed, none opposed, that's approved. Our next items are 5.2, 3 and 4, all somewhat related to the airport West property. So we've noticed those not to be heard earlier

than 2:30 so we're not going to take those up now. And by my count, that's about all that's left. Missing something City Clerk other than the completion of the ballot tabulation process? Just check and see if I've missed anything with shuffling all these things around, it's easy for me to do. 6.1, what is 6.1?

>> Dennis Hawkins: Mr. Mayor, that 6.1 was moved to consent.

>> Mayor Reed: Yep, okay. So we have 5.2, 3 and 4 all related to airport West. We have open forum and then we have to finish the joint city Diridon area authority. We could take open forum next, do we have any cards? We could take those now. Mr. Wall.

>> Sir, this is open forum, correct, sir?

>> Mayor Reed: Yes, it is.

>> Ah, very good. I would like you all to say a thank you to Gay Gayle. She is our ADA coordinator for the city who's retiring. I had the unfortunate embarrassment to misspell her name in a thank-you letter which I publicly apologize for. She has done a very good job for the city. One of her testimonies that she came to the city was for the health care program afforded to retirees. Which has been dramatically cut by your decisions. That has altered a lot of people financial outlooks for the future including myself but primarily, I wish that at least all of you could say thank you to her since she came to the city for those benefits, expressly, by her own testimony. And had that rug pulled out from underneath her feet after she put in a very many years of good service for the city. Outside of that, I would also like you to consider, start reducing your pay. The 10% is not acceptable. I think that council needs to reduce a little bit more. Furthermore, two months in excess of paid vacations is a bit much when you have over 60 items on a consent calendar. I think the city could do a little bit better by operating year round. Further, you pass a resolution allowing you to take other meetings, cancelled, if they fall on or before a holiday. That's unacceptable. So I think you really need to readdress your own ship. Now that you've punished city employees and retirees, I think it's now time for to you take your own medicine with a little reduction in wages and a little less time in the vacation sunlight. Thank you.

>> Mayor Reed: That includes the open forum. Do we have any more cards? We don't have any more cards but Ross Signorino do you want to come down? Open forum, all right. Anybody else who wants to speak on open forum please get a card in so we'll know you want to speak.

>> Thank you for waiting for me to come down here. Mr. Mayor, members of council, I take issue with the last speaker that employees you punish them. It was never your intention that you punish employees by cutting some of their benefits but necessity brought it about because of the financial condition. And I don't like for anyone to come up here, saying you punished them. We are not running a torture chamber here. We're decent people. And we understand the plight of all people. There's no question about it. Now that this came up, again, it's going to be hearing it over and over and over. I say, enough is enough. Let's accept the reality of what's going on right now. And move on. Thank you.

>> Mayor Reed: That includes the open forum. The council's going to recess until 2:30 when we'll take up the items noticed for 2:30 and finish the work on the joint city council Diridon authority agenda. So we're in recess. [ Recess ]

>> Julie Edmonds-Mares: I'm going to turn it over to Nancy who is going to go over the proposal.

>> The area is planned for a new mid rise development of office buildings retail Hotel and the earthquakes soccer stadium. The opportunity is to deliver a regional soccer facility in a location that has high synergy with elements of the new mixed use program. The community soccer fields provide an excellent recreational amenity that increases the attractiveness of the office portion to the other tenants. The tournament play for the soccer fields activities will generate room nights for hotels, and the retail can benefit from people participating in soccer whether they be for tournaments or daily practice. There's a clear synergy as well between the professional soccer stadium and amateur soccer. It will be a thrill for people to be playing adjacent to MLS players as they practice. It's also important to note that the property is unique in San José. Is that this is not in a redevelopment area. So that the property tax and other revenues that are generated from the property will go directly to the

general fund. Wanted to provide project history and a summary of the proposal in this slide. In 2005, the city purchased 74.8 acres that are located at 1125 Coleman. For airport construction and economic development purposes. The site has excellent freeway access, minimal neighborhood impacts, given that the railroad tracks are directly behind the fields. The site was the former FMC site or a portion of it. The proposed development on the 74.8 acres includes 1.5 million square feet of office R&D, two hotels, about 300 rooms included and 75,000 square feet of retail. The project was financed with lease revenue bonds and a HUD section 108 loan. In 2008 the city entered into option agreement with Wolff, Hunter and Storm, to purchase the land for a mixed-use development, and again, included the 14 acres of soccer fields, 51 acres for the commercial development, and had an allocation for 9.3 acres of BART use along the back of the property. In 2009, BART indicated they would not be needed. In 2010, council approved a 2.6 acre lease with the earthquakes for a practice field. That left 6.7 acres of remaining land. At the same time in 2010 parks was looking for a site to develop soccer fields. In order to build and accommodate four adult-size full regulation fields the size would have to be increased to roughly 12.4 acres. Building the soccer fields will decrease the amount of land sold to hunter storm by 5.7 acres and will decrease the revenues to the city by approximately \$10.1 million. It's important to note here that the existing capacity for office, hotel and retail will be maintained. We won't lose any of the development that we desire. Staff has identified revenue sources both one-time and ongoing to fill the projected \$10 million gap. Staff has also requested that HUD amend our existing HUD loan agreement to allow the city to use a portion of the sale proceeds to finance the ongoing debt for the fields as part of that \$10 million solution. And just to be noted there have been individuals have proposed other uses and just want to remind council that we own all of the land. So we need to make sure we're using all of the land. And this brings forward one solid proposal that can pay for itself. Thank you. Turning that back over to Julie.

>> Julie Edmonds-Mares: Thank you, Nancy. All three items combined really have one goal in mind, and that is to put forward for your consideration the approval of the recommendation of the construction of a community soccer project. Studies have shown that a quality park system not only creates a more viable community but also can create a great economic engine as Nancy had noted. We believe this project will be a future case study for that synergy. The proposed soccer complex is on green at the top of this chart on the right side. The community soccer complex will provide residents of San José four artificial turf fields, they'll be lighted and they're designed

for high use, so we can play one game right after the other for high density. The complex will provide athletes of all ages, young and old, and sports teams a safe, well-maintained set of practice fields to pursue competitive, recreational and fitness goals. The project also fulfills a really important portion of the Measure P bond program and really creates a destination complex, the entire city can be proud of. In terms of measure P just providing a little bit of background, measure P was passed by the voters in 2000. 78% of voters approving the expansion of the parks and recreation infrastructure it was a \$228 million package. 97 projects were consisted of that program. As you're well aware the renovation of Happy Hollow Park and Zoo, nine community centers were renovated or built, regional parks were updated, restrooms and playgrounds. The two final projects remaining are the soccer and softball complexes. Staff reported to the neighborhood services and education meeting last week that softball complex decision is targeted for the fall of 2012. Soccer and softball we've had some challenges in siting because of the fact that there were no acquisition dollars in the bond program. It's made it quite challenging. We've investigated many locations, two most prominently were shady oaks and the San José State partnership, but each fell by the wayside because of a lack of acquisition dollars. Citywide community sports field study, which was championed by Councilmember Pyle, indicated a significant citywide service level gap for fields. In total 57 soccer fields were considered to be needed on a citywide basis. So while unfortunate other sites did not -- pan out the exciting part about this is that this complex is actually coming in at the ideal site. Now the synergy with the professional stadium is really exciting. The ability to put folks right next to the office as well was all really frisk. Turn over to Matt to go through some of the details.

>> Matt Cano: Thank you, Julie. On the slide in front of you is another quick view of the project showing the four future community soccer fields. They're shown on the top of the page. The four dark green fields from left to right on top of the page would be the community's fields. The fifth field from the -- on the right-hand side of the page is the current city owned practice field that is being leased to the earthquakes and would continue to be leased to the earthquakes under this proposal. The blowup on the bottom of this slide shows one of the fields that's closest to the new parking lot that we'll be installing. Artificial turf with lights as Julie mentioned will allow extended play and high-use play on these fields. As you can see on the left-hand side of the blowup we are installing a new parking lot, there will be plenty of on-street parking as well. There will be a restroom with a changing room, a snack shack, barbecue center and picnic tables. We do feel this will be the premier community soccer facility in

the area. Securing the site, Nancy mentioned this in her introductory comments but I wanted to make sure I walked through again how we will be securing the site for these soccer fields. As Nancy mentioned, we currently do own the entire 74.8 acre parcel. Item 5.2 in front of you today does request that we increase the amount of that property that we're going to retain from the originally envisioned 9.3 acres to a total of 14.98 or almost 15 acres. That will allow us to build the soccer fields right now, the 9.3 acres we had originally planned on keeping were not wide enough to put even one soccer field on. However, this does, as Nancy mentioned lower the amount of funding that we were going to be able to get from the sale of the property, the rest of the site, by approximately \$10 million. We do have a illusion to that \$10 million which I will share on this following slide. As Julie mentioned or this is a measure P project. And unfortunately, because of the way that that this property was acquired, we cannot use measure P bond financing to secure the site. So we have to come up with another source other than the measure P reserves in order to negate this \$10 million gap. Our proposal in front of you is as follows. Taking \$1.339 million from the citywide construction and conveyance tax park funds, that's money that can only be used for parks construction purposes, and it is a citywide account. Also taking \$1 million from each council district's park specific funds, we feel that there's a tremendous citywide and community benefit to this facility. And we're requesting an equal contribution of \$100,000 for each council district. Additionally, we're proposing to finance \$8 million of that gap and will pay that financing back by \$500,000 per year over 16 years from revenue from the soccer facility. On the supplemental memo that we issued last Friday provides our alternatives for that financing, our preferred option, option A as we call it in the memo is to modify our current agreement with HUD, that will allow us to finance that \$8 million and pay it back with soccer field revenue over the next 16 years. We feel good about the conversations we've been having with HUD. However since that is not secured yet we want to have a solid opposite B for you today. And that option B that we're requesting your approval for today is using the park trust fund which is capital funds that are intended for parks purposes such as soccer fields to create a loan that we are requesting your approval of today, and we would only enter into that loan from the parks trust fund if our conversations with HUD do not pan out. As mentioned we are proposing to use \$500,000 annually for the next 16 years as revenue from the soccer facility to fund that final gap of that \$8 million we're proposing to finance. Now, we'll discuss the operating model we have for the facility to give you more information on how we propose to operate the facility. The -- we did a request for proposals for the project and the earthquakes responded to that request for proposals with a very strong proposal, and we selected them as the -- and we entered into

negotiations with them and have a proposed contract for them to operate the facility in front of you for approval as Item 5.3 today. The proposed contract is a five year agreement with two five year options so it's a maximum of 15 years. The city would be paid the earthquakes an annual fixed fee of \$333,000. It's important to note that most of that fixed fee the earthquakes will be using to cover the operations and maintenance of the facility and they will be paying for 100% of the operations and maintenance of that facility that they will be receiving. On top of that fixed fee the earthquakes estimate and we and the earthquakes estimate that we will raise approximately \$813,000 net revenue from the facility annually on top of the fixed fee that we'll be paying them to operate the facility. This revenue assumption did assume a 75% usage capacity, for the purposes of paying back the \$8 million financing loan that I mentioned on the previous slide. We've lowered that projection to be conservative to \$500,000 net revenue annually as opposed to 813 and we feel that's a conservative estimate to give us assurances we will be able to repay that loan. As discussed, this is the community's soccer field. I cannot stress this enough. The earthquakes are involved as a partner. However they will be under contract with the city to operate these fields for the city, and we feel there will be a great partnership. It is a citywide facility, and to ensure that it's equitable access to all the residents of San José, we will be establishing equitable reservations just to ensure equal opportunity for everyone to reserve fields. The earthquakes also as part of their proposal have a social the equity strategy as part of their key mission to provide underserved youth opportunities to participate in soccer. Additionally, the Earthquakes currently have a soccer academy that's part of the United States soccer development academy. It's currently located out of Danville and free to -- free to -- free of charge to youth and it's the largest recruiting pool for college coaches across the country. As part of this proposal they are planning to move that academy to our San José fields. Additionally as part of our negotiated agreement with the earthquakes they will be providing up to \$78,000 annually in tickets to earthquakes games that will be distributed through Parks, Recreation, and Neighborhood Services programs to our kids in our community. Dave Kaval president of the earthquakes has been at the table on negotiating this agreement with us directly and he is here in the audience with us today if there are any additional questions you may have. Item 5.4 in front of you today is requesting your approval of the award of the design-build contract with Interstate paving and grading. The total project cost including prior years for this design-build contract is \$15.1 million for the entire project is \$15.1 million, the contract we're requesting you to award is an \$11.8 million value. This is actually 15% under the engineer's estimate so it's a great bidding climate and we'd love to take vac of these bids and award the contract today. Due

to the complicated nature of this project it has taken us longer to get the entire recommendation to council to award the design build contract that we had hoped so -- and we have already received a bid extension from the contractor. So if we do not award today we will likely have to rebid this project. If council does approve the action today these fields will be open in February 2014.

>> Julie Edmonds-Mares: So in review, we really couldn't have had a more unique site for community soccer complex. The synergy with the professional soccer stadium, the unique nature and the partnership with the earthquakes is really -- makes this an ideal location. So what we're requesting the council move forward to approve items 5.2, 5.3 and 5.4 and just want to make a note that item 5.3 and 4 could not be approved without the item 5.2, want to make that distinction. So with that staff is available for questions.

>> Mayor Reed: I'm sure we'll have some questions. Councilmembers like to do their questions first or do we want to hear from the public first? Couple of requests to speak. We'll take the public testimony first, half a dozen or so people to speak. Come down so you're close to the microphone. Don Gagliardi, John Jessom David Kaval.

>> Good morning, Mr. Mayor and councilmembers. My name is Don Gagliardi. I'm speaking here on my own behalf and also on behalf of Soccer Silicon Valley. We are advocates for the fans of the earthquakes, and it's part of our mission to build a permanent home for soccer in San José. We are advocating for these community soccer fields. You heard earlier today that San José, at least for a time, is gymnastic city U.S.A. But you may not also know that San José is soccer city U.S.A. And that's not my own definition of this community. That's the definition given to San José by the Portland, Oregonian, the daily newspaper for Portland, back in March of 2011. San José is soccer city U.S.A. And one of the reasons for that is because of the tremendous amount of recreational soccer we have in this community, which is really fantastic compared to the national average. And because of that we have a great dearth of soccer fields here for recreational play. You heard staff indicate some 50 fields or more of a deficit that we have. And the community has spoken back in the year 2000, 12 years ago, and said we need a soccer complex here and we've waited 12 years. The time is now. This is perfect location, as you've heard. The staff has done a wonderful job and I commend them for it, and I ask that you support this wonderful proposal. Thank you.

>> Mayor Reed: John Jesson. David Kaval. David Wall.

>> I'm John Jesson. I'm the past president of the Almaden valley youth soccer league. I'm here to represent all the youth soccer players in San José. I want your support to help get these fields built, so our kids can actually play on some fields. Right now we have a lot of kids that are playing on top of each other. And the grass fields are taking a beating. Having turf fields with lighting, with extended use, will go a long way in allowing you know, our kids to be able to find a spot to play. Thanks.

>> Mayor Reed: David Kaval.

>> Thanks so much. I'm Dave Kaval. I'm the president of the San José earthquakes. I'm very excited to stand here in front of you guys and everyone discuss this exciting time for San José. We can't be happier to partner with San José on this community endeavor. The community soccer fields are a great way to provide for the quality of life of everyone. And we think the earthquakes are uniquely positioned to help the city in those endeavors. The site is perfectly synergistic with our stadium, our practice facility right next to it. I don't think you could find a better place for the actual fields. I think having our 18,000 seat stadium will attract interest in the actual youth and community soccer fields. And actually bring more people to the complex which will help its pro forma and its ability to generate revenue. Secondly it's really important to note that we spent a lot of time both with our current relationships in the youth soccer and community soccer community, as well as other teams in MLS looking at the pro formas and understanding what complexes like this generate in revenue and we feel very comfortable with the assumptions we've made, especially with the 75% use which has been further discounted at 50% use. That is a very conservative number based on the demand in the community. And I think the third thing is that we're really proud to bring our academy here to San José, to bring it home. There's going to be the opportunity for a lot of young kids to play here in the community. We scholarship these individuals to play on our teams. They can come from any socioeconomic background and have the opportunity to learn soccer and be trained by the best possible people in the world. And that's going to give them an opportunity to make their mark worldwide in soccer. And so

we're really proud of that. That's something that we're really excited about. San José should be excited about that. So I really appreciate all your vision and leadership on this project and supporting it. Thank you.

>> Mayor Reed: David Wall. Ted firestone and Ed storm.

>> The concept of the soccer stadium is a very, very good one. The funding scenario is steeped in mystery, and it's not very good to go down this path with fiscal year 13-14, and 14-15, staring you in the face. But if everybody here would look at their agenda, page 23, item E, "in the event that a shortfall arises in the revenue from the community soccer facility, another eligible source of revenue shall fully repay the loan." There is no further discussion on what these eligible funds are today. One can speculate but if you are looking at a \$22.5 million deficit for 13-14 and deficits on out and you have shortfalls and you're taking money away from parks throughout the city, who you also increased usage by not building extra parks for high density living projects, through your waiving of fees to developers, you're really throwing all your park usage into one egg basket called soccer. Now this is fine if you like soccer. Other people in district 3 for example like Ryland pool and they're losing \$100,000 for this venture. Now, I just don't think your funding is -- you can't be trusted with making land use decisions and that goes to your option agreement for the A's stadium, which property bought, it will now lose 18.2 million. If the A's move to San José. So you really can't be trusted with the figures we put forth to the public and your ability to forecast revenue to the General Fund.

>> Mayor Reed: Ted firestone Ed storm, Ross Signorino.

>> Hello. Ed the firestone with rose garden pal. I've been coaching there for two years. And wanted to tell you a little bit about what it's like for us there. The fall, we have only one field that is lighted. So as it gets dark later, it gets very crowded. And we end up with about five to six teams on one field. I've ended up having to run my practices within a 20-foot by 20-foot area which is kind of a joke. And I've also had to cancel practices and postpone practices because of that. So I know the demand is there. I've seen a similar field built in where I grew up in El Cerrito and Berkeley. And it was booked within about 48 hours completely for the entire year. I'm pretty

confident from what I've seen in San José that you guys will get very similar interest in these fields. So hopefully you guys can give us somewhere to play. We're really looking forward to it. Thank you.

>> Mayor Reed: Ed Storm.

>> Good afternoon, Mr. Mayor, members of the council. Ed Storm with Hunter Storm, just quickly to say we're very much in support of this. From a micro standpoint, it's a real enhancement to the property the city owns to have a buffer between the railroad tracks and a future office development. It's going to be a visual amenity also for the office buildings and a place for people to exercise and use besides working all day so that's a huge plus. From a macro standpoint it provides an aerial introduction to the City of San José. When you fly in you'll see the activity going on in the soccer fields. It says something about the quality of life here. We're about technology, but we're also about a bigger picture, which is health and the maintenance of people's enjoyment of life. So if you are familiar with Page Mill, in El Camino, the City of Palo Alto has soccer fields at the corner of a major business park. It really does say something about people enjoying life and not just work. So it's a great balance for us and we think it's tough economic times but good long term decision. Thank you very much.

>> Mayor Reed: Ross Signorino.

>> Thank you, Mr. Mayor, members of the council. I for one am not a soccer fan. Okay? But I do enjoy watching young people playing soccer. I think it's a great thing for the community to have something like this. I think you're trying to arrange the financing for this, and I hope you're right, as one speaker here being so pessimistic about it, okay. I hope you're right about that. I was concerned about the financing, about this. And I hope that the money you're taking from each district, I'm -- seems to me like it's a one-time deal, not going on and on and on and on. One shot, that's it. But at the same time, the benefit that it's going to bring to the community, having a soccer field, I think is a great thing. And I think if we got the land there, we can draw people there, to enjoy it, from all over. And I think this people of San José should always have first priority to these soccer teams or reservations that they may have to make. That's important. San José, people come first in these soccer fields. Thank you very

much for taking in this consideration and the development you want to do as much as you can for young people. Thank you.

>> Mayor Reed: That includes the public testimony on items 5.2, 5.3, 5.4. We've had the staff presentation, and now we'll have council discussion. And we'll take these up, either as a package or individually, however the council would like to do it. Before we get into the discussion I want to disclose in preparation of this meeting my staff or I have met with Lew Wolff, Keith Wolff and Ed Storm and Hunter Storm Properties, over the years as well as more recently around the project. I just want to congratulate the staff for getting us over the goal line. It's been a 12-year marathon I think, 12 years to put this together, it's not easy. This is a complicated transaction. But we did all the easy stuff quite some time ago. And so this one is tough. And the supplemental memo that deals with the financing, not using commercial paper, using park trust funds I think is an important step. It's taken a long time but really carrying out the will of the voters from a long time ago to be able to bring this in, it's going to be a great public amenity. But I know it hasn't been easy to get it here. And soccer people have been waiting a very long time, but these difficult projects do take a long time. So it's good to see it almost over the goal line. Looking forward to seeing the construction start. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Unless there is concern from any of my colleagues I'd like to move all these items together, since they seem to be so interrelated so I'd like to make that motion now.

>> Mayor Reed: We have a motion to move all three items as recommended by staff.

>> Councilmember Liccardo: Thank you. I also want to disclose I met with Ed Storm and Lew and Keith Wolff, in the past and more recently, about this project and the related projects. And I wanted to really thank Nancy Kline and her team, everybody from parks, Julie as well, and Matt and Dave who have worked so hard to make all this happen. This is -- there are many, many balls in the air here. And to keep them all in the air successfully without any falling has been quite a feat. I wanted to also thank the soccer community. It's just been so incredibly strong. I remember talking to Don Gagliardi probably seven years ago, back when we were looking at the south campus as a site for a potential stadium. And Don had this incredible vision of having a stadium with recreational fields

nearby and how it would be incredibly symbiotic and you could have the kids saying I don't want to be like Mike, I want to be like Wando or I want to be like Shay. And it was you know it was obviously a great vision and it is wonderful that we're able to make it happen somewhere in the city. So thank you for the persistence of our soccer community and the many folks like Don who have been pushing so hard to make something like this happen and I think what we've got is pretty wonderful. I did wanted to ask, I wanted to ask a couple of questions. Pulling back a couple of layers in the onion. Because this is a really complex deal. And I just wanted to make sure we had kind of a public discussion about a couple of issues I know were of a concern in my mind. One is regarding the valuation of the 6.7 acres that we assess as roughly worth \$3 million if we were to allow them to be mini storage, essentially my understanding it's a very low valuation results from the fact that there's simply no entitlements there and that we're pretty much maxed out under the EIR. And I guess my question Nancy is, why wouldn't a developer, smart developer like Ed Storm say well why don't we just go revise the EIR and expand the entitlement so instead of 1.5 million square feet build something more than that, 2 million and then the value of the 6.7 acres would seem to be greater. What would prevent that kind of thing -- why wouldn't we assume that that could happen?

>> Thank you, councilmember. A couple of different things and Ed may well be very valuable to ask for his opinion on that. The 1.5 million square feet of office R&D, the two hotels, as well as the 75,000 square foot of retail and the soccer stadium to max out or do -- it would be very hard to add anything else onto that site. You've gone got one envelope with a lot of already-existing proposed uses in it. Technically, what you'd have to do is work -- and we believe Ed, Hunter Storm is ready to go, it's one of the issues we hope advances. Couple of the issues would be you would have to do an EIR to override and protect these intersections. You would have to expend the dollars for those trips and you would have to redo the site plans as they are to accommodate all of that. Given all of that with the level of complexity, and again perhaps Ed would speak better to that, what you have, you wouldn't get much more. Even if you went through all of that.

>> Councilmember Liccardo: Okay, so you go through a lot of expense and not get much more in terms of entitlement. So that's how we can understandably justify the valuation we put on this acreage. And secondly regarding the revenue assumptions around what we're going to be able to obtain from the recreational facility

which I'm sure is going to be great for youth and adult leagues. We all know how badly needed the -- we are for recreational fields. Based on what I saw in the back of item 6 -- or 5.3, it's page 6, sort of piecing it together, it appears as though we are assuming gross revenues around 1.1 million from this facility and then we subtract the fee we're going to be paying the earthquakes to manage this. And the question is, is do we have comparables out there that we're able to look at other complexes where we can say, that's understandable how we would arrive at a number that large, 1.1 million?

>> Matt Cano: Sure, thank you for the question. The earthquakes does operate a facility out of Stockton. It is a different facility, it is natural grass. They have used their experience from that operation and their soccer experience to help with these estimates. Again you are correct in the statement you made about the total overall revenue. This does assume 75% capacity, however, to be conservative, in the pay-back of the financing, we're assuming a less than 50% capacity of these fields during the prime time hours and so we do feel confident in the proposal but also as soon as we're financing \$8 million we also wanted to be conservative.

>> Councilmember Liccardo: Great. And then finally Matt, I know we have had some conversation, I know Julie and I have and I think Nancy and I have as well around the fact that these artificial turf fields will wear out over a decade or more. And we probably ought to be creating some kind of sinking fund for the replacement of the artificial turf, and could you describe what you believe the source is going to be for that replacement in the capital replacement?

>> Matt Cano: Sure, thank you for the question. We definitely recognized that and last year during the development of the capital budget we actually in the parks and community facilities of the capital budget we started publishing a page that tracks our current and future planned artificial turf fields and how much the replacement cost is going to be and in what year it needs to be replaced because we recognize this is an issue we need to solve not only for this facility but also for the other artificial turf fields that we already built and plan on building in the future. We do plan on coming back as part of the -- we started that last budget cycle and during this next capital budget cycle in spring of 2013 we do plan on coming back and having a better stronger proposal for that. The good thing about this, this revenue estimate, is right now, if we do generate additional revenue from the

facility above and beyond there is opportunity for council to direct that to another source. It is General Fund-eligible funding coming out of here but it is something that can be put in front of council for decision.

>> Councilmember Liccardo: Great, I know that decision isn't before us today but I appreciate you giving us a heads up. I hope that if as we all expect and plan that the revenues are going to be in excess of the \$500,000 that we're using as our conservative estimate. I hope that we do create something of an enterprise fund here, that is that revenues generated from the facility can be used to ensure that the facility remains a great world class recreational facility and replaces the capital as it needs to be replaced and maintained. So I just wanted to finally thank Dave Kaval. I am thrilled that the earthquakes are a partner in making this happen. I know they've been very successful elsewhere in Stockton and I believe in Danville, and we really look forward to what's going to be an incredibly vibrant place in our community with I'm sure many, many kids running around and a few adults as well. And I think it's great to offer these kinds of recreational opportunities to our community at the same time that we're generating some support for General Fund that needs some love, too. So thank you for your leadership, as well.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. For the staff, would the -- I see there's from the map there's this parking area that we're building but my guess, there may not be enough at peak times. Do you think it's very well in the realm to have any shared parking agreement in the evenings or weekends for the off-peak hours for the office complex?

>> Matt Cano: Thank you. We are, the parking lot it's actually between the -- I'll go back to the blow-up version. It's between the middle of the fields, we're building a -- oops sorry. You can see on the bottom. There's 54 parking spaces -- thanks, I'll stop. 54 parking spaces in the parking lot. However, there's additional 150 parallel parking spaces that are going to be on the street that's fronting on both sides of the street. So we do feel that there's sufficient capacity for the fields as part of the new spaces they're building. I'll let Nancy address the sharing possibilities.

>> Overall, you may remember from the previous agreement, the proposed parking on the development portion will accommodate all roughly 5,000 plus cars that will be needed for soccer. So the project is already, in large part, sharing parking. If there are other opportunities or needs, that's something that could be looked at on an ongoing basis and a lot depends on what's the tenant situation on site.

>> Councilmember Oliverio: When you had the map up earlier and looked at the site had the city not purchased that, what likely would have occurred here?

>> That's hard to say. It could have been a wide range of uses. Could still be sitting there, could be office. Could have been manufacturing to a point.

>> Councilmember Oliverio: Okay. The reason I bring that up is because I believe we financed that for about \$106 million.

>> That's correct.

>> Councilmember Oliverio: And that -- and we still owe about 87 million, 86, 87 million.

>> That's correct.

>> Councilmember Oliverio: And so really there's a cost to the city to keep this land, to not sell it. And I believe that's four, \$4.5 million.

>> Yes, in the 12-13 budget it's estimated to be \$4.5 million the debt service carry.

>> Councilmember Oliverio: For those who say oh, this is really a bad thing and do nothing, well I surely could take that view but I'm going to have to come up with some money every year ongoing to pay for this.

>> Yes.

>> Councilmember Oliverio: And again, this was done I think what, again, 05? Okay. And then now, we're not using measure P funds to buy the land. Does that leave any excess measure P funds?

>> Julie Edmonds-Mares: We estimate based on this proposal we'd have \$17.1 million remaining to satisfy the softball complex. And then we will need to evaluate the price of softball and then determine if there's any excess funds.

>> Councilmember Oliverio: And should there be any excess my guess there will be no trouble spending it on park needs in the city.

>> Julie Edmonds-Mares: I believe we have a long list of park needs.

>> Councilmember Oliverio: Okay. I believe there is a lot of enthusiasm in the past by the council on certain sports. And for example we have three golf courses and things didn't come to fruition on estimated revenue and things like that. What's to say to the critics that this doesn't end up just being like golf for the city as being a financial burden?

>> Matt Cano: Thank you. What we included on our supplemental memo page 6 issued on Friday, we did include discussion on a potential back stop to that if we don't actually generate -- well, as mentioned, we're anticipating generating over 800,000 in net revenue, but we're conservatively estimating \$500,000. We have also included a potential back stop of citywide construction and conveyance tax, capital funds. We are generating approximately \$260,000 more than our -- more than our annual expense in the construction and conveyance tax fund. We do want to build that up for projects and renovations to our citywide parks but we are also calling that as a back stop measure if we do not generate \$500,000. Because it is -- we have to repay the \$8 million financing.

>> Councilmember Oliverio: And then the current bond we have on this, I know there's the HUD loan and the bond. Is that bond callable? Maybe that's a Julia Cooper type question.

>> I'm looking to Julia, yes.

>> Councilmember Oliverio: You can nod Julia or put your fund one way or the other. Having a callable bond, puts the city in a precarious position?

>> Mayor Reed: Maybe we can get Julia come down here. In bond financing nothing is easy as it sometimes seems.

>> Julia Cooper, acting director of finance. Can you ask your question again Councilmember Oliverio?

>> Councilmember Oliverio: So the question on this was the bond on this particular item callable?

>> Yes.

>> Councilmember Oliverio: And what's that complication for the city if it was called?

>> We can prepay any portion of that at any time. It is a variable rate bond issue.

>> Councilmember Oliverio: Thank you. That sums it up for me mayor.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: . Thank you, mayor. This is one of my favorite subjects. I've come up with a list of what I think are ten reasons why we should do this. First of all we have a very class A PRNS department who has done some spectacular things over the year. I have some wonderful things to say about them, I want to refer everyone

to their end of the year report. They have loyal people sitting out in the audience, they have been loyal loyal loyal ever since I've been on council, that's quite a long time now, they are ready to continue, right, hanging in there getting it over the soccer line, the goal line. I like the fact that we have been recognized as soccer city U.S.A, that is something we can promote when we incorporate that into our tourism. The fact that this is an extended play situation, so more and more kids can play on the fields. The next point is that for every dollar that you spend to nurture kids it's usually at least half the amount that you need to retrain and recoup kids. And some kids we never get back. I know that after 30 years in the educational community. Six, we're getting a soccer stadium out of the deal. That is not such a hard pill to swallow at all, and I think it's a fabulous thing that's happening and two hotels. I also think this has great appeal for corporations, for advertising needs. Every corporation likes to advertise and any kind of sports venue is usually a good place to do that. So I think there is an ample opportunity for corporations to join in and do some of their advertising at the soccer complex. And then, number 8, I feel like David letterman here, this is great great advertising, as Ed Storm says, you request fly over the city and see that this city cares for kids an they are being amply cared for, that said volumes. And number 9, I have no way to prove this, off the top of my head. I think there's opportunities for grants especially because of what we're doing to help kids. Washington is very much interested in this kind of proactive approach. And then finally, finally, we will not only have national appeal, with soccer groups coming in, but we would have international appeal, and the implications of that really get me charged up. So I think it's a fantastic idea. I think the map will all fall into place. We have to be patient. I'm absolutely 100% in favor of this and I will surely be voting for this to go forward. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I think there's a great opportunity for the city, and I think certainly working with the earthquakes, who have already proven to be a good partner with the city, this is logical sense in terms of creating a scenario where they can manage the adjoining property and obviously you know, they have every interest as well in encouraging more interest in soccer and particularly with their work with youth soccer. I have some questions. First of all, regarding the funding. So the capital funds and the use of future revenues, the -- and I understand, I think, part of it, the 1.3 approximate million dollars, that's the citywide C&C parks capital funds, I

understand this is clearly a citywide regional type project. And then there is a question I've raised previously is regarding the 100,000 from each council district, to see -- that's from the parks capital funds. And I raise the issue to see if there's any manner in which that can either be replenished or there could be some -- because those funds although -- unlike the citywide C&C funds, they are at least in principle, meant to be dedicated to the individual council districts. That being said, I don't necessarily think it's a bad idea to kind of pull the money together to make this project happen. But especially considering the fact that we are being quite conservative with the revenue generation, given other projects, the earthquakes and I think there are probably many other examples of what this kind of project can bring in. Is there any manner in which we can set up or devise a replenishment of those funds with -- it doesn't have to be you know, let's say it is 800,000 a year rather than 500. Even if it's you know, 15 or 20% of those excess funds to slowly over years replenish the council funds, that could be something that would still allow us to have a sinking fund, still allow us to put more money in the General Fund. I know it's a long comment/question but I just want to see what staff's thoughts are on that.

>> Julie Edmonds-Mares: Thank you councilmember. As we pointed out in this slide before we really saw the citywide benefit to this community-serving amenity. As we noted there would be an equitable recreation reservation system, so that users throughout the city would be able to benefit. That is the entire city not just the local area. The earthquakes would as we mentioned also have the youth development soccer academy and in addition the citywide tickets that would be available for constituents would be distributed on a citywide basis and we would be working with yours offices on a distribution system. In addition when we did the sports field study and we identified a need of over 50 rectangles citywide to meet this sports need we surveyed nonusers as well as users and we found out from nonusers that 86% of residents agree that sports programs and facilities are important to the community. So we really see that there is a citywide benefit and that's why we didn't make a recommendation to replenish that. In addition the loan of course will have to be the first call on the revenues from the funding source as we noted in the staff recommendation.

>> Councilmember Kalra: So but any excess revenues, it's required to go back to pay back the loan first?

>> Matt Cano: Thank you. In the supplemental memo that we issued on Friday under the option B, under the park trust fund, we have language that says a minimum of \$500,000 in the non-net revenue from the soccer facility would be used to pay back the loan. In addition, something on top of that that we need to look at is the turf replacement of the soccer facilities if there's anything up and above and beyond that.

>> Councilmember Kalra: That is if we are required to go with option, because if we're not able to modify the HUD agreement?

>> Julie Edmonds-Mares: That's correct.

>> Councilmember Kalra: If we are able to modify the HUD agreement what if any impact does that have on our use of excess funds?

>> Again, Julie might have a response there. But the idea is that the sooner if we had excess funds one solution might be to pay down the loan as quickly as possible, minimizing our cost. And the other point I want to make is that the soccer fields are successful here this revenue will go on beyond the time frame to pay that back. So there are multiple opportunities for the council to redirect funds as Matt mentioned.

>> Councilmember Kalra: And the total required in terms of the loan will have to be paid back out of the total amount what was that number again?

>> Matt Cano: \$8 million.

>> Councilmember Kalra: 8 million. So even if we get what we -- let's say we get I guess it's 800,000 net to the city. So over -- it's going to take a couple of years before this goes online. So maybe in 12 years or so, that loan amount could be repaid. And then the suggestion then is that there will be ongoing revenue subsequent to that for city uses. And of course including putting money aside for maintenance and to replace the turf.

>> Julie Edmonds-Mares: Yes, councilmember it is important to note that any excess revenues would become General Fund revenues and then the mayor and council would be making a collective decision as to how to utilize those funds.

>> Councilmember Kalra: I think that's where the question comes that once it goes to the General Fund then you know it's going to go through whatever our highest priorities are and at that given moment in time none of us will be here, 12 years from now. But the reality is, the -- I think that's where the idea or the money being taken from each of the districts, that does not get replenished, I do understand this is a citywide use, amenity. But that's what -- that's what the 1.3 million reflects from the appropriately titled citywide C&C, capital fund. It's still you know for some of the -- their needs in every single district and I don't -- you know I guess the short -- the short answer I'm getting is that there wasn't consideration for replenishing those funds because the -- it's a citywide -- it's going to be soon to be a citywide project.

>> Mayor Reed: City Manager wanted to add to this comment.

>> Debra Figone: To ensure staff if the council did have a policy wide interest in replacing C&C at some time in whole or in part any thoughts now on what their options might be and what that capacity might be?

>> Julie Edmonds-Mares: Yes once the loan is paid back and the replacement is taken care of, that is certainly a decision that we would look forward to having at a discussion.

>> Councilmember Kalra: So that won't happen for ten or 12 years and right now we have an opportunity to bring it up and part of the principles we're carrying forward. If and when there are excess revenues at least the funds get replenished so that each district is made whole so they have funds to improve the park amenities in their own individual distribute. And so that's, you know, the reality is of course at any point we can add that in, at any point during this process, but the reality is if it's not brought up and done now, it's unlikely to happen at any point in the future and we don't know what the will of a future council is going to be anyway in that regard. I right now am certainly in support of the sentiment of this project. It's just I also have an obligation you know for the --

for protecting funds in my district as well. They're dedicated for projects to improve the parks in my district as well as this important citywide project. And so that's why I bring all that up. And furthermore, on the management aspect of it, so the management is approximately \$300,000 a year, and I note that the management was -- the earthquakes which again, I think it's appropriate with the earthquakes having the stadium and the partners there they already have shown to be, I mentioned RFP so was this a competitive RFP or was this something because we were working with the earthquakes already, we thought it would be most appropriate to work directly with them?

>> Matt Cano: No, this was a competitive RFP. I do want to point out, the earthquakes were the only respondent. However we did do a lot of outreach to make sure this was widely publicized for other people who had interest.

>> Councilmember Kalra: It's good for the public to know as well that it was put out there and the opportunity was given to any number of partners and once again the earthquakes stepped up. I think in that sense it's a good thing. I think it's a natural partnership, and especially with them bringing the youth development here, I think that's really something that can be helpful going forward in getting our youth citywide more engaged. The property itself is the fringe of the city, you know right across, right near Santa Clara, and I know that we're not going to have as far as I know any restrictions on the use. There's no residency restrictions for the use of it. Once it's being managed by the earthquakes, you know I'd hopefully like to see that there are you know, there are some emphasis given to San José residents or San José youth leagues as we had a representative from Almaden league here. We have a South San José league that's very heavily used by the youth in South San José and throughout San José. So I hope that that's made part of the discussions as we go through the management process that there -- that we certainly especially if we're putting money in from citywide funds and district funds that there's an emphasis that our youth in San José could take advantage of the -- these really nice facilities that will be developed. Last question I have is on there was a mention very quickly on the amenities being built here. A mention of a snack shack and a barbecue and what have you. I do think there's an opportunity here whenever I've been to sports complexes, there seems to be a very vibrant component. Not just in terms of creating vibrancy but in terms of revenue generation. And so is that what was contemplated? Is that why revenue projections is

relatively high, not just use fees but also there's opportunity to gain revenue through snack shacks and barbecue and events that maybe held at the facility itself?

>> Matt Cano: Yes, there's concession revenue, corporate sponsorship revenue, and parking revenue included in the pro forma.

>> Councilmember Kalra: All right, thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'll start by thank being our city staff for staying committed to this project and being creative about ways to make sure that we deliver this. It's not often you get an opportunity to get to vote and weigh in on something as significant as there and it's cool. I'm excited. I'm excited for a number of reasons, one because a former player and current player, I play Bellarmine on the weekends on turf and then I play on St. Andrews seminary on grass so I have some thoughts in terms of the artificial turf that we are pursuing but I'll get back to that later. I did have a couple of questions. I'm going to follow the direction where Councilmember Kalra is going and that's the funds and replenishing those. And as it was brought up the reserves for measure P for the sports complex would be possible to take 100,000 out of that reserve when we're done with say the softball complex and apply that to each council district and of course they'd probably be line item where they would specific to only measure P capital improvements, but would that be a way to get 100,000 into each one of those?

>> Matt Cano: That is something we could explore. We haven't explored that to this point.

>> Councilmember Rocha: Okay could I include as part of the motion direction to staff to potentially replenishing those with the reserve when we're done spending on both the complex of softball and soccer?

>> Councilmember Liccardo: I'm fine with amending the motion to explore that. I'd like to be able document on it afterward. Thank you.

>> Mayor Reed: Councilmember Oliverio. I believe you had the second, I'm sorry Councilmember Constant. Okay? All right.

>> Councilmember Rocha: So can I ask why council district 3 is excluded, did Sam cut a deal for making the motion? I'd have made the motion if I'd kept 100,000.

>> Matt Cano: We are requesting 100,000 from every council district. In nine of the council districts we are requesting to take it out of the construction and conveyance tax fund balance. However in council district 3 we are recommending to take it out of the park trust fund.

>> Councilmember Rocha: Okay. That's the difference I was curious how we got to that. The public improvements that are going to be done as part of the development, looking at the overhead you had, aviation avenue is that what I saw? Now is that going to be provided, those improvements going to be provided by hunter storm? Okay, look at that time road, that fronts the whole facility is that going to be hunter storm?

>> That's going to be paid for out of measure P.

>> Councilmember Rocha: They are going to stop at the front of aviation avenue, as I understand it?

>> Matt Cano: Correct. On the image I'm showing up front, the bottom roadway at the bottom of the image is Coleman, that is not going to be modified as part of our project. Leading from Coleman to the soccer fields going up and down on that image is a temporary road way that we're going to build to allow people to access our facilities and that will be made permanent as part of the future development of the site. And then we will be building the entire roadway that is fronting the soccer fields.

>> Councilmember Rocha: Okay and as part of the negotiation did we explore seeing how much we can see hunter storm would invest in some these improvements? And I know Ed Storm is here but not to show our cards I'm curious if that conversation at least happened.

>> In depth conversations around that and since we're going to retain ownership of the roadway, in order to fund the project measure P dollars had to be used.

>> Councilmember Rocha: Had to be used okay. As far as the site layout, I had the opportunity to meet with staff and shared, one, my excitement, and then two, my not really a concern, but as far as this investment, this is as I see it our one investment in a soccer facility for the City of San José. And I didn't want it to be an afterthought in terms of the facility. And in looking at this not that it looks like an afterthought but for me fronting it up on the road or at least aligning it with the stadium, making it a featured site for and destination site for San José. Being the father of two kids who play club soccer one of which is actually coached by Ian Russell the assistant coach there, that of course is my interest for what I want for San José, I think we can do that. But I understand the fiscal situation we're in one, two the nature of this deal and the value of the land that gets closer to the front end is a lot higher than the back end. And I recognize that if we did want that, that that would cost. And we don't have did dollars to step up and do that. So again I'll go back to I'm excited about this project and it's going to be a great asset for San José. I've been trucking my daughter and my son around from Morgan hill to the page mill site that was talked about and that's going to lead me into my comment on the artificial turf. At the page mill facility my daughter's eight years old last year, playing on artificial turf, stepped and her knee, serious knee injury. So surgery to replace the knee at the ACL and attach the bone back. So I have a little vested interest and personal interest in seeing one of these fields and I'd like the see as part of the motion if possible to look at one of these being artificial grass, grass pitch to me as again a player and a father, I'd much rather see at least that opportunity provided. I know some teams may prefer to play on it, some teams may prefer to play on artificial turf. I think providing different scenarios or different fields for tournaments is a good asset. The one in Morgan Hill has both, and they all get plenty of play. I know that might affect the contract but for me that's going to be real critical for me and I'd like to hear from staff at some point in terms of the ability for us to do that. That is close to my heart again as a player and a father. So I don't know if you have an opportunity to talk bit, so that's why passing a motion for

all these I was a little concerned about but I'm willing to go with the will of the council but I would like to ask a question on that I think that's 5.4 part of the contract.

>> Matt Cano: Thank you for your feedback. The reason we originally wanted -- proposed an artificial turf lighted four-field complex is we wanted to make sure we had as many fields as possible so we could have as much league and tournament play on a daily weekly monthly basis as possible. In addition we want four fields active as much as possible. If we did go with the grass field we've talked about that internally a little bit and if we did go with one grass field we would want to make sure it was maintained as a premier grass field. And in order to do that, and play on it all the time, there's probably about we estimate 100 or so three months or so out of the year we'd have to take it out of commission to make sure, let the grass re-grow and take care of it. So really, if we did have one of the four fields as artificial turf it would really mean -- as natural grass most days of the year we would have a three field complex, many days of the year three field as opposed to four field complex and that's why we didn't take that route originally. In order to maintain grass fields in high quality you really need to rest them a lot. That's the reason we went with the four artificial turf.

>> Councilmember Rocha: Who's doing the operation and maintenance?

>> Matt Cano: The earthquakes are performing all the operations and maintenance under the agreement with them. I do want to also mention that if that is the motion of the council today, we would recommend postponing all the actions and coming back to you at a future date. This whole financial pro forma for items 5.2 and 5.3, and 5.4 are all based on the revenue and the cost and the operations and maintenance of the four-field artificial turf tournament facility. And we would not be able to make a recommendation to council to approve inaction for one of them for natural grass today.

>> Councilmember Rocha: So I'm confused as to how the contract for the improvements is affected by 5.2. I see it the other way around but not if we approve 5.2 we couldn't hold off on 5.4.

>> Thank you. As part of 5.2 we've talked about the 10 million -- the \$8 million financing that we're proposing covering with future soccer field revenues. We've talked, I mentioned we're estimating \$500,000 annual revenue coming out of the soccer facility to go towards paying down that \$8 million in financing. And that is based on an artificial turf model. If it was a three-field, three artificial turf and one natural grass model I could not make a recommendation to you today that we would be getting 500,000 out of it annually to repay the 8 million debt. We would have to look at that and come back to the council in future.

>> Councilmember Rocha: You made a pretty strong statement that in your mind we'd have to close it and couldn't get the revenue and couldn't manage it. Have you managed a soccer complex?

>> Matt Cano: I didn't mean to come across that strong. No, I haven't managed a soccer complex. We've done our financial analysis on the four-field soccer complex. I don't know if we could make the revenue or not off of the three artificial turf one grass complex. I would have to go -- we would have to go back, sit down as a team and analyze that. And then come back to council with a future recommendation so I don't think --

>> Councilmember Rocha: You think this would change just purely because we might have to close the field on occasion?

>> Matt Cano: We have certain fees that we charge for artificial turf. And we for premier -- and it's really the fees that are for premier -- a premier facility. And in order to keep the natural grass in premier facility our preliminary discussion has been that we would probably need to rest it a number of days during the year. And again I do also want to add it is just something that since we've been going down the artificial turf track so long on this project we haven't fully analyzed the revenues we could generate from a natural grass partial facility so I would not feel comfortable recommending to council to recommend any of these actions today and I would want to go back, take a look at it and then come back to council in the future.

>> Councilmember Rocha: If I could possibly put the earthquakes rep on the spot, would you mind weighing in a bit in terms of facilities and natural pitches vs. artificial and your experience?

>> Julie Edmonds-Mares: And councilmember while Dave is on his way down, I just would add that the 5.4 is a design-build based on four artificial turf so we would have to cancel that and rebid the project as well. So our fundamental business plan is based on the high-use fields and our construction recommendation is also based on artificial turf design-build.

>> Councilmember Rocha: You don't have the authority to negotiate and I know we can contingencies, but we couldn't can't negotiate a change order?

>> Dave Sykes: Mr. Mayor, Dave Sykes, Director of Public Works. Yes, that just --

>> Councilmember Rocha: I'm just a councilmember.

>> Yes, we could negotiate a change to the contract once we've awarded it. It would be difficult right now to estimate the cost of that but yes. We could.

>> Councilmember Rocha: And I would expect there would be a -- I mean these strong statements that we can't do something, I'm a little troubled by some of these statements, I think some of these things and I recognize we're way down the artificial path that you talked about and I appreciate that but I'd like to get some answers if you don't mind and sorry to put you on the spot.

>> I'm very happy to lend our expertise and you know experience, both with grass and artificial turf fields. The grass fields can't be used as often and really have a different business model and financial model. You also have to set aside a lot more money with the grass fields to operate them and maintain them or they deteriorate. And we experience that right now with our practice facility that's currently on the pitch, the field. The field is very racial used. I mean it's kept at the championship level but the only team that uses it is our number 1 team. We don't even let the second team use it because it deteriorates to a level where it's not at that championship level. My

concern with the grass field of course could be in this project somehow but it wouldn't be able to generate the kind of revenue that the other fields would obtain. And so that's the challenge of that kind of setup, councilmember.

>> Councilmember Rocha: Thank you very much.

>> Yes.

>> Councilmember Rocha: What do you prefer to play on?

>> I prefer grass. That's why I'm saying grass. The one other thing to mention when we have tournaments here on these fields synergies of having the earthquakes manage them is we could have the championship gate at the big stadium. You could do these things because these are all next to each other and I think that is a really unique opportunity and the reason why the project makes a lot of sense.

>> Councilmember Rocha: Thank you very much.

>> You're welcome.

>> Councilmember Rocha: Could I ask a question why we're moving on this prior to having the HUD determination whether we can use those funds elsewhere? We might have talked about it in the meeting for the life of me I couldn't recall why we are moving on this prior to knowing that.

>> There are a couple of reasons why councilmember. One is we have the bid which as Matt mentioned 15% lower, somewhat certainty and we have the backup of the park trust fund, that if you were to wait and we go again then it will be at least a six-month time frame to go back, redo it and come back again. So there's time frame, we lose a bidding opportunity, we believe, that the market will continue to accelerate and because other projects get going, contractors get busy, and the other is that we hope that this very much catalyzes the development for the office so in trying to put everything together and not miss the market cycle.

>> Councilmember Rocha: Yes, glad you spoke up, thank you. I'm going to just ask one last question and stop, allow my colleagues to weigh in if they like. I noticed the reference to the tickets being provided to games by the earthquakes, and I raise this issue when we talked about the potential ballpark for the A's and my interest in seeing potentially, I think the suites used as opposed to tickets. Because I think the asset that we have at the arena and the ability that we have to provide the suite to the residents and the district and the city that would never have the opportunity to see a game from a suite to me is off the charts and the community appreciates it and I can't tell you how important it is to them and probably the council office in terms of recognizing people in the community and groups and residents that do great work. Tickets are wonderful too but again I'll go back to the opportunity and the experience is something that you know especially when we're talking about public funds whether it's public lands or public dollars. Part of that negotiation I guess we talked about that at the A's discussion but where does that play into in this arrangement or would it be able to at all?

>> At the present time, we haven't thought about, that's something -- that's a great idea. We'd have to think through with the quakes if they're willing to do that.

>> Councilmember Rocha: Can I ask for a friendly amendment to explore that potential?

>> Councilmember Liccardo: Could you please repeat the proposed amendment?

>> Councilmember Rocha: Sure. To explore discussions with the earthquakes as opposed to the tickets that are being provided to explore the opportunities to use the suites for community uses as we do at the arena?

>> Councilmember Liccardo: I'd support amending the motion as long as the aggregate value is not something that alters the contract, in other words I don't think we want to be back in contract for renegotiations.

>> Councilmember Rocha: We would be what I'm sorry?

>> Councilmember Liccardo: I don't think we would want to be back in contract renegotiations. That is we would want to move forward. I'm certainly open to, if there's some flexibility to altering tickets for something like value, that is very reasonable.

>> Councilmember Rocha: That's why I was light with my direction to explore as opposed to require.

>> Mayor Reed: Before you go on is the friendly amendment acceptable to the maker of the motion and the seconder?

>> Councilmember Constant: I can't say honestly that I am. I see a big difference between the HP arena citywide facility built with city funds and city retained ownership and imposing something that will have a negative cost factor to the earthquakes when the suites are a highly coveted commodity. So I can't wholeheartedly get behind that.

>> Mayor Reed: I don't think that was the friendly amendment.

>> Councilmember Rocha: Imposing no. More in the discussion.

>> Councilmember Constant: I don't think it's worth exploring quite frankly so no.

>> Councilmember Rocha: Exploring a potential benefit for the public you're not interested in at least having conversation? I'll stop there and I'll wait.

>> Mayor Reed: We'll come back if need be. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. We've been talking about this for a long time. And a lot of my questions got answered. So I do want to disclose, I did have a conversation, a phone conversation with Jim Kineen regarding the project as well. So let me go back to the \$8 million loan. Was -- why couldn't we have made

a \$9 million loan and you know, cover that gap at a now we have in our C&C funding, or does that affect the pro forma so much to where it becomes unfeasible?

>> I can begin. Staff's mission is to minimize accident. So the addition of the million increases the cost overall, to the program. So that was our first responsibility, is to minimize the debt. The other things that you were talking about provide council option as we go forward to consider revenues.

>> Councilmember Campos: Okay. Well, you know, first of all thank you for all the work. I mean, I think you know we're asking the questions because I think we all see the benefit of this. And I think that the fact that we're discussing this for so long, I don't think that that should be interpreted that, you know, we're against the project. You know I mean, we need to ask these questions, you know, because we also have -- we also have interests in our districts that, you know, maybe this isn't the highest priority. You know I could go and name you know Hillview park needs a basketball park. Mount pleasant park needs its fields, its grassy area done. Pal stadium needs field improvements and they're starting a master planning process of trying to redo their fields or figure out, you know, what type of playing facilities you know they want. And so you know, \$100,000 in each council district is small. But \$100,000 is \$100,000. That can pay for architectural fees and so forth or a project like that. So this is why we're asking the questions, it's certainly why I'm asking the questions. But like I said, most of them have gotten answered, I'm very appreciative that Councilmember Rocha's friendly amendment is certainly going to be explored because you know, one, when we met, that wasn't even an option. And you know I think when we're talking about this, we need to think and look at all the options. And if there are options out there, that you don't want to bring up because you know for whatever reason it's not going to meet the goal, please bring that up. We should be discussing that because for one thing it could alleviate a lot of our concerns before we get to council and then figure out just by poking around and asking more questions that hey, there could be a solution here. But I do want to go back to the method that we will be using to use the fields for youth. I think the director had mentioned that there was a way to ensure that there will be equal access to you know for citywide. Could you explain that process?

>> Julie Edmonds-Mares: Sure. And we'll need to establish a process for this particular location and we'll want to communicate that with all the council office. Our current system for field res for sports fields is we bring all the users together in a room on a Saturday before the next season and we work out between partners and different clubs as to which fields will be utilized on which days at which time. It's really a collaborative process to ensure that our citywide needs are met. We envision something similar but we'll definitely need to create a process and communicate that to the council office as we do so.

>> Councilmember Campos: I appreciate that because there are a number of clubs and lesion that are under the radar. They don't -- like I said in one of our meetings, the Boys and Girls Club field by the airport, by Reed Hillview airport, I can't tell you how often I get phone calls and complaints about how they believe it's not available for them. You know. And so we need to do a much better job of being able to get the word out, let everybody know that you're going to have the ability to have equal access to a facility like this. Which brings on another concern. One, I don't think there's any doubt that you know, in my opinion, the number 1 way to keep kids out of trouble, keep them out of gangs and out of harm's way is to get them involved in sports. If the maker of the motion would allow an exploration of this to somehow tie the mayor's gang prevention task force and the youth providers that are providing services through the task force to be able to be part of that process. And actually to even be given an extra chance of creating opportunities for kids that you know, would never have that opportunity, just even to get on a -- you know on a -- you know the crowded fields that we already have. You know I think that one, you know, when community centers are not open as long, you know, kids are out in the street. And so you know, would the maker of the motion accept that?

>> Councilmember Liccardo: Councilmember Campos, I would, with this condition: That I think the decision about, this is like all of our valued resources, it's going to be a scarce resource, right? We're going to have a lot more demand than we have supply of these great soccer fields. And so I think it's certainly worthy of exploration. I would ask there be no decisions made until it's all brought back to council so we could make a decision, really, if we're going to be deciding particular nonprofits have access or priority access or whatever, that would be something I think we'd all want to contemplate and evaluate with all the options on the table. So I'm certainly open

to the exploration. I just wouldn't want us making decisions believing that there's some council direction here to go beyond the mere exploration.

>> Councilmember Campos: Well, I wouldn't be interested -- I'll be honest with you. I wouldn't be interested in you accepting a friendly amendment if it's just lip service from us saying you know we'll go to the gang task force and say it's open or even you know say hey, you know, if you're interested go out there and with everybody else. We are investing \$100,000 out of each of our council districts. My council district probably has some of -- you know most of the kids along with district 3 and 7 that are being serviced out of the mayor's gang prevention task force and I think it's a reasonable request.

>> Councilmember Liccardo: It is a reasonable request. I just wanted to make sure that if we are making any commitments to any particular nonprofits or a given priority at any time, that is something that would come back to council because I think we would understand that and discuss it in full open view rather than staff believe they have to alter for instance the revenue model in order to accommodate in some way that we may not be contemplating.

>> Councilmember Campos: So I wouldn't want to make specific commitments right here and right now to nonprofits. The commitment would I want to make is the gang task force. And I think that it is something you know something we set up to service those kids that nobody else is looking after.

>> Councilmember Liccardo: Perhaps I'm not understanding the friendly amendment. My understanding, the friendly amendment was to explore that, and I'm fine with staff exploring it. But before we make decisions or commitments, I think that should come back to council.

>> Councilmember Campos: Okay, okay.

>> Mayor Reed: I'm sorry, it's okay with Sam for a friendly amendment, Councilmember Constant.

>> Councilmember Constant: I guess it would be easier just to make a referral to the mayor's gang prevention task force to let us know how they would envision being able to use a community asset like this. Because I think we'd have to see what their intents are and bring it back. So I think if that's what you're saying to have the discussions with the gang task force to see what partnerships could be made and things like that, then I'm supportive.

>> Councilmember Campos: Yes.

>> Mayor Reed: Let me just ask staff. Because I think I heard staff say we don't know what the reservation process is going to be yet.

>> Julie Edmonds-Mares: That's correct, it's yet to be designed.

>> Mayor Reed: So this is something that would have to be considered in that reservation design work.

>> Julie Edmonds-Mares: That's correct.

>> Mayor Reed: And brought back to what I understand Councilmember Liccardo's version.

>> Julie Edmonds-Mares: That's what I understand the friendly amendment to be.

>> Mayor Reed: So ultimately the package of how we're going to manage this field would come back to council in some way yet to be determined, is that what you're saying?

>> Councilmember Campos: Yes, if you are asking me yes.

>> Mayor Reed: I thought that's what Councilmember Liccardo said, I want to understand.

>> Julie Edmonds-Mares: Just to be clear, the financing model is based on a full usage at the full fees that we have put into the pro forma. There are two free use days but we also envision serving multiple folks in the community through scholarships which we do utilize through the mayor's gang prevention task force. So communicating back that position in addition to the reservation system for those who would be paying the full fees. So I just want to make sure I'm clearly understanding the motion. You want to come back to mayor and council to understand the reservation process both for the bookings and for the free use or reduced use.

>> Councilmember Campos: Yes. But given that there are scholarships and again, part of the discussion is that you know, should be, you know, perhaps the mayor's gang task force gets first shot at scholarships. You know, I mean if we're really talking about targeting the hardest to serve kids, the kids that are not going to be able to afford to play on -- you know to play in leagues then, you know, you have a number of groups that are at the gang task force that have access to those kids. You know I can -- I could go on.

>> Mayor Reed: Let's not do that.

>> Councilmember Campos: Okay.

>> Mayor Reed: Let's make sure we understand what the friendly amendment is, Councilmember Liccardo has got the motion.

>> Councilmember Liccardo: Yes I'll accept a friendly amendment to explore partnerships with the mayor's gang prevention task force around use in terms of priority given to specific nonprofits that are engaged in that task force and specifically I think the scholarship, the use of scholarships or priority for scholarships for these particular kids would be one I think fruitful avenue. What I am particularly concerned about is once you throw a wrench in the revenue model then we all have to come back to the table and renegotiate. So I'm interested in exploring this but I would want it to come back to council before we start settling on any decisions that affect the larger revenue model. I think we could do that without doing that, if we are focused on scholarships.

>> Councilmember Campos: That's what I'm talking about. All I'm recommending as we have these discussions is that, you know, certain groups of kids have access. And if scholarships are there, then they should have access to these scholarships. And here is an avenue, the mayor's gang task force to make sure we are getting kids that you know in all likelihood without scholarships will never have access to these fields.

>> Mayor Reed: Okay. I think I understand the friendly amendment. We're going to explore it, we're not changing the revenue model, we've got a revenue package, expense package, all of this fits together. And so you're not giving direction to do that, not that you wouldn't come back with a recommendation that might be different, but for purposes of moving ahead today the direction is to explore it. Did I get that right Councilmember Liccardo? Okay, so that's the friendly amendment and I forget where I was, were you done Councilmember Campos?

>> Councilmember Campos: No. Because one of the things that we need to understand is there's a lot of coaches and soccer players out there that are going to read about this in the paper tomorrow. And the first thing that's going to come to their mind, it's not for me. And we need to do everything that we can do to make sure that every single person living in this city knows that they will have equal access to get on those fields. That is -- you know if we're going to invest \$100,000 out of each of our council districts that that would be one of the things that we would want to make sure is our residents would always believe that they would have equal access.

>> Mayor Reed: Well that would probably be a mistake to let them believe that. This is driven by revenues. As a revenues model there's going to be a charge with some days, free days and scholarships. So I don't think we want people to believe that it's going to be exactly the same for everybody because it's not. We're charging for in facility in order to pay for it.

>> Julie Edmonds-Mares: Yes, Mr. Mayor that's correct. The financial performance is based on a revenue model and that is also the ability for us to repay the loan from either HUD or the park trust fund.

>> Councilmember Campos: So these will be exclusive fields only for exclusive use. That bothers me.

>> Mayor Reed: Well I don't think that's the direct either.

>> Councilmember Campos: That's what you're saying.

>> Mayor Reed: No, we're saying we're going to charge for the use, there are free days and scholarships. That's how we broaden the use, that's how I understand the staff recommendation and the motion. That doesn't mean it's exclusive but it's also not equal access to every person in the city. So somewhere in between those two. Some other description, I don't know. I don't want people to be misled about this.

>> Councilmember Campos: So just \$100,000 can go right now into improving our parks which we would be able to guarantee each and every one of our residents would have equal use to our public parks. And again, that's what -- what the crux of this debate for some of us is about. You know. And I get it. I get it. And the equal access comes to where you know, kids from the gang task force would have the ability to apply for scholarships and that would give them you know at least some sort of shot of being able to get on those fields. And it goes back to what Councilmember Rocha was talking about. Not everyone gets to go to a sharks game. But because we have the ability to put out the suite, plus you know, eight tickets down in the bowl, for community groups to apply for, that gives them the ability to go see a sharks game. Which might be the only time they get to go into the arena. And I think that for this investment out of each council district you know, we need to -- that should be part of our conscience. And I understand the financials of this. I do. You got to figure out a way to pay for it. But people in our communities need to know that they're not going to get pushed out. And if there's ways for them to, whether it be a scholarship or what have you, they should know that this is available for them. Because already it's about ten miles from my district. And I can tell you transportation's going to be a problem. Those are my comments. Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Hmm, let's see what else I can ask for with my \$100,000 contribution. Actually, I'm fine with making that small contribution. I think it's reasonable for a citywide project of this magnitude. I think that you

are never going to get everyone to like soccer. But I think it would be a challenge for me, as opposed to a challenge for myself, to convert some of those non-soccer fans into soccer fans and go ahead and use the four fields that we're going to be constructing in the near future. I just wanted to echo my thanks to staff really for your leadership and your hard work and the ability to transform something that is so complex into somewhat a simplified proposal with the supplemental memo I was able to understand more clearly about the financial deal, or financial especially aspect of this proposal so thank you very much. We can all agree that soccer is definitely one of those mainstream sports that is enjoyed by all age groups regardless of ethnicities. I know it's really big in the Vietnamese American community and they are not all that enthusiastic about some of the other sports like baseball or football although they do bet a lot on football but we're not going to talk about that today. I also wanted to thank San José earthquakes for your outreach to again the Vietnamese American community. I know you have a partnership with the Vietnamese heritage society to really try to engage more Vietnamese Americans. They represent about 10% of our city's population, and this is a sport that's really important to them so thank you for that. And I just wanted to also talk a little bit about the -- exploring the possibility of asking or having this dialogue with the San José earthquakes for this week rather than tickets. Obviously I think everyone at some point in their life can afford a ticket to attend a San José earthquakes game but probably not everyone would have an opportunity to sit in a suite. So you know, if we can explore that opportunity. This is not an imposition, this is just an exploration. I don't think it would hurt us anyway to have that dialogue or conversation with the San José earthquakes for providing a suite for some really outstanding volunteers in our city. And if that's not something that's acceptable that's fine. It is a private deal. We are not going to demand that this should happen but I don't think there's any harm in making that exploration so thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. First of all, I want to thank Councilmember Campos for your comment and being given equal access is very important. I know there's some soccer league in my district that pretty much folded because they cannot afford paying the fee. So a quick question, when we were talking about the fees, the full fees. Do we have nonresident surcharge or do we give San José residents a discount?

>> Matt Cano: Yes, councilmember we do charge nonresidents more than we charge San José residents.

>> Councilmember Chu: Good, thank you. And a quick question. What's our projected gross revenue?

>> Matt Cano: Our projected gross revenue from the facility for year 1 is \$1.14 million.

>> Councilmember Chu: 1.14 million. And then there is a -- I notice that we have -- on top of the base maintenance fee there is a performance increase that would be starting the year after the construction. With four different levels of increases, 25%, 50%, up to 100%.

>> Matt Cano: Correct, councilmember. This is a -- because we are building this facility with bond financing because of IRS regulations associated bond financing we need to use a qualified management agreement. And under the rules of that qualified management agreement, what we're allowed to do is pay the operator a fixed fee. And so that's what we're proposing as the \$333,000 fixed fee. And in addition we are allowed to pay the operator an additional incentive fee on top of that fixed fee but it cannot -- the most the operator can be paid no matter how much they generate is twice the fixed fee. So they can make a maximum of twice the fixed fee, or \$664,000.

>> Councilmember Chu: Got it. I'm just wondering if you got a formula all mapped out. I mean if the first year the performance only up to 24.9%, then they will not be getting the additional maintenance fee?

>> Matt Cano: Correct.

>> Councilmember Chu: All right.

>> Matt Cano: It is an incentive based fee. So the only way we would pay the earthquakes the additional -- in order to get the maximum incentive fee of 666, they would actually need to generate another \$1 million for the

city. And so we would only be paying the incentive fee if we were actually generating much more additional revenue for the City's General Fund.

>> Councilmember Chu: Okay, I just didn't see the whole, like the formula map out in the memo but you had it somewhere.

>> Matt Cano: It's on page -- it is on the text on page 6 of item 5.3. It's written in text, though, and not in a table format.

>> Councilmember Chu: Separate level for the performance increase. Yeah, I got that. For example, project revenue, okay, right, thank you.

>> Vice Mayor Nguyen: Councilmember Herrera.

>> Councilmember Herrera: Thank you. I guess there's not too much left to say after all the questions. I do appreciate all of the inquiry from my colleagues. I want to thank staff. I think this project is a good one. And for all the reasons mentioned. I also think that concerns about making sure that what we're building here is an amenity that's providing for the community that's providing for the city works in all those ways I think is also important. And I am a little bit concerned about the 100,000 from each district in terms of it being a precedent. Have we done -- is this something we've done before, can staff elaborate on that a little bit?

>> Matt Cano: I know we've done it when a citywide facility is near a council district boundary. I'm not aware of where we've done it to this extent in the past.

>> Councilmember Herrera: So that's what does concern me a little bit. Because I don't -- I don't think it's something that we should -- it should become something we do often. I think that the moneys that are aggregated in these districts, it's not for a councilmember's benefit. It's for those areas and those constituencies and those folks that live in those areas. And I think that's a very serious concern. It is for me. I think it's compelling. There's

been a very compelling case made that this is a good way to finance. But I would like to have at least contemplated, and I understand it's better to have General Fund moneys at the end of this because you have more flexibility instead of C&C money. So I get why you want to end up with General Fund money as opposed to repaying there to the districts. But even with that said, I would like something suggestion made, that we come back and look at and I'm not trying to tie anybody's hands but the money circulate at some point flow back into these C&C funds at some point in the future, if that's possible. I don't know what sort of language would be acceptable to the maker of the motion, but I just want it to be clear here that this is an extraordinary case and not something that we're going to do on a regular basis. Because I think it is really serious, and I think all the concerns that have been raised are because we have to be concerned about how scarce resources are allocated. That's our job. And one of the main important functions, making sure that everyone has that, and that is equity, we need to be concerned about that. I just want to know is there any way we can have some sense of that in this motion?

>> Julie Edmonds-Mares: Councilmember, I believe the friendly amendment was to explore any reserve funds that were left over in the bond once both soccer and softball have been accomplished and to determine if there was an additional amount of finding that could replenish the \$100,000 per council district. But it would be bond funding and therefore it would be subject to those constraints.

>> Councilmember Herrera: Okay so it wouldn't be general fund money then at that point?

>> Julie Edmonds-Mares: It could be used on any General Fund projects in the district.

>> Councilmember Herrera: I guess we've been going on so long I missed that point. My concern is it's already in there, right? It is, I guess Sam wanted to comment.

>> Councilmember Liccardo: It is. My condition of course I don't know that we have any idea if or whether there's going to be any measure P money when we're done with the softball complex. I think we also know that's going to

be a heavy lift. So I don't think we should set any expectations on this dais that there's going to be a lot of measure P money left.

>> Councilmember Herrera: It's much the intention for me than actually getting it back. It should be noted this is not the usual course of business here. And we're making a -- we're going in a different direction than we have in the past and it's serious and I think that we should not be you know because it's such an extraordinary benefit I'm willing to do that. We're asking for this money to come from folks outside the community. I do want to make sure that even though we are talking about a private facility and I certainly support the earthquakes and everything they're doing here and the investment they're making and the investment the City's making and all of that, I want to make sure that our community you know is encouraged to use this facility in that scholarships we're providing are going to be -- that we're going to make sure that citywide there's going to be access to that. It's funny Councilmember Campos said transportation, I'm thinking that too, we don't provide transportation, how are we going to be sure that kids can get there from different places in our community? So I'm definitely -- I am definitely supporting it. I also think that even though it is not in the motion, I hope the he earthquakes will take a loot at the box that was discussed and if there is an ability to exchange tickets for box or whatever that doesn't violate this agreement or inhibit the financing or anything like that, that they will in their -- you know show that goodwill to at least explore it even though it's not in this motion. I hope that they will. So anyway I think it's a great project. I want to thank the earthquakes too for the work they've done in district 8, working with Lava school and working with the community there to bring earthquake, you know, involvement you know with the soccer program there. And the academy that you talked about in Danville, I've actually been to that academy because I had a nephew that came up from the state of Washington who wants to be a professional soccer player, although I haven't been very involved in soccer, I was so impressed with the parents. Some of whom had driven from the Central Valley and beyond to make sure their kids had the opportunity to be able to be part of that team. These were not people of great means. They really wanted to make sure their kids had the opportunity. They drove for hours and hours and staying out in whatever kind of weather making sure their kids had that opportunity. That whole facility is going to be in San José, that's what contemplated so that's very exciting. So with those comments I support this.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Even though Kansen here has been begging me to talk for 45 minutes, that's what he's going to say over and over, I'm not going to do it. I think everything has been pretty much said. I'll just disclose that I met with -- who did I meet with? A lot of people, Ed Storm Jim Kineen, earthquake guys a couple of times. I'm really supportive. I think it's a good measure for each of us to be contributing from our C&C funds. I know we don't have a lot of them but this is the first world class sports facility we'll have in our community, we're moving in the right direction, I've said enough, let's vote.

>> Mayor Reed: Councilmember Pyle. Okay. All right. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Based upon some of the discussion I'd like a question for the City Attorney. As opposed to a friendly amendment can I request an amendment to be voted on, up or down?

>> City Attorney Doyle: Yes. You can ask that there be an amendment, instead of a -- we frequently call it a substitute motion, but just say propose an amendment. If there's a second to the amendment then you vote just on the amendment.

>> Councilmember Rocha: But a substitute motion encompasses the whole entire motion, an amendment would just be an amendment to the existing motion.

>> City Attorney Doyle: Right, just propose an amendment.

>> Councilmember Rocha: I'd like to propose an amendment that we -- staff explore the conversation with the earthquakes to include maybe a suite, not in addition to not in lieu of but at least an opportunity to have that discussion and see where it goes as part of the motion. So --

>> Second.

>> Mayor Reed: All right so I have a motion on the floor to amend the maybe motion to add the exploration, just outlined by Councilmember Rocha. On the motion to amend any further discussion on that? Councilmember Liccardo. Councilmember Oliverio.

>> Councilmember Oliverio: Well since they're in the room if you could step down for a moment and explain to us ton economics of sports when you sell tickets and fund raise, advertising et cetera and you're deciding to give something away to the community for free what is the economic choice you have between suites and regular seats?

>> Yeah, councilmember, I appreciate that. I mean I think the challenge is that we have a completely privately financed facility. And so all the revenue that we generate from ticket sales, suites, club seats sponsorship is being used to basically lift the private financing. So there are challenges with that. But I think there are creative ways to work through it. I think partnering with some of the corporate partners who have actually already purchased the suites and our club area that has some more flexibility, in terms of there's an additional 576 seats, there might be a way to include an opportunity for these underprivileged folks and whoa people who maybe just couldn't afford a club or a suite or things like that to have an opportunity to sit in it. We would just need to have a lot of discretion and control over it so it's not like you know imposed on our ability to or basically impedes our ability to generate revenue and be successful. So we would need discretion. I would be open to a conversation about it. I think there is a way to make it work but I think both sides need to work collaboratively and we've done that so I'm optimistic there would be a way to do that.

>> Councilmember Oliverio: So if I may paraphrase, you're open to the conversation but certainly an imposition of this requirement would not go well for you, but you're open for dialogue.

>> Yes.

>> Councilmember Oliverio: And I believe the amendment is purely a dialogue and no imposition.

>> Councilmember Rocha: Third or fourth time, explore. Impose has never been a word I've used today. Since we imposed on our employees I think is the last time I used the word impose.

>> Councilmember Oliverio: Thank you.

>> You're welcome.

>> Mayor Reed: The amendment can we vote on the amendment now? On the amendment all in favor? Opposed? We have one opposed that would be Councilmember Constant. So the motion is amended. By amendment. Now we're back to the main motion, made by Councilmember Liccardo. Councilmember Liccardo do you want to speak to that one again?

>> Councilmember Liccardo: No. I -- no.

>> Mayor Reed: No? Okay. No means no. Councilmember Oliverio.

>> Councilmember Oliverio: Mayor, after two hours, nearly two hours I'd like to call the question.

>> Mayor Reed: Well, I have no more requests to speak. So I mean more requests to speak so I'm not going to vote on calling the question. I'm just going to ask for the vote. So on the motion, as amended by a friendly amendment and by a vote amendment, all in favor, opposed, none opposed, motion is approved. So good luck, staff. Thank you, earthquakes. Looking forward to seeing everything in operation out there 2014, right? Stadium, practice field, four city fields, yes, all by 2014. Good. Our next item is to return back to the joint meeting of the city-Diridon development authority agenda item to finish the work related to the property business improvement district. First question is whether or not the City Clerk's finished the tabulation of the ballots.

>> Dennis Hawkins: I am ready, Mr. Mayor.

>> Mayor Reed: Okay, let me just see if there's any public testimony before we -- to move ahead, I know I'd asked earlier but I do think we have a couple of people that want to speak. Scott Knies.

>> Can I wait for the results?

>> Mayor Reed: You can wait for the results. Anybody else want to speak before the results? Mr. Clerk.

>> Dennis Hawkins: Mr. Mayor, I have the results of the property owner ballots for the Downtown San José property and business improvement district. The results are property owners which votes totaling \$1,431,834.75 assessed valuation, representing 91.4% of the ballots cast support the renewal of the expansion of the Downtown San José property and business improvement district and the levy of annual assets. Property owners with votes totaling 134,754.49 which represents 8.6% of ballots cast oppose the renewal and expansion of the Downtown San José property and business improvement district and the levy of annual assessments. Ballots submitted by property owners in the Downtown San José property and business improvement district in support of the levy of assessments exceeds the ballots submitted in opposition to the levy of assessments, the city council may proceed to vote on imposition of assessment.

>> Mayor Reed: Want to speak Scott Knies? I'll take some public testimony after record of the City Clerk.

>> Good morning, mayor, members of the city council, Scott Knies, executive director, San José downtown association. It is really an honor for the association to manage the ground works program, and to staff the property owners association. You've heard the clerk's reaffirmation of the property owners wanting to continue to tax themselves. To keep providing the services in the downtown, to keep downtown clean, safe and beautiful. I think it's another show that the business community in San José, when they have the value and the collaboration with the city, and the services that they're willing to go out of their way overwhelmingly to provide money for enhanced services. And I wanted to say, this is truly a collaboration with the city. You have two representatives, Jim Ortbal from the Department of Transportation and Richard Keit from the Redevelopment Agency sit on the

board of the property owners association. And Tom Borden from the Department of Public Works did a tremendous amount of work with us on the assessments. The office of economic development is working with us on some of our expansion activities with business recruitment that we want to do with the renewal, as well as the Chief of Police, and the department of planning. So we look forward to providing ten more years of service to the City of San José, and I can assure you that we don't take it for granted. We not only will meet, we will exceed the management plan. We look forward to coming back to you each year with our annual report.

>> Mayor Reed: That concludes the public testimony. We still have one action item. E on the agenda.

>> Councilmember Liccardo: Mayor may I just speak briefly?

>> Mayor Reed: Certainly. Let me just explain where we are. We still need a motion to approve the resolution which approves the P bid management plan, the engineer's report and then imposing the respective assessments. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I'd like to thank Scott Knies for his leadership of the downtown association not once now but twice he has led an effort to engage the members of his association and the private property owners to tax themselves essentially to pay for a whole host of services the city, in better days, might be capable of providing, and maybe even in better days we wouldn't be providing the level of service because of the intensity of services that are provided. Now they're expanding obviously hiring police officers and essentially hiring the equivalent of planning staff to help businesses. This has been a great assistance to our city and our vision for the downtown. I just want to thank Scott for his leadership for doing it in very difficult times. With that I'd like to make a motion to approve.

>> Mayor Reed: All right we have a motion to approve the resolution doing all the things we just described. I'd just like to thank the downtown association. I started working with the downtown association a long time ago in the '80s and this P bid is an outgrowth of the work originally done by a few small business owners it has certainly grown and I want to express my appreciation for the work the Groundworks people do. I see them almost every

day. They're always working, they're always doing a great job and the downtown looks better, many, many people have told me as they come in from out of town it's noticeable and this wouldn't have been approved by the kind of vote we just had if it wasn't noticeable by the people who are paying for it. So we have a program that we can demonstrate works and people are willing to pay for it because they're getting great value out of it and so thanks to the downtown association and the P bid board, whatever it's called. I'm sure it has an official name but they've done a great job of managing this. Councilmember Herrera.

>> Councilmember Herrera: I also just wanted to thank Scott Knies downtown association Councilmember Liccardo for his efforts in leadership on this and what a tremendous difference you've made in downtown. All this effort. I mean many more people now talk about downtown want to go downtown because of just exactly the efforts you guys have put into really making it welcoming and clean and I really support you and am grateful for the vote today, thank you.

>> Mayor Reed: On the resolution. I have a motion approving the resolution. All in favor? Opposed? None opposed, that's approved. I think that concludes the work for the joint city council, Diridon development authority agenda. As we'd already taken care of the other items. I think that's the last item of business on this afternoon's agenda. We have of course the evening agenda starting at 7 o'clock at this time. I'm going to have open forum again at the end of the meeting for people who didn't railroad speak on open forum. Judy bender. Sergio Larson. Norm Larson.

>> I'm Norm Larson. Thank you for taking the time to listen to me, mayor and council. About a year ago I gave documented information about things that were not right at Southside in general and incidents of decision making at the advisory council in particular. Nothing was really accomplished because just about every answer from the city councilman Kalra and the parks and rec was that the advisory council is its own independent organization responsible for its own rules, regulations, and city officials are not to interfere with its operation except if it violates the law or city policy. And I have some examples here but I'm going to skip had a. Things have not really changed. Recently, the center supervisor, Jeanette Meyer has gone the following with regard to the advisory council. One she has quoted in the advisory council minutes of May that and in the current flier which is asking for

officers of the council, that they have to be members. Whereas, the bylaws and the known city policy is that members or participants are eligible, so that's number 1. Number 2 at the June 13th advisory council meeting, a person by the name of Patty was elected president by white ballot. She was the only person running. The next day Jeanette Meyer met with Patty, convinced her that she would be overburden, needing a car for transportation, attending many meetings, et cetera, et cetera, sought and obtained a written resignation letter from her. And on Friday June 15th Jeanette told Judy Bender not to come to the advisory board sponsored ice cream social and if she did show up she wouldn't be served any ice cream, and there's a table of witnesses to that. My question is why is Jeanette interfering with council run ice cream socials and speaking to a duly elected advisory council president with the intent of having her resign? Isn't this called interference? Something's wrong at Southside and I think it begins with the council supervisor, Jeanette Meyer. So that's all I have to say. The policy was, they're independent, they can do what they want. So when something comes up they won't act.

>> Mayor Reed: Sorry, your time is up. Judy Bender. Sara Jo Larson, David Wall.

>> First of all I'm jealous because everybody else gets to talk longer than we do. I think we as citizens need more time. But what I'm here today is this food problem, I rose today, where San José city staff doesn't pay for the food that they take from the lunch room that Bateman provides. There always seems to be an abandonment at Southside. I resent that because if they don't have to pay the \$5, staff, the seniors shouldn't have to pay the \$2.50. I understand that Bateman said they could feed city staff. City staff was there today taking food and they didn't put their money in the box. The seniors put their money in and I'll be damned if the city staff shouldn't pay too. We don't provide the free lunches for everybody in this city and when people make that kind of salary they should pay for their \$5 lunch. Also I'm doing okay. And I got to thank the mayor's staff and Ms. Figone. City Manager and Rick Doyle. Some of these things were set in place years ago, and these people should know what they are if they are going to hire on to work for the city or work for Bateman. The food -- oh I was going to tell enthuse before I started. Two weeks ago we had imitation crab. You couldn't eat it. The senior sitting next to me was a World War II veteran with George Patton. I said why are you eating that? It's terrible. I can't eat it, and I can just about eat anything. I worked in the kitchen at Southside. He said, Judy, I'm hungry, that's his -- these seniors reasons for this food is they're hungry and that's it and this is terrible. I took that imitation crab home to my

cat. The next day I get up the cat didn't touch it. The raccoon didn't touch it. Now they want me to eat that? Mr. Mayor --

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

>> Mr. Mayor you got to do something.

>> Mayor Reed: Sorry, your time is up. Sergio Larson is our next speaker and then David Wall.

>> Mr. Mayor, councilmen I thank you for listening. We've had a problem at Southside for so -- quite a bit of time. We've had a ceramic class, our class for 15 years. We've had a teacher there who has a degree in ceramics. Who has volunteered for over two decades, almost two decades. And now, we've had a problem for two years with our kiln. The head of the center will not get somebody in there to fix it. She's had to guess what temperature to do for every single firing. And now, at the end of our class we've been told we're losing the room we've had from the very beginning and being switched to a room that has no storage, and very little space for water, which we desperately need and I'd like to have an investigation as to why this is allowed to continue on, why we cannot get our kiln fixed. And we'd like it fixed before the season starts in August. And why the manager is allowed to change our room, without giving us a reason. Thank you.

>> Mayor Reed: David Wall is our last speaker.

>> I would like to ask why, if we have prudent decision makers that sit before me, how you permit the South Bay water recycling program to continue. It's a program that loses millions of dollars per year. It has exceeded its base funding, the sewer service and use charge, to such a degree that the city has been grossly embarrassed by this fact. The reclaimed water project is not even needed, because our flows are so low to the bay, you don't need the reclaimed water project at all. So it would be my opinion to just cancel the program until it is needed. That is, unless you can look the taxpayers in the face and say, we have a project that's losing millions of dollars per year. Will not be profitable. We've exceeded the scope and use of your trust via the sewer service and use charge

to such and extent that the City of Milpitas, the Cupertino sanitary district will not pay for any more expansion of this water utility. So how can you convince the taxpayers that you make good decisions, sound financial decisions, when you allow such an atrocity as this? Well, obviously you can't. You just also lost another deputy director of ESD. Now, that place is so poorly managed, I don't see how the City Manager can even hold her face up and look at you eye to eye. However I am a certified candidate for the director of that department so maybe I can fix things if the City Manager just doesn't get in my way. Anyway, thank you for a good meeting today. And I'd like to just leave in saying, those contract benefits, sick time and vacation time, they apply to the earthquake contracted employees, don't they? See ya.

>> Mayor Reed: That concludes the open forum. We're in recess until 7:00 p.m.

>> Good evening, I'd like to call the city council meeting to session.

>> We still have a few items on the evening agenda that we will start with some ceremonial items. So I'd like to begin by inviting archbishop mini high school men and women's basketball team to join me at the podium. So come on down.

>> Thank you, mayor. Yes, they're everywhere. We've got lots of them. Thanks for coming here tonight, everybody. So I'm not going to name every single person that's here. Oh, I hope not everyone up there heard that. So, tonight, we have the men's and women's basketball team. This is one of the many great schools that we have out in district one. And I want to always make sure that we take the time to recognize the accomplishments of our great teachers and students. While we have a lot of folks here today, the people who are going to be accepting the accommodations are Courtney Lizowski -- I probably didn't get that right -- and Neil Veranacar. They're both ones from the men's team and one is from the women's team. And then we have our head coach, Tim Kennedy and sue Phillips. Both teams have had just an incredible season. Both teams have worked their way up through all of the different levels of championships. And I'll read them off. They both won the exact same set of championships all the way up. So they both won the west catholic league championship. The WCAL, which is the west catholic athletic league playoff champions, the central coast section CCS division II champions, the California interscholastic division champions and the CIF state division II champions. The women's team had a great 28-5 season record ranked number one in CCS by the mercury news. Ranked number 16 in the nation by maxpreps.com and earned the ninth championship playing in Sacramento on March 24th. And this is the fifth time that archbishop high school won the championship. This is their second consecutive championship. They've successfully defended their state championship in Sacramento. That game was a double header that followed the women's game. We're proud that archbishop Mitty excels not only in academics but also athletics. As they bring these championships to San José, I wanted together with mayor and my colleagues on the council commend them and wish them luck in all of their future seasons as they continue to high light the strengths of our students here in San José. Mr. Mayor, if you can present the commendation. [ Applause ]And now we're going to hear briefly from Courtney. Courtney, you're first.

>> As a senior co-captain on the Mitty girl's basketball team, any opportunity to visit that night in March when we won the state championship is an opportunity to get goose bumps all over again. That, the boys and girls won on the same night, speaks to the sense of community and teamwork we learn at archbishop mitty high school. It was such a great pleasure to represent our school and it is an honor to be with you here tonight. Thank you very much. [ Applause ]

>> So just on behalf of the entire men's basketball program, thank you for being here tonight. I was asked to share a memory from the season. And, for me, it was locker room celebration after the state final game where everybody was celebrating and excited for winning two years in a row. That's kind of when the pride for the accomplishment kind of sunk in and kind of realized what happened and that's what I'm going to remember about this season. And once again, thanks for the recognition tonight. [ Applause ]

>> We're going to form it up for a photo. Before we do that, I know these -- we have some parents, friends and families here. Please stand up. Come on, stand up. Let's thank them. Thank you. [ Applause ]

>> Thank you all. Congratulations. [ Applause ]

>> For the next ceremony, I'd like to invite marcusRabello to join me at the podium.

>> San José RACE. These are amateur radio operators, but they play an important role during community emergencies. They help first responders in the field as well as the San José prepared program, in which we trained E emergency response teams from our neighborhoods. This is when disaster strikes, when phone lines aren't working, which is often, the men and women of races can provide well-prepared emergency response because they practice. And they do that a lot and I've been to some of their events. Each year, they simulate emergency conditions during their field day. They set up portable equipment, emergency power sources and contact similar operations throughout North America. These are volunteers. The volunteer members of San José races are ready to assist the community without any pay. So on behalf of the community, I want to express our appreciation and thank you and hope that we never have to use your services. But I'm sure we will.

>> San José races would like to thank you for your continued support for our all-volunteer organization. We're looking forward to our field day which is coming un. We're going to be testing and preparing for our capabilities to the event. Thank you very much. [ Applause ]

>> And I'd like to invite council member and Claude Fletcher who is here to join me at the podium. Tonight, we're going to commend Claude Fletcher in recognition to enriching the lives of students. Once upon time, a council member, among other things. Claude?

>> E and I have some other council members down here to support you.

>> I might get carried away because I'm so excited about the opportunity to honor Claude Fletcher, a former council member, as the mayor said. And, really, someone that's been such a treasure to San José in so many different ways. I have the honor today, as he steps down in his role as chancellor of the valley Christian school. If you don't know the background, Claude has really done so much. He's worked with fields of insurance, been with management, served on the board of directors, the local and state organizations from 1980 and 1984, served San José as a council member and, perhaps, as we commend the day, perhaps his greatest achievement is the impact he's had on thousands of students while serving the past 15 years as the chancellor of the valley Christian schools. Clause has enhanced valley Christian's history and excellence. In his tradition, receiving numerous honors and awards, including the blue ribbon award, valley Christian has won multiple awards at the 2012 science fair. I've had a chance to connect with the robotics team, of course, the athletic program is fantastic, the dismay of my former school, which I know valley Christian takes advantage. A lot of student ins the area, that's okay, we'll let you pass on that. But, really, you know, just as a friend and someone that really has led valley Christian in such an admirable manner, has helped in providing education to so many great, young citizens in our community. I just want to take this opportunity to thank Claude and to really honor him in a very small way compared to the manner in which he's honored us in his service. Mayor, if you could please present the commendation to Claude Fletcher. [ Applause ]

>> Thank you. You're very kind. Those are great words and I appreciate it. The only thing that would be better tonight is if this were Joe Guera and I were with his team. I only wish that our basketball team would have been the winners of the CCS title this year. We've had our share, of course. Joe, if you're still out there somewhere, congratulations. That was a great accomplishment for both of those teams tonight. Tonight, I thank you very much, mayor reed and all of the council members. It's been a delight and I'll be around. So thank you so much.

>>> Well, now I'll move on to the land use portion of the evening, the agenda, starting with 11.2, the northwest corner of the Kurtner avenue and union avenue.

>> Thank you, Mr. Mayor. This is a proposal for a redevelopment corner corner of a shopping center to deal with the circulation issues that exist in this area. The number of driveways on to the surrounding street. The relationship with a second drive through on the larger parcel, as well as the architecture itself that was worked with the larger center and the goal that is this city has. The applicant made major revisions to the project and evolved during the design review process and its staff is recommending approval to the project. I will note for the council's benefit in the communities that there was a letter that staff distributed to the council that answered some questions that came in late are related to the project mostly with the driveThrough policy and the council's policy is one that has some flexibility to it. Staff looked at the intent to the policy and the recommendation we made to support the second drive through in this site that is contained in the report we also looked at the traffic impacts. We looked at the potential for air quality impact and the district standards of significance and this project complies with those. We did look at the design of the surrounding streets to make sure that we were not creating problems in this area. In fact, with the build out of street improvements with this project, I will actually fill in some missing pieces of Curtner avenue that have never been built out. There was questions related to the amount of generation and how that is calculated and that is analyzed and described in the supplemental information that is provided to the council. This is not an unusual type of development in the city of San José or south bay. It is not a type of development that we have problems with in the city related to either traffic, noise, crime-type issues. It is a pretty normal development and one that staff did not see that there were significant environmental consequences or opportunities or problems with the neighborhood. So staff is recommending approval of the

proposed project. We do have an aerial photo that shows the configuration of the -- there we go. Of Curtner avenue. This is the part where we will be widening the existing right-of-way. If there are questions, we will be happy to answer. Or hurray, if you wanted to add anything about how we're thinking about this? So we're available for questions. It is one that is -- it is filling in the missing piece of the roadway in this part of western San José.

>>Okay. I'm sure we'll have some questions before we get started. I don't want to forget that we had meetings with John Denapoli and Keith Marco. I know you have a memo on this?

>> I'd like to hear from the community, first.

>> Okay. We do have some requests to speak on this. ? And since this is a land-use matter, we do it a little bit differently than our afternoon session items. So we'll have a presentation from the applicant and we'll give the applicant five minutes to make their best pitch. And they can save some of that time if they wish and then we'll take public testimony. So let's hear from the applicant first.

>> Good evening. Thank you, mayor and members of the council. My name is Pete Marco. John Dinapoli asked that I express his regrets that he could not be here this evening. He did have a previous commitment. He submitted a letter yesterday which I think pretty well summarizes why we feel we're here tonight and what it is we're trying to accomplish. So if I may, I'm going to paraphrase from that letter.

>> Your planning commission also gave us a near-unanimous endorsement. So we're asking for your support, as well. With your approval, we'd be able to continue investing in San José. We would create much-needed new jobs in the near term at this location. And we would eliminate some of the worst blight in this part of town. With regard to jobs, preserved about 75 jobs for the market and many of those were very, very long-term jobs by putting in the new space, we estimate in upwards of 50 new jobs created, as well. This is a small retail addition to the former Cosantino site. We're going to be improving access, parking, landscaping on the market site. And when we finish, the entire property will be redeveloped and upgraded with safe access, substantial landscaping

and a plaza adjacent to the new building. Utilities will be placed underground and this segment of Curtner will finally be improved. We will be improving with additional travel and parking lanes and improve sidewalks with street trees. The property is now anchored by the appearance and function of the neighborhood center we thought it was always intended to be. The new building designed by Ken Rodriguez and partners has been articulated to be three distinct buildings and has strong foresighted design and finishes. The drive through aisle has been screened with building projections, a landscape burro and a decorative wall. There is space for 15 vehicles, which is double the city standard. The last remaining unfinished portion, it reduces the number of driveways on both streets. Currently, there are five driveways on Union. That will be reduced to two. Those five driveways now have various angles and it's really a pretty confusing circulation pattern. With regard to Curtner, kind of a no-man's land, it's basically unfettered access if the improvements aren't there.

>> I would note that each parcel will have its own parking code. After two community meetings, there was a great deal of public participation. It's clear to us that some people support this project and others may not. The most common issues we heard revolve around safety and access. I think Joe has addressed those. And we agreed that supplemental information was prepared to address them sufficiently. So in closing, we ask for your support. We thank you for your time this everybody.

>> Okay, we have a minute left if you want to do something after the public testimony, which we will take at this time. So, please, come on down when I call your name. Ken Kelly, Donna Rubin and Steve Rubin.

>> Council members, mayor, thank you very much for having us here tonight. My name is Ken Kelly. I'm President of the Winchester WIZ Association. I'm sure you are aware that this project is not on Winchester Boulevard. But we do support business throughout the city of San José and the Winchester Business Association promotes projects that will provide income for the city of San José. I live very close to this project. As a resident, I'm happy to see someone has come forward to take a very blighted and poor-looking piece of property and turn it into something that can be very admirable to the neighborhood. While there is lots of work to be done on the project to make it amenable to the rest of the neighborhood, I strongly support this project. Thank you very much.

>> Donna Rubin and then Steve Rubin and Ron Bredgeer.

>> Good evening, I'm Donna Rubin. I live on the corner of Baskener and Curtner. I am in favor of in project. I've lived there for 14 years. And that particular area has always looked really bad. And the traffic getting in and out off of union has always been very dangerous. So any improvement that will clean up that area, actually make it two lanes going through that intersection of -- on Curtner avenue between union and Baskin would be a great improvement. So we did question him about the size and so forth of how being, you know, a restaurant on the corner, they answered all of our questions very effectively. And I'm here just to say that I see no problems what so ever with it and hope you approve it. Thank you for your type. .

>> Steve Rubin, Ron badger, Morris Peterson.

>> Hi, my name is Steve Rubin. I am one of the founders of the catholic club and a resident this as my wife just said. It was nice when they moved in and when the center was sold, they basically did a great job of remodelling the store and they're continuing revolving it and making it belter. And now the Dinapoli company is coming in and is going to take this corner of the lot and making it much nicer looking, much more effective and convenient. The flow of the traffic will be better. I don't see any risk to it. I see only reward to it. One final thing I will say, since it's improved, I imagine the tax base will also be increased which will be a good thing for the city.

>> Council, thank you. I represent 2117. I live right next door to the proposed zoning change. I think that's going to clean up a pretty blighted area there on that corner. So we don't see any reason -- anything that's going to impact us heavily. So we're in support of the project. Thank you.

>> Good evening, Mr. Mayor and council members. I certainly, and my neighbors, see a different situation with this development. I definitely urge you not to pass the resolution to change the zoning on the corner to allow a fast food drive restaurant. I would like to see something nice there. But a fast food drive through would not fit the bill.

>>> First of all, which was already mentioned, is there's a policy that you should not have two drive throughs within 500 feet of each other. It's your policy. And, yet, people say oh, it's okay, we can do it this time. I disagree with that. My neighbors disagree with that. The traffic study for this project does not accurately portray the number of new cars that this project will generate. This is based on the transportation manual for shopping centers. The report, in my opinion, should have used formula 934 for fast food restaurants. If they had used this one, I think it would have generated a more realistic number of new cars. According to the requirement, the development that generates over 50 new trips requires a traffic impact analysis. A traffic report based on a real investigation to the site and not just a formula would reveal traffic problems and accidents on union avenue between this shopping center and the shopping centers across the street. And I do want to mention what was said earlier about closing driveways. Yes, there are five drive ways going to the shopping center on union now. Two of them go into a very, very small business. It's a --

>> I'm sorry, your time is up. Our next speaker is Chris johnny and Angela oTT.

>> Distinguished mayor and members. There are several kinds of truth depending on one's perspective. In your capacity, you serve against choices for communities. Whoever has read the initial report has seen the inaccuracies, the incongruencies, suppositions and out right noncompliances to the city's own guideline success end that's supposed to set standards through drive through restaurants. I have e-mailed each of you a few weeks ago. I hope you're able to have a chance to review them. You have the opportunity to keep safe the current zoning that was designed to be in harmony with the neighborhood of our size and prevent a wound to our community that would never heal. We have the assurances that everything will be okay. But let's be honest. McDonalds is big money and none of them live in our neighborhoods. Are we to accept constant urbanization and homogenizations of our neighborhoods? If someone needs a McDonalds, let them drive five minutes in one direction or seven minutes in the other direction. Please keep us safe. Thank you.

>> Angela OtT?

>> Thank you. My name is Angela Ott. I live about 450 feet, maybe, from that corner. I'm very excited and definitely in favor of this retail development proposed as it would clean up that eyesore of a corner which I can actually see from my house. Removing the billboards, undergrounding the utilities, which will enable the widening of Curtner between Union and Baskin. I think that's going to go a long way in reducing any additional traffic that might be caused. And I'm also in favor of the drive through McDonalds because I believe it will keep the newly improved parking lot from being crowded with patrons. You know, if the drive through wasn't there, they'd have to park and get out of all of their cars. They'll have three streets to go out on, which is a plus, as much drive throughs, as I've seen, usually only have one, maybe two streets as a choice, to leave once you've gotten your food. I urge the council to approve this. Thank you very much for your time.

>> That concludes the public testimony. Did the applicant want to use the one minute leftover? We'll let you do that now.

>> Thank you. No further comments. We're here for questions if you have any.

>> Okay. Thank you.

>>> Any staff member want to add to the presentation? At this time? Okay, come forward.

>> Thank you, mayor. I want to thank the community for coming out and speaking on this. I want to thank the folk that is attended both community meetings and the staff. If you wouldn't mind showing the aerial? I had asked staff to do a little work and show me what the public improvements would look like, privately financed, of course, here on this intersection in terms of what it would look like after it's done. If you wouldn't mind, Perry, talking a little bit about changes that are going to happen here. I did have a chance to sit down with staff one time.

>> The site, just to give it some context from a transportation point, the site is currently served by two arterial streets and one major collector on the city's transportation diagram. So if you really look at it contextually, it's well served from a transportation standpoint. Baskin Avenue is fully improved, that means it has curb cut sidewalks.

Curtner is marginally improved. It just has the pavement. No sidewalk, no curb and gutter gutter on the front end of the development. It's along its entire frontage, including the installation of street trees, street lighting. In addition, they'll be undergrounding the utilities on that street. I have a google earth image. It's not a very attractive frontage right now. So it's going to be a significant clean-up. In addition, the circulation in the site is very confusing right now. And partially, because I's very parcelized. There's about 4 -- I believe there's four parcels in play here. I believe maybe Dinapoli and combining it with this new anchor on the corner. So the elimination of all of those driveways is going to greatly improve the logical circulation of vehicles and is going to improve safety 234 this area. There have been accidents out here. There's nothing that's really out of the ordinary, but it will definitely improve the safety in this area for both pedestrians and vehicles with these improvements. I think that mostly covers the improvements. From a visual standpoint, I wanted to point out that there's two billboards being removed from the site.

>> Can you talk about the pedestrian improvements which aren't on the front of the property which were somewhat new to me when we first talked about it?

>> Well, the traffic report has three recommendations regarding pedestrian improvements. They're mostly internal to the site. Right now, on Curtner, there's one parcel -- let me see if I can give you a better diagram here. You're referring to the pedestrian improvement on Curtner?

>> Yes.

>> Right now, as you can see, in the upper, left part of that diagram, where it says not a part, that parcel is not owned by this applicant. And I think the owner or representative spoke to you earlier. We're going to vary improvements all the way beyond, actually, the property line on Curtner. There is curb and gutter across that "not a part" piece. And we are going to work with transportation to try to get some additional pedestrian improvements across that piece of land.

>> Okay.

>> Generally, the pedestrian improvements, the quality out here is going to be a radical change for the good.

>> Thank you. And I think the other piece that you were talking about is at the -- would be the southeast corner of Curtner and Baskin. There's a large radius, kind of like a freeway off ramp that moves in front of the little gas station quick mark market that we are looking at pushing that curb line out so that it tightens it up and would slow traffic coming around that corner, which would make it safer for pedestrians by shortening the distance as well as slowing down the speed of cars taking a turn so pedestrians would be able to be seen before cars came around that corner.

>> Thanks. My experience of this project is that I share a lot of the same concerns that the community have. I live not far from this, as well. My first choice is not a fast food restaurant nor a drive through. But I'm trying to remind myself that this isn't a tenant-based decision. This is a land-use decision. For that, all of the decisions that we've talked about is good for me and improvements with weighing the pros and cons, that's the big part of the reason while I'm willing to support this project. After staff working through the applicant, there are some improvements. Joe, if you can speak to any of the changes that were made from the first time the applicant came through until now. I believe we should at least recognize it. Rather than just a simple canopy, physical building so that it actually makes the building look like it's closer to the street in several places. We've done that and several other projects for drive throughs around the city. We also worked on really making the buildings look like three separate buildings. To really emphasize that, we've pushed harder with that. We've made it a little less standard corporate architecture so that the design of the canopy on the union side of the building has a different configuration. We've also worked on the front side so where the patio is, it actually opened out into the plaza rather than being solely insulated into the building itself.

>> Okay, thank you. Thank you.

>> When I first sat down, I, of course, my knee jerk reaction was nice. Given the financing and that this is a commercial project, the commercial project of this small size, just over 9,000 square feet without a major tenant to

lock in the financing was difficult. I came to a realization that they needed to have this tenant in order to move forward on the project. So that's where I finally got to it again that this is a matter of weighing the pros and the cons. With that, I'd like to approve the planning commission's recommendation to approve as recommended by staff.

>> All right. We have a motion to approve.

>> Thank you, I just wanted to disclose that I met with Pete Larco and John Dinapoli and a couple different residents on this. And I just wanted to say I'm in support of it.

>> Thank you, councilman, for reminding me, I, too, met with the applicants.

>> I believe I met with both of those gentlemen, as well. And I support the motion. I don't think there's been another situation where I've supported a drive through for a fast food restaurant. But I think this is a very unique situation. This is inevitably an auto-oriented site. I really agree with Don that fundamentally, the blighted parcels - I drive by this site on my bicycle every week and I recognize that the value in undergrounding utilities and installing curbs and gutters, I think this is going to be a great improvement. . And I appreciate the concerns that the community has expressed about traffic impacts. I appreciate that this is a community and the buy down issue. And I'm sorry for that. But I hope that as this development unfolds that everyone will appreciate that there is at net a real benefit here. Inevitably, these parcels were going to get redeveloped and there would be more traffic in this neighborhood as a result because these are commercial parcels and they should have commercial usage. I think this is a positive step forward in this area and I look forward running by on my bicycle and seeing a much better-looking corner over there.

>> Customer?

>> Thank you, mayor. Joe, was the plan that was brought to you inclusive of the drive through?

>> That's correct. It did start with the drive through.

>> So I imagine at some point, maybe early in the discussions, I'll be clear to that within a certain number of feet of the drive through that it would require a much more exhaustive planning process to allow for it and even with that, you know, they stopped the drive through because I imagine finances?

>> That is correct. When staff first saw the proposal, we did raise the concern about the proximity of the drive throughs. We went back and pulled the drive through policy and looked at the project and told the applicant it was a deviation from the policy. It was one that we thought if they met the intent of the project, we thought that staff could ultimately support.

>> The Wendy's exits where?

>> Onto Baskin avenue. That's part of why staff supported this. They essentially go in two different directions.

>> So the entrance, based upon the drawings here, it looks like the entrance is on the Curtner side?

>> The entrance for the McDonalds would be from the Curtner side of the site exiting towards union avenue. And then the Wendy's drive through enters toward union avenue.

>> And now it's part of the -- it seems like basically, it's part of the intent of the distance requirement was met?

>> Correct. And the policy was designed so that you did not have drive throughs adjacent so that they were all entering and exiting off of the same street.

>> So currently, the policy is simply 500 feet with the actual business establishment?

>> Right. The policy just talks about 500 separation. But if intent underneath it, as it talks about congestion and those types of issues, that staff looked as we felt it met the intent of the policy.

>> I agree with the comments of Mr. Cline that this is really not the kind of planning principle, especially, you know, it's certainly not a pedestrian-friendly-type use. And I certainly appreciate the councilman because the reality is there's a lot of things that we'd like to have. But at the end of the day, there's got to be the private -- the private side has to work out and has to get financing and, you know, not every corner can have a center row. Everybody, as I mention that, as much as we'd like to see things, they have to have the financing to allow for it. Of course, you know, I certainly don't take any pleasure in making exceptions for another McDonalds in the community. But especially, as it was mentioned, during the meeting, issues regarding health issues and to add another drive through on top of that, this, of course, adds to pollution and exacerbates the health issues of not getting out of the car to get a bite to eat. But I certainly don't think these are the kinds of things that we should be encouraging. But I do understand the limitations of space and it appears to have been blighted for quite some time and this, at least in the short term, may not -- may be the only opportunity for it to be developed. Given the fact that it looks like it's the other portion that's being purchased and developed, they've kind of worked together. Why -- for the drive through component, we can make an exception. I'd like to get a full analysis of it. In this case, you know, this certainly could have worked without a drive through. It's just not what the intention of the applicant was. But as far as the squeezing into that odd triangular space, you know, obviously getting rid of the drive through, it still works there.

>> Clearly, you could put a 9,000 foot larger retail without a drive through. This really, as you heard the economics of the applicant, was trying to achieve.

>> Okay. I thank you.

>> That concludes the discussion. Do you have a motion? All in favor? Opposed? None opposed. The motion is approved. Concludes that item. We will move to item 11.3, which is rezoning for property of south side of barns lane.

>>> Before we get started, I just want to disclose my staff and I have met -- does staff have a presentation? No presentation. The applicant is here. You'll hear from the applicant first. I think that would be the applicant.

>> Good evening, mayor reed and members of the commission. I represent the property owner and applicants here. Are there any other public testimony cards?

>> I have no other requests to speak.

>> In that case, we would like to thank city staff for their positive recommendation and thank council member pile and Cathy Sutherland for facilitating communication with the neighbors and ask that you support the staff and planning commission recommendation. Thank you.

>> If there are no cards for the public, council member pile?

>> Thank you. I wanted to commend Eric and his group because he did an exceptional job of trying to accommodate every single possible thing they could in order to enhance the view of the neighbor's toward the hills. They didn't want to block out whatever view they had. They were working with a very irregularly-shaped lot and they took all of that into consideration. All of this has been going on in 18 months and will enhance the comfort of the neighbor. So I'm happy to hear that the neighbor is not here to protest because I think there's nothing else that could be done that could enhance that neighbor's situation. So with that, I would like to propose that we have the vote on the orange property, 113.

>> We have a motion to approve the recommendations. Further discussion on the motion? All in favor?

>> Aye.

>> Opposed?

>> Opposed. That's approved.

>> Mayor, may I also be recorded yes on the prior item? I stepped out for just a moment during the vote.

>> Certainly.

>> Clerk, did you get that? Okay.

>> 11.2. All right. 11.we're done. 11.4, the planning commission decision to permit the sale of alcohol here.

>> Thank you, Mr. Mayor, this is an appeal of the denial of the condition use permit by the planning commission, planning staff that recommended denial of the proposed use permit at an existing Walgreen's store. It shows the existing licenses upon the shopping center already with another business. With the proposed Walgreens, it would be the fifth license. The analysis of staff and the concurrence of the planning commission that this neighborhood is not suffering from a lack of accessibility to beer and wine and are already for opportunities within walking distance of the store. We ask that the license not be approved.

>> I have no requests to speak on this. The applicant is -- I have no requests from the applicant. Let's see what that card is.

>> Thank you, mayor. Recommendation to deny the appeal. No cards from the public? All right. Opposed? None opposed. It's approved. I'm sorry, count one opposed. Anybody else? I missed the count? It's approved on a 10-1 vote. That is the last business item. We have open forum. If someone asks to speak, come on down.

>> Mayor, these are representatives of the neighborhood association who have come to talk about some of the great efforts in antigrffiti.

>> Okay. Two minutes each.

>> Thank you. Coyote creek neighborhoods association. The good neighbors of the beautiful neighborhood in the great City of San José are here tonight to present to the mayor of the city manager on the antigraffiti, a volunteer vest, which I'm dying. And one don't litter California trash bag including the volunteer form brochure handout regarding what our neighborhood volunteers support in the city of San José. There's a reason why the city of San José has the most beautiful city. Our world renowned task force program has been used for a model for cities around the world. It's currently almost 0% that we're taking the time to be the leaders in each district. More crime plus higher crime levels if left unabated. With the help of our council member, you should have already received your bag of goodies earlier this afternoon. We appreciate you taking the time to review your antilitter kit of our community within the city. The members look forward to you taking this role within our district. Let's enjoy the positive effects and have a great summer break. I hope to see all of you soon as our elected officials leading the way abating graffiti. Thank you.

>> I thought Sam wasn't sure if he could spend the whole summer in district three. But that's okay.

>> I would expect them to be sitting in your office, honestly. But that's okay. [ Laughter ]

>> Good etching, I'm a member of the coyote creek neighborhood association. I'm a volunteer for the PRNS adopted a park and trail for shady oaks park and regional trails. I'm also a CCNA volunteer for the antigraffiti and litter task force. I've learned if you like something and want it to stay looking nice, you take good care of it. That's one of the reasons I take care of shady oaks park Monday through Friday every week. People have learned it is a waste of their time to fake the park, shady oaks park bridge and bike trail. Their tags are cleaned up under 24 hours. Cleaning up the graffiti is quite easy with all the graffiti supplies. The antigraffiti removal works really fast and I love it. I'm also thankful for all of the paint I'm generously given to keep shady oaks park, picnic tables, benches and garbage cans looking nice. I have found the antigraffiti task force to be a very dedicated, hard-working group that is very caring and supportive. They are definitely a winning edge against graffiti. I did not have a smart phone to report the graffiti I see. So I have found another way to report it. I e-mail my pictures to

Lori Jones, supervisor of the antigraffiti task force volunteer program, the date it was taken and the location. I have also told her that it has all been cleaned up. This seems to work really well. A neighborhood has definitely benefitted from the supportive antigraffiti task force and is working together. The level of graffiti is way down compared to last year. We would like to say thank you.

>> Marie Williamson. Hi, I would like to thank the city of San José for the past neighborhoods for many years. Recently, I spent a Saturday morning over the 101 coyote creek bridge.

>> Since that time approximately 5 weeks ago, I've used it nine times for large graffiti clean up issues. In seven of those nine times, the graffiti was cleaned up within 12 hours and I received a text message that made me smile. The other two times took slightly longer with the same results. I've since taught other students and there has not been a single complaint. Thank you San José antigraffiti city boricers and contract personnel. A job well done.

>> That concludes the open forum. We're adjourned. And thank you, CCNA. We appreciate your volunteer service to our community. Speaking of a job well done, we appreciate it.