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>> Mayor Reed: Good afternoon. I'd like to call the San José city council meeting to order for February 23rd, 2010. Councilmember Kalra will introduce the invocator.

>> Councilmember Kalra: Thank you, mayor. Today I'm privileged to have with us today the Imam Aloy Bin Assidin. The Imam Assidin is from the Blossom Valley Muslim Community Center which is a nonprofit group founded by a group of Muslim families in the blossom valley area. They're a relatively new neighbor to the district 2 community. From the youngest to the oldettes members of the blossom valley community center community, their goal is to create a center where Islamic values of peace, mercy and forgiveness are not just taught but nurtured. Additionally the center organizes events to foster a sense of community between Muslims and the community at large. So Imam, please, thank you.

>> In the name of the law, the merciful the most gracious, in the holy Koran God says when my servants ask you, oh Mohammed, concerning me, I am indeed called to them. I answer the prayer of the supplicants when I call to me. So let them answer my call and believe in me in order that they be led arise. So with this invitation from God let us pray together. O lord, we thank you for all your blessings upon the City of San José. We recognize that every blessing is coming down from you. We thank you for your freedom, for the freedom, health and safety that you have bestowed upon us. We ask you to help us, to seek the common good of all. Grant us the ability to work together for a more just and virtuous community. We ask you to guide our city council this afternoon, and grant them wisdom, knowledge and enable them to conduct the affairs of our beloved city. We pray for your protection upon our homes, our schools, our places of worship, and we ask you to keep our care -- to keep your care upon us, amen. Thank you.

>> Mayor Reed: Thank you. Next we'll do the pledge of allegiance, and today we're happy to have some third graders from country lane school out of District 1 who will help us with the pledge of allegiance. Please stand. [pledge of allegiance]

>> Mayor Reed: Thank you, third graders from country lane school. [applause]

>> Mayor Reed: First item of business, the orders of the day. We need to make a couple of changes from the printed agenda. Item 2.3D the rules committee report for February 3rd and 2.3 E the neighborhood services committee report for February 11th need to be deferred for one week. Item 9.3, the staff response to council referral of February 8, 2010 regarding economic development incentives will be deferred for two weeks. Any other changes to the agenda order to discuss? No? Is there a motion?

>> Councilmember Constant: Motion to approve.

>> Mayor Reed: We do have a motion to approve. All in favor, opposed, none opposed, that's approved. Today's meeting will be adjourned in honor of Juanita Serrato Lopez who passed away on January 26th and Diana pena Lopez, who passed away on January 30th, both residents of San José. Our housing director, Leslye Krutko, will have some additional words.

>> Leslye Krutko: Thank you, mayor. Robert Lopez, who is an employee with the city's housing department, recently lost both his wife and his mother in a one-week period. Robert' with us today in the front row, surrounded by some of his family from the city. I want to give my condolences to Robert and his family. He has worked with us now for five years, and with the generosity of his family here in the city he's been able to take the past couple of months off to be with his wife and his mother during this difficult time. Juanita Serrato Lopez was 26 years old. She attended Yerba Buena high school and San José State university. Juanita and Robert were married in November of 2008, and they are both very passionate about all things Disney. Robert even proposed to her in front of sleeping beauty's castle in Disneyland. They, family and friends fondly have referred to her as their tinker bell. Diana Pena Lopez was born in San José. She lived most of her life here. She married her high school sweetheart and was married for 34 years. She worked for 30 years between the San José medical center and regional medical center and was known for her warm and caring and excited smile for everyone and was considered a person who held her family together. I know many people will miss them both, and just our thoughts are with Robert and his family and appreciate his strength in this difficult time getting him forward. He's a great person, and really wish him the best. Thank you.

>> Mayor Reed: Thank you, Leslye. Our next item is the closed session report. City Attorney.

>> City Attorney Doyle: Mr. Mayor the city council met in closed session pursuant to notice, there is no report.

>> Mayor Reed: We'll now take up some ceremonial items. I'll invite Councilmember Herrera and members of the Stormgears team to join us at the podium. Come on down and make a big half circle. Today we're commending the Stormgears team from Sheboya Middle School for their first place finish at the West Valley qualifying tournament for the Northern California Lego robotics tournament. Councilmember Herrera, big Legos fan, I think is going to tell us about this.

>> Councilmember Herrera: Thank you, mayor. I'm very excited today to acknowledge the efforts by Stormgears from Sheboya middle school together with Mayor Reed. And at this time I would like to introduce the Stormgears team and thank you very much for coming here today. The Sheboya middle school students from are Akash Klarik, Adikia Montoya, Amug Komaseti, Rahan Shanka, Rashan Narayan, Verag Karakia. Their coaches are Sundep Kedakaya, Sukisu Parik, and the mentors are Sirhan Narayan, and Anu Chaudhry, and Patty Montora. The Stormgears are one of the few robotic teams from Evergreen to make it to the Northern California Lego robotics championship competition which introduces younger students to real world engineering challenges by building Lego based robots to complete tasks on a thematic playing surface. They won the first-place trophy for their project, shuttle on demand at the regional West valley qualifying tournament for the Northern California Lego robotics. The shuttle on demand project offers a unique solution to help the Evergreen community fix vehicle pollution, congestion and chief efficiency in public transportation. So I wanted to explain a little bit about what they did. There's three parts of their presentation as they explained to me. The robot which they belt and they had to have this robot perform for two and a half minutes to achieve certain requirements, their presentation which was shuttle on demand and then programming and teamwork, so the public -- the shuttle on demand which I thought was really interesting, suggests the technology a new kind of technology moving away from fixed routes in transportation and using more flexible demand driven schedules. And this of course would address some of the tough problems we're facing in Evergreen with traffic congestion. These students are working on some of our most tough public challenges. They are the future visionaries and innovators of Silicon Valley, our future CEOs, our future engineers. Let's give them a hand. [applause]

>> Councilmember Herrera: I want to congratulate everyone involved in this remarkable achievement, thanks to the students, the parents, the coaches, the mentors, the city staff, Ben Tripousis from D.O.T, Christina Fernandez from the Mayor's Office for allowing them to come to City Hall and present their project, and Sheboya middle school's faculty and staff. I'm really proud for your commitment to improve Evergreen's transportation system and accomplishments at the Northern California Lego robotics. Congratulations again on this wonderful, wonderful accomplishment and now a few of the students are going to come up and briefly give a couple of remarks before we present the commendation.

>> We're delighted to be here, and to receive this award. None of this competition could have been possible without the help of the mayor and his staff. Which facilitated discussions with Mr. Ben Tripousis. Thank you.

>> We also met with Mr. Ben Tripousis here at City Hall who helped us promote a lot of ideas to promote and fund shuttle on demand. Thank you, Mr. Tripousis.

>> Our special thanks to Councilwoman Ms. Rose Herrera and her office and Ms. Andy Vasquez for taking the initiative to recommend us. Thank you.

>> Our sponsor, teacher, and our school principal, who helped us share our project with all the sixth graders at Sheboya middle school and helped us throughout this project, thank you, Mrs. Fleischer and Ms. Helma.

>> I'd also like to give a thanks you to our head coach, Mr. Hedakia, for spending sleepless nights helping us design our robot. I'd also like thank all the parents for motivating us through the whole competition. Thank you, moms and dads.

>> In closing, we are very proud of the team to accept this award. We have had -- we have done learned a great deal about teamwork and cherish the experience in years to come. Thank you. Thank you so much. [applause]

>> Councilmember Herrera: and now Mayor Reed will present the commendation.

>> Councilmember Herrera: Thanks so much!

>> Mayor Reed: Now I would invite councilmembers Kalra and Nguyen and reverend Jeff Moore to join me at the podium. Today we are recognizing the NAACP as one of San José's premier civil rights organizations. I'm life member of NAACP but it is older than I am by far, more than 100 years old, and we are happy to recognize them today. Councilmember Kalra has some additional information.

>> Councilmember Kalra: Thank you, mayor. Today, on behalf of the entire city council, I'm proud to be here with Councilmember Nguyen and the mayor to present a commendation to the national association for the advancement of colored people, commonly known as NAACP. Which has been around this country for over 100 years! With us today, we have Jeff Moore, Archie Moore and Norma calendar who are long time activists in the community and long time members of NAACP. And the cause for civil rights in this nation is an ongoing cause. It's something that we always have to struggle for. It's part of living in a democratic nation and living in a nation with free will. Is to always make sure and to ensure that everyone's rights are properly respected, and that the civil rights of the individuals in our community are upheld. And without organizations like the NAACP and specifically the NAACP here in San José and the Silicon Valley we would not be able to do that. And so for so many years the NAACP has really been the consciousness of the community and I want to personally thank and on behalf of Councilmember Nguyen and the rest of the council thank the NAACP and the activists and those that have worked for so many years for the work they've done, the work they continue to do and the work they'll do into the future. So mayor, ask if you could please present this commendation. [applause] [Presentation]

>> Councilmember Kalra: Then I'd ask pastor Moore if he would like to say a few words.

>> Thank you, mayor, city councilmen and women, and thank you so much for this distinguished honor. As we celebrate 101 years of civil rights service in this nation, Dr. Martin Luther King once said the ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands in times challenge and controversy. A true neighbor will risk his position, his prestige, and even his life for the welfare of others. We provide ourselves on taking our opportunity to stick our necks out sometime and sometimes, we don't always agree with some things that city council is doing, but we want the city and everyone to know that we respect the city council, and we support them as leaders even though there are times we might not be on the same playing field. We want to thank them for this opportunity to recognize the NAACP during this month of African American history. Again, thank you mayor, and thank you city council. [applause]

>> Mayor Reed: We'll now take up the consent calendar. Are there items councilmembers would like to pull off the consent calendar for discussion?

>> Councilmember Constant: Mr. Mayor, I'd like to pull number 2.14 and discuss it at the same time we discuss 5.2, please.

>> Mayor Reed: Those are both about Calabazas library. 2.1C, staff needs to make a presentation of energy efficiency briefly, so that will come off. We have a request from the public to pull item 2.6, the weed and feed, 2.9, the FEMA seismic grant. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I'd like to pull 2.9 and 2.22.

>> Mayor Reed: Any others? The motion to approve the balance of the consent calendar. All in favor? Opposed, none opposed, those are approved. We will take up, then, in order, first item 2.3C, the transportation and environment committee report of February 1, for a brief staff presentation on energy efficiency work that's been done.

>> Good afternoon, I'm Carey Romanow, assistant director of environmental services and I'm joined by Mary Ellen Dick. Office of sustainability. First thank you for the opportunity to share some good news about the activities on our energy front. In 2009, it was a very busy year for our small energy team. We audited 20 municipal

buildings and subsequent efficiency created \$330,000 in ongoing savings and in the info memo that we issued last week, there's much more detailed information at projects at the project-specific level but if you're interested in that feel free to look at the specific data on individual projects. As you can see, in the overarching table that was also part of that info memo the bulk of the energy efficiency work has been in lighting improvement. Since the inception of the revolving energy efficiency fund in 2007 we have reduced municipal energy usage by 5% and created \$800,000 in ongoing energy efficiency savings. This work will ramp up as we leverage grant money and follow up on information gained from the audience -- from the audit. And if you look at the projects we have scheduled through 2010 and those associated upgrades we should have another \$230,000 in annual savings which will bring us up to \$1 million in annual reduced General Fund investment in paying our energy bill. We also in late December received the \$8.7 million in EECBG grant money and we are already diving into some of that grant money to continue our savings. If you want to look at the next slide, we wanted to highlight one part 1 project that may seem insignificant but we did some lighting upgrades to the parking garages. And the cost to install for the city was \$204,000. We leveraged \$96,000 in rebates and that resulted in \$83,000 in ongoing savings which is a pay back in two and a half years. Pretty negligible effect to the average employee, or visitor in those parking garages but it's a little bit better light and certainly a lower cost point. There's also been ongoing work in the renewable energy front by that same energy team. We in 2009 completed 38 assessments and installed -- installed solar on six sites with CDBG grant money. The Department of Energy started in February auditing about 200 sites across the city and they'll be done in two months with those 200 sites. We'll take that data and roll it into our next set of RFPs for additional solar installations throughout city facilities. The solar PPA at the service yard being finalized and we begin to strategize how we're going to continue to move forward on the 50 megawatt solar goal. We'll expect to receive our next RFP in spring. You also received a schedule of upcoming energy watch classes and solar America city classes, and we'd ask you to please share those with your constituents. They're open to the public and we've been consistently getting good feedback from them and we would like other San José residents to provide feedback from that. That's what we've been doing. Questions?

>> Mayor Reed: No questions. Just need a motion to approve the minutes. Motion is to approve item 2.3C. All in favor opposed, none opposed, thank you very much. Making great progress. Item 2.6, the weed and feed program, request from the public to speak on that, we'll take that now, Jerry Mungai.

>> Thank you, mayor. Just the other day, we in the newspaper was an article about something that-event at Santee school. As a result of that the Packard foundation is going to give \$200,000 and ten agencies are going to work together to combat crime in that area. Now we have this weed and feed, it's a five-year program with numerous aspects of it. And I'm just wondering what objective, what is the defined objective to minimize crime, obviously, how is it going to be measured? What criteria are going to be used and is it going to end at the end of five years or will it continues for another numerous years with other agencies involved? So my point is, we need to have personal responsibility, amongst the people who bring children into the world, and they're ones who should be taking care of their children so that we will have respect for other individuals, and we wouldn't have to be wasting our money in this -- not wasting our money but using our money in this manner, thank you.

>> Mayor Reed: That concludes the public testimony on this item. Is there a motion? Motion is to approve item 2.6. All in favor opposed, none opposed, that's approved. Item 2.9, regarding a FEMA grant for seismic upgrading, Councilmember Chu, you wanted to speak on that, and I have one card from the public.

>> Councilmember Chu: Thank you, mayor. First of all I would like to thank the housing staff for continuously to be aggressive in seeking grants, opportunity to improve the housing in the City of San José. I have a couple questions, I really like to understand why there's only three districts were chosen in this grant consideration. My district, District 4 has the second largest concentration of mobile home parks. And since this is a federal grant, I believe the coverage of the eligibility should be more comprehensive.

>> Leslye Krutko: Certainly, councilmember. The housing department responded to the NOFA which FEMA had put out. And it required that you identify an area that had a high cost-benefit score. So we did an analysis of all of our mobile home parks. And we have about 10,600 mobile home units in San José. There is one area of the city that qualified, that had the highest cost-benefit score, and it's an area that is District 7 and then it picks up a teeny little bit of district 10 and 2 right at the bottom of District 7. That area had the highest score and the highest concentration which were two of the things that NOFA was looking for. There were other things we had to do to are sure they qualified, where it was estimated the greatest damage would be from a major quake. But I think the

bottom line would be that this is our first application for these funds. We would hope to be going back and trying to get additional funds so that all of the mobile homes in San José were covered, with these seismic repairs. This will help about 25% of our mobile home units but hopefully we'll get to 100%. So --

>> Councilmember Chu: Oh, that's good news, thank you for the information. With that I'll move for approval.

>> Second.

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

>> Councilmember Herrera: I just wouldn'ted if there was going to be a prioritization on the remaining mobile home parks in relation to their impact on seismic issues.

>> Leslye Krutko: I think again as we respond for more of these funds we would need to identify areas again of concentration and then submit those as a package. So that's something we can do and look at working with our mobile home commission. And come back to you with that.

>> Councilmember Herrera: And in final, in terms of locating where earthquake faults are in using seismic maps, I would be interested not necessarily right now, but to share where the source is. Because I've seen conflicting reports of where fault lines run. We've seen that with regard to where flood planes lie, too. So I think, you know I think it's really important where we get the information because I have seen conflicting things and there are a lot of earthquake faults crisscrossing our area.

>> Mayor Reed: I have one request from the public to speak, Jerry Mungai.

>> Thank you again, mayor. I have to ask myself, why are these mobile home parks allowed to get money from the task pair, that would be me, all of us, in our federal capacity state or whatever, to have seismic retrofit. I can't afford to have that done, nobody's going to help me do that. So this is just another program that's going to be paid for by the many, administered by government bureaucracies for the benefit of the few. This is another reason why housing is so expensive. We see that in other cities that have price -- rent controls like San Francisco and New York City. They're some of the highest priced housing in the country and that plays a major role. So I object to us accepting this money that's going to be paid for by the federal taxpayers that would be me. Thank you.

>> Mayor Reed: That concludes the public testimony. And I think that concludes the discussion on this item. Is there a motion? We have a motion to approve item 2.9. All in favor opposed, none opposed, that is approved. That completes the consent calendar, with the exception of item 2.14 which we will take up along with item 5.2 later in the agenda.

>> Councilmember Chu: Mayor, 2.22, please.

>> Mayor Reed: I'm sorry, 2.22, that's the local taxpayer public safety and transportation act of 2010. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. First of all, I'd like to thank Betsy Shotwell and Roxann Miller. They are working very, very hard for us in Sacramento. I recently represented the City of San José at the league of California cities board meeting in Sacramento. The league adopted the strategic goals, they are first protect local control and funding for vital local services. Second, support reform of the structure, governance, management and finance of the state government. The third one is to promote economic stimulus, infrastructure investment, business development, and job creation. They are very much in line with the City's goals and priority. The City of San José must continue to participate in all effort to probate our local control and funding for the vital services, especially as the city faces another year of tough budget situation. At this time I would like to really ask my city council members to join many of the cities in California to support a recommendation the passing of this measure is critical to support the goals of the league of California cities to ensure that local control and funding is secured. Thank you. At this time I'd like to make a motion to accept the staff recommendation.

>> Second.

>> Mayor Reed: Okay, we have a motion to approve this matter. Had a couple of comments, first I met last night with the mayors of the California's ten largest cities and some members of the Silicon Valley leadership group, CEOs to talk about this item among others. And the mayors are certainly united in being opposed to the state taking our local revenues, and San José is not alone in losing money to the state over and over again and it certainly disrupts the city's budget, cool district's budgets, et cetera. What I do Mo is you add the all up, over the last 12 years we've lost over \$500 million, to the state take aways, and the tab is running at the rate of \$45 million a year. That's really serious in terms of the city and we're not the only city that suffers from those kinds of take aways. The big ten mayors will be solidly United behind this effort to allow us to keep our local revenues. This is an important local governance issue and we need to support moving it ahead. Any other comments on it? We have a motion to approve. All in favor? Opposed, none opposed, that's approved. That completes the consent calendar. We'll now move to item 3.1 report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor members of the council, I have a budget follow up for you. Following up on last week's budget study session. I did want to take a moment to update you on the status of two related items which we're in the process of developing. The budget office is completing its work on the five year forecast and revenue projections and at this point we do expect to release a report to you by next Monday. As you recall, when we met last week, during the study session, our budget director told you that she would not be surprised if the forecast showed that our projected deficit problem is growing. And so at this point, I do want to advise you that I have been briefed on the forecast, and unfortunately, it really is no longer a question of whether the deficit has grown, but rather, how significantly. A key driver is the worsening numbers and an increase in retirement costs. The budget office continues to work with the retirement office to refine these numbers. And I know you are anxious to see the forecast and we will get the report out to you as soon as we can. However we do want to be as accurate in our projections as possible. The second item relates to the alternative service proposals which we also discussed when we met last week. And consistent with council direction we are putting a list of potential proposals together now and plan to release that list at the same time that we release the forecast. And that concludes my report.

>> Mayor Reed: Thank you, City Manager. Next item is 5.1, park trust fund annual report for 2008 and 9. I don't think there's going to be a staff presentation on this. Are there any questions? We have a motion to approve by Councilmember Liccardo. All in favor? Opposed, none opposed, that's approved. Now we'll take up item 2.14 and 5.2, award of contract for the Calabazas library project. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. Thanks for the reports on both items. I'd like to ask a few questions about what our options and impacts would be, if we chose to delay this project. My concern is, we know that we've experienced significant budget situations, as the City Manager has just said. We know that we've seen other libraries in the city opened without the funds to put in the books and the computers, and we've had to have community efforts at fundraising to fully equip them and we have many city facilities throughout the city where we know they're going to be finished and they're going to basically be fenced off and not be able to be used by the public. My concern here is we have a library that is very busy in the area of town that is underserved in the library capacity, that's one of the reasons we're doing this library. The current issue is the library that is used in this area is being torn down. And if it's torn down for 12 to 18 months or longer and then we fence it off for another 12 to 18 months and we end up having the community kind of suffer doubly. So my question is, what would the impacts be and why shouldn't we defer this today?

>> Katy Allen: Councilmember Constant, Katy Allen, Public Works director. I'll address the capital implications, and Jane Light our library director will address the operational impacts. The library bond program has been underway now for eight going on nine years and we've seen many construction market cycles during that period of time. I recall during the height of escalation we were concerned about building this project at all, let alone the 20th library and so this is our 19th library. And in the de-escalation market, you've seen the results of the bids, and they're very favorable. Not only are we able to build this library we're also able to build the 20th library. In addition to having reserves that the library can use for other capital needs. And so to delay the project there would be the uncertainty of having to bid it in a different environment, and the potential of paying a higher construction cost associated with that. In addition, project deferrals do cost money in the fact that we have to keep the project, I will say accurate, one of the delays that we experienced in the one year schedule was the need to address some

environmental concerns along the creek that weren't brought to our attention earlier in the process. So in other words, there is care and cost associated with delay on the construction side.

>> Jane Light: Jane Light, library director. Councilmember Constant as regards the operations we have set aside enough money in our library C&C as a reserve for the equipment for that building, and we have packed up its collection and put it in storage. The longer the library is closed though the less viable that collection is. If it's been sitting in storage for two or three years it's not a very active appropriate collection anymore. The library has already been closed for six months, as Katy mentioned we deferred this project by a full year. But we closed the branch six months earlier than we would have had to for that neighborhood, in order to take the staff and send them to the East Carnegie branch when it opened last summer. So that neighborhood will be without a library for over two years. The Cupertino library, which is the county library branch fairly close to this building, has informed me that since Calabazas closed, their use has gone up 18%, and they are concerned that we do reopen this library so we can serve our own residents rather than ask a neighboring city to do so.

>> Councilmember Constant: Thank you. I think it's important that we kind of take all this stuff into consideration. And, you know, you hate to say no to a project in your district and I know I can't ask you for a guarantee that the day that building is done, we're going to move people and fill that library. But as we've heard, the library is closed. And it's not serving the community. I'm really, really, really concerned that when it opens, it may not open. Or when it's completed, it may not open. But I think it is important to recognize how far the ball is already down the court, and we have to approve it. But I'm just -- I wanted to make sure we had that discussion so everybody understood where we're at on there. And it is truly an underserved area in the library capacity. So very reluctantly, I'd like to make a motion to approve both. And I just keep my fingers crossed that we'll be able to staff it in a year or 18 months or two years or three years or whenever it may be.

>> Councilmember Campos: Second.

>> Mayor Reed: So we have a motion to approve item 2.14 which is an architect's contract and 5.2 which is an award of contract for the library project. On the motions I had a question for staff. How is it that you can take a 6,000 square foot library and tear it down, rebuild it, larger and still staff it with the same number of people or less? I know you had done that and I think it's important for everybody to understand that you're bringing some efficiency to the process that sometimes we don't hear about.

>> Jane Light: Well, Mayor Reed, one of the ways we'll be doing that is we'll be installing an automated sorting system with this building. When we built some of our earlier branches, there really were no products on the market for a community branch. They are now out, we are installing one at Santa Teresa and one at Evergreen. Using bond funds, we will do the same for this, and that means that the items that get returned, this is a very high circulating branch, about 800,000 a year, gets sorted by a computer and gets checked in, and our staff doesn't have to do that. I personally am awaiting the date of a little robot that will put it on the shelf but we're not there yet. In addition staff such as children's librarian can serve a 10,000 square foot library or a 5,000 square foot library. They're more effective in a 5,000 foot library but we don't need to double the children's librarians, we can make do with the staff we already have.

>> Mayor Reed: I think it's important to point out that the circulation is going up up up we have seen it for years but the staffing has been basically flat and that's because the of the efficiency and the work that the library staff has done and what Jane Light has done to make it possible to manage these facilities with a lot less people per square foot than we had before. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I want to commend Jane for her ability to keep things going at the libraries with fewer and fewer people. I know it's been really tough and we appreciate all the innovation and the effort. Also want to commend Pete for raising these questions because I think they're important questions to ask. I had a question really for the City Manager in terms of how we look at projects like this. In the context of parks we made the decision, I believe we made it already if not we're about to make it which is we're not going to build any new parks unless we have a clear funding source identified to maintain an additional burden. I recognize that libraries are not parks. But how do we distinguish one policy decision from another?

>> City Manager Figone: I'm not sure there's any one simple answer. I would say one consideration would be the source of funding for the park or the library. In this case Jane I would assume this is through the bond program. And so, you know, if there's any sort of Pecking order so to speak in terms of what the voters are paying for through their property tax, the G.O. bonds that they've approved, I think that would have some weight as opposed to some funding source that is in the city's control to defer.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: But I would like to point out, as Councilmember Constant has pointed out, we may not have sufficient funding to staff this library when it is reopened and we'll have to visit that at the time. This is not a funding commitment. The staff will have to look at all the libraries as we move forward. Any other comments or questions on this one William we do have a motion made by Councilmember Constant to approve both items. All in favor opposed, none opposed, those items are approved. That takes us to 6.1, relinquishment of state routes. That's route 82 and 130 which most people probably don't even know what they are because we don't use the numbers, but it's the Alameda and Monterey Highway Alum Rock Avenue, portions thereof.

>> Hans Larsen: That's correct, Mr. Mayor, members of the council, Hans Larsen, Department of Transportation. Both item 6.1 and 6.2 were presented and discussed in depth with the transportation and environment committee at their meeting on February 1st. Both items were enthusiastically supported, for city council approval. I'm here to take any questions that you might have.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Just want to make a motion to approve. This has been talked about for probably over a decade. So this is a good thing. Thank you.

>> Mayor Reed: Motion is to approve item 6.1, the relinquishment of state routes. Councilmember Campos.

>> Councilmember Campos: Thank you and I'm glad that Councilmember Oliverio made the motion. It gives me an opportunity to say a few words about this project. It's been I think in the makings for nine years, if not a little longer before I came onto the council. And we know that one of the things, not talking about Alum Rock, but we also know with the Alameda that they have had challenges for decades of being able to make improvements, to enhance their pedestrian safety. And to slow the speed of the traffic along that major arterial. So today, what we're doing is, we're giving the state the opportunity to give that to the City of San José, so that we can actually make these improvements. Now, I don't know if these improvements will be able to happen soon. But we'll be able to have the ability to move on them when we do have additional funding. The other thing that I think is important for the public to know is that on Alum Rock, we have a bus rapid transit that will be coming along that corridor, and as we move forward on that, we're going to have additional challenges in crafting the parking that we may be losing in that particular area. But I'm excited about this. We know that it's a busy area where traffic is traveling, and as we continue to move forward, I know that it will enhance the opportunities for the business district to continue their ability to expand out and create a really transit-friendly area. So I'm excited about that. I also wanted to thank assembly member Beall for introducing AB 1670 last month, to relinquish this -- these two highways. And with that I just ask my colleagues to support the motion.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I also want to send thanks to our local legislator, particularly senate member Beall and also senator Koto also expressed support. And I wanted to speak for a moment on the components that deals with the financial contribution in terms of getting these roads into a better state of -- a better condition. Because it indicates there are some deficiencies along 82. And moderate along 82 and some much more substantial reconstruction that's necessary for 130, and I can speak to the section of Monterey highway that's in my district that's routinely listed as one of the five worst roads in the Bay Area. And so, one thing that when we did have a chance to talk to our state legislators, and specifically senate member Beall, we wanted to make sure that the financing component of the relinquishment is fair to our city as well, even though I understand that it's not a necessary component, that hopefully we can get some funding to help improve the

quality both of 130 and 82. But with that, I just want to thank you Hans and your team for moving forward with this and getting the support of our state representatives. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Yes, I want to join in the chorus of praise Hans for moving this closer to the goal line. It's awfully important to us particularly as Councilmember Campos mentioned that BRT line linking her district to mine, of course the busiest transit corridor in the entire valley. And that's going to be a wonderful project when it opens in 2013. I know that's going to be wonderful for everybody in the city. The question I had related to Ash's comment about financing. I know we're losing \$290,000 a year in state money to pay for some of the O&M, obviously not much of it. I'm wondering, in addition to obviously we're going to be bearing the burden of O&M on these roadways. How do we anticipate the settlement with the state working out? Are we hoping for some kind of lump sum payment up front or some kind of long term engagement where they commit maintenance expenditures over time?

>> Hans Larsen: Councilmember Liccardo and for the whole council, obviously some tradeoffs, for the city for relinquishments of these routes, the Alameda, Monterey Highway, Alum Rock, that supports high speed rail, BRT projects, streetscape improvements within these corridors. There is \$20 million worth of deferred maintenance in these corridors and the first step is to get the legislation to move forward in this direction. But we are in negotiations with CalTrans to try to have some of that money offset as a cost of relinquishment. Also the project sponsors that want to make improvements in the corridor either in the Alameda, the BRT project or high speed rail we would look to the sponsors of those projects to also make upgrades in the corridor. Primarily we're looking at one-time improvements to bring the corridor up to a good state of repair, to offset the \$20 million worth of deferred maintenance and as we redesign these corridors we'll be looking at ways to reduce the O&M cost to the city primarily with low energy street lighting and traffic signals.

>> Councilmember Liccardo: Okay, thanks Hans. It sounds as though there's still a lot to be decided and the truth is we'll be picking up a big chunk of this tab ourselves but I appreciate the fact you're working hard with VTA and others and perhaps other funding sources.

>> Hans Larsen: Absolutely.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. Thank you Hans and I just want to commend Councilmember Campos and Liccardo for their leadership on this, as well as our staff. And the LED lighting, I think we talked about this in T&E, and new projects, how much would that save Hans on an ongoing basis in terms of lowering cost because it is a big component.

>> Hans Larsen: What we're able to do is reduce the lighting energy cost probably in half. If we're in residential areas with dimming we can probably have more than a 50% savings but because these are major arterial streets, probably a 50% savings is what we would try to achieve.

>> Councilmember Herrera: And can that be included in when we're talking about the 20 million in past in overdue infrastructure improvement can -- would this lighting be included in any of this financing to bring it up to date?

>> Hans Larsen: Most of the \$20 million is as a result of deteriorated pavement. So it's mostly a pavement improvement that's needed. But we're in discussions with VTA right now on, for example, the Alum Rock BRT project and as that gets redesigned our goal is to put in low energy lighting within that corridor. So as these corridors are upgraded we would upgrade them with low energy infrastructure.

>> Councilmember Herrera: Thank you.

>> Mayor Reed: That concludes the testimony on this. I believe we have a motion on the floor to approve. All in favor, opposed, none opposed, that's approved. Our next item is 6.2, agreement for Santa Clara, Alum Rock bus rapid transit project, also known as the BRT. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor I would like to move for approval on this, and then make some comments so if I could have a second, thank you.

>> Mayor Reed: We do have a motion to approve and second. Councilmember Campos.

>> Councilmember Campos: First of all I want to thank the city staff, the VTA staff, and also, the redevelopment staff. This has been something that we have worked on day in and day out, for many years. And to finally see that we are moving forward with a solid agreement, so that we can really create a corridor that is not only friendly to pedestrians but that also creates synergy for the business district that is on Santa Clara as well as Alum Rock. A few things that, as we move forward on this, that I wanted to continue to keep in mind, is that we know that we're going to be losing significant on-street parking. So as we move forward to keep that in mind, and when opportunities present themselves, as it could happen now, it could happen in the future, that we think about how we can create a little bit more on-street parking for the businesses that will continue to come there, and the businesses that are currently there. I think that when we think about creating public transportation in these busy corridors, it's important to be able to not only bring public transportation, but to also enhance the existing businesses there so that they can continue to benefit from the high number of pedestrians and constituents that will visit this corridor. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and Hans want to thank you and also want to thank the VTA staff over all last year, I've had a great opportunity to learn more about the bus rapid transit concept, it was a great direction for our city and for VTA to be going in, allows for much more flexibility, and clearly, the Alum Rock section is the appropriate place to start, but looking into expanding on the Alameda, Stevens Creek, down Monterey in a future phase is I think very promising. So I'm fully supportive of the direction that the city and VTA are moving together in and I look forward to 2013, we can jump on some of those BRTs and take them for a test drive. Thanks.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Yeah, I wanted to first, I wanted to thank Councilmember Campos because I think, for those of us who have not been involved in VTA for several years may not know that this was actually a fairly controversial decision moving from light rail to at least for significant period of time it is going to be BRT, ultimately it might end up as light rail again. But I know there's been a lot of concern particularly on the Eastside about whether or not Eastside is getting its fair share in transit. And easy thing to do in this situation would have been to say no we want light rail at all costs even though BRT is significantly less expensive and carries more riders more be efficiently than light rail does and frankly I think BRT is the future of transit in this valley in terms of where we're going to be expanding. And I appreciate the fact that Councilmember Campos and then councilmember Cortese were willing to go forward with something even though politically it may have been more challenge but ultimately I think it's going to serve all our communities much better and definitely more efficiently. So in any event I wanted to thank them, and also, to -- and to recognize that I think as we roll out these projects and obviously this one, we're hoping will be ready to roll in 2013, but these are the kinds of innovations that we'll continue to look toward in a time of cares resources. And this is an idea I think if we're in today in Bogata or Brazil where it was first experimented, we're able to recognize some real value in trying different approaches like this. [applause]

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Hans can you explain to me as a layperson, because I hear this question a lot, on BRT, why build these special expensive individual station that take away street parking when it's just a bus? I mean at the end couldn't you just make a big sign that says this is the BRT stop versus spending this

money and removing parking? What's the -- and I see it's branding and it looks nice it might be sexier but it's still a bus.

>> Hans Larsen: We, Councilmember Oliverio, BRT is essentially a light rail type service but you don't have the added cost of putting down rail. So the intent is to have a high quality transit service within a corridor. It doesn't stop as frequently as a regular bus and has the kinds of station amenities that one would expect at a light rail station. So it as real time transit has bus preemption and it has stations in which you buy your ticket in advance so that you don't have to wait, you know, on the bus to buy your ticket. So it has all the amenities of light rail but at significantly lower cost. And actually the quality of the stations that go in hem create a sense of place and they're more likely to promote economic development in the corridor because of the permanence of the development. Those are some of the distinguishing factors why BRT is promoted as opposed to a more traditional bus service.

>> Councilmember Oliverio: If I'm correct 90 million of the 129 is proposition 1B and is the balance VTA or is any of the city? Or --

>> Hans Larsen: No there's no city funds in the project, \$130 million project with 90 million coming from prop 1B grant. So there's certainly a lot of job creation by making this investment and certainly it's one of these projects that's not quite shovel ready but one we want to get into construction by the year 2012.

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, Sam Liccardo, councilmember, I want to acknowledge that it was very important that you did bring up the history, especially that former councilmember, Vice Mayor, I should say, Dave Cortese isn't here. Because sometimes we start these projects and a councilmember leaves and we're voting on it. And they don't get the opportunity to be here to cast their vote on something that they started, maybe eight years ago. So I appreciate that. And I hope that you're hearing this in the back, because I really appreciate that you did bring that up. And with that, I also appreciate that staff was able to articulate why this project is important to have all the amenities around the bus rapid transit. Because it should really serve as the experience of being on a light rail and the comfort of the amenities to be able to purchase your ticket early and be able to be in a little bit more luxury than just a bus. So I think it's going to be good not only for the city but for Santa Clara. And if you could just talk to that there was certain criteria on why this particular corridor was able to move forward with this additional funding on the bus rapid transit. I think that one of the things was, and you could fill in the blanks, is that there was certain criteria around the communities that maybe were underserved that have high volumes of constituents that use public transportation and this one met all the criteria for receiving certain funding for a bus rapid transit.

>> Hans Larsen: Absolutely. I think Councilmember Campos you hit the key points. There isn't any other transit corridor in the valley that has so much use, as the one from East San José to Downtown San José. And so make an improved investment in transit service in that connection is the reason why this project has received the amount of grant funding that it has.

>> Councilmember Campos: Thank you. And thank you, Councilmember Liccardo, for making those comments about former Vice Mayor Dave Cortese.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I wanted to kind of explore some of the questions that Pierluigi asked a little bit further. So a \$130 million project I think is what you said, creating a sense of place, the potential for economic development. Has anywhere that is implemented this seen economic development along these lines? These types of lines?

>> Hans Larsen: Bus rapid transit is, I think it's a relatively new variation in the world of transit. So it's intended to have the benefits of a light rail corridor with probably half or a third of the cost. One of the things that we're doing

in the Alum Rock corridor is that it's a dedicated bus way, so it's a very fast bus connection within that corridor. And the investments that are going in the corridor are new lighting, new landscaping, sidewalk improvements. And so it very much, it's a streetscape improvement for that length. And so not only are the investments in improved transit helping the corridor but overall, the corridor-wide improvements will improve the public realm in the area. And those kinds of investments you know whether it's a business district or streetscape we've seen across San José those kinds of investments do attract private development to go in the corridor because of the quality environment that's created there.

>> Councilmember Constant: Is there a signal preemption like the light rail has so they can trigger the lights?

>> Hans Larsen: Yes, yes, all the signals will be replaced and the BRT will have signal priority just like a light rail vehicle does.

>> Councilmember Constant: So we know it's a third of a cost of the light rail. What is the delta between this and an express bus that stops at similar intervals?

>> Hans Larsen: Well I think what's unique about this is, I mean express bus corridors generally don't have the signal preemption. Or an exclusive right-of-way like what they would have in Alum Rock. So the express bus would generally be you know running within the roadway, tied up in traffic, to the degree that there's traffic within the corridor. So this has the ability to bypass congestion because of the exclusive right-of-way and then also to as I say the bus vehicles go through just like a fire truck does. It gets a preemption in the corridor to give it priority.

>> Councilmember Constant: I think the reason I ask all of this is it's easy to spend other people's money but in the eye of the taxpayer it's just a different pocket, whether we're getting the money from the federal government or the state or the county or whoever it might be, it's whether it comes out of the left pocket or right pocket or combination of pockets. And you know it's easy to say you're saving two-thirds of a project cost. But I am concerned that, what that \$130 million could provide, if you were just providing an express bus that had similar number of stops, and what the difference in timing would be, for an overall route, those are the type of things that concern me. And I don't -- I think it's great to explore new ideas but this is a pretty expensive exploration of new ideas.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, I just want to emphasize that it is not a \$129 million economic development project. This is a \$129 million transit project. And I think the reason why VTA staff got behind this was because what had been planned there for a decade in terms of light rail, you know, you look at this, and as a result of using a BRT approach you've got shorter head ways, you can move more people, you can move them more efficiently, and you're not fixed to a specific guide rail, necessarily. Over time as population patterns change and so forth you may be able to alter the course in various ways much less expensively. And so it gives you, along the corridor that's the heaviest transit use in the entire valley, it vastly improves the quality of service, shortens the amount of time that people are traveling and because you improve the quality of service people who would not be attracted to transit will now ride transit because it is faster and more convenient. I think it's important to emphasize that this is a decision that was made for transit reasons. And I -- I guess I'll leave it at that.

>> Mayor Reed: I have one request from the public to speak on this item. We'll take that now, Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. Listening to this discussion on 6.2 is music to my ears. For the longest time, I've been saying, use buses. Not light rail. And I think buses are very efficient and they'll do the job, and Councilmember Constant was just saying, using -- it's easy to spend other people's money. Well, this is the best way to spend other people's money, efficiently, not just on light rail or the expense of putting in light rail, it's so expensive. When you put in light rail, you eliminate one lane of traffic like we did here on first street. You put in the light rail, and you eliminate two, two lanes of traffic in opposite directions. So this way you keep the streets intact. And I have seen some of the diagrams and I go to the VTA meeting on how they can arrange this rapid transit bus there on Alum Rock. It's really unique and nice the way they could do it. And you won't lose that much park space. If that's what your concern is. And businesses will still thrive because the people are closer to those businesses, and then in a way where they can get to them real easy. Again. You must follow

projects like this because this is the most economic way to spend the taxpayers' money. We have to spend taxpayers' money, there is no way out of that whether it comes from the federal government state or city wherever it comes from, county, we try use that money in the most efficiently way. Thank you. [applause]

>> Mayor Reed: That concludes the public testimony on this item. I believe we had a motion that was some time ago. Councilmember Campos did make a motion in the beginning. Any further discussion? All in favor opposed, two opposed, Oliverio and constant. That motion carries. We'll now turn to the joint items with the redevelopment agency and the City of San José. And the joint financing authority. Ultimately then getting into the redevelopment agency agenda. So let me just for the audience's information, first thing we're going to take up is 9.1, actions related to the convention center expansion and renovation. Then 9.2, regarding the 4th and San Fernando parking garage debt service payments and then the joint financing authority item regarding the state take away and how we're going to pay for it, and then we'll get into the redevelopment agency agenda and the first item there will be the budget. So with that we will start with item 9.1. Actions related to the convention center expansion and renovation. City Manager I think wants to speak to all these items before we get into them.

>> City Manager Figone: Thank you, Mr. Mayor members of the council I appreciate making a few opening comments related to the items that the mayor just enumerated and I would add that when you do get to the Craf item under thing financing authority I want to draw your attention to the joint memo that Harry and I issued yesterday which kind of ties together all the various elements of the loan transactions that are embedded in all of these items. And I wanted to make a few comments and ask that you reflect not only on that supplemental but some of the points that I wanted to hit as you deliberate on these items. And the purpose of my comments is not to dissuade you from moving forward. I stand behind our recommendations. I think they're very well crafted and very sound. But I think it's more on the point of the collective impact of all of these decisions, in particular as we move forward, and tackle very difficult budget times. I do believe that there will be pressure on you to consider borrowing strategies, whether it be entering into debt, or more interfund loans. And I do think it's important to kind of reflect on where we're at, given all of the transactions before you today. With that, before I begin, there are many, many thank yous that need to be doled out. The work over the last several months on these three items that are before you has been Herculean. And I do want to take a moment to thank all the staffs for working extremely well together, the agency staff, the city staff first of all Harry thank you and your team, John, Janet, David and Abi. On the city's side I'd like to recognize Paul Krutko and his staff, Scott Johnson and Julie Cooper and their finance team, Leslye Krutko and her staff, Hans Larsen and Jim Ortbal in the Department of Transportation, and Jennifer Maguire and her budget staff. And Rick, we do appreciate all of your personal support as well as that of Patty and Ed Moran over the last several months. As I noted to you several months ago now when the agency's budget was first presented to you that it would be absolutely critical that the city and the agency continue to foster a good working relationship as we tackle these very significant budget challenges together. And I think that the proof of that work is before you today in the very sound recommendations that we've brought to you. But make no mistake as you can see from the complexity of the items before you today that our organizations will be challenged like never before. As Harry and I have noted in our joint memo to you, we do bring the recommendations before you with a very clear understanding that our future remains challenging as our funding arrangements become more limited. It's really the City's excellent credit rating and the housing department's prudent fiscal management that have provided us with the financial capacity, and that has been necessary to make these transactions work, that are before you today. Certainly, this has served both the city and the agency effectively, and it has allowed us the flexibility that we would otherwise not have. That credit rating and that excellent management have also allowed us to save millions of dollars in borrowing costs, and I must say, as you know, that excellent credit ratings and prudent fiscal management just don't happen. It is through the policy direction of the mayor and council and the good work of our staff that we've created the sound fiscal structures that have served us well, and again, bring us to today. Moving forward, however, it is absolutely critical that we not waiver from this alignment of good policy, direction, and sound fiscal structures. It is absolutely critical that we stay the course in this regard. So with the set of recommendations before you, I do believe that we have reached a threshold and as your City Manager I do want to emphasize that as we move forward we must ensure that the time tables that we've laid out for the repayment of funds are met or accelerated wherever possible and that these new obligations must be front and center in all of our budget discussions, and I ask for the mayor and city council's support in creating a higher level of awareness when it comes to these obligations. So as stated in the supplemental memorandum which, again, you'll see at the point of the CRAF item, in moving forward, our recommendations from the staff and the decisions made by the council, must be made with increased awareness, increased care and balance, and consideration to ensure that any additional debt is carefully evaluated in the

context of existing obligations currently backed by the General Fund regardless of position in the financing structure. And with that I'll turn it over to Paul Krutko.

>> Paul Krutko: Thank you, City Manager. Paul Krutko, chief development officer. Good afternoon mayor and council. I just do also want to echo Deb's remarks. We have on the topic I'm about to present, have had an extraordinary amount of collaboration and cooperation of work across the city team. I want to thank specifically Janet and Bill Ekern. Not only that but as you'll see in a minute this is a public-private partnership. The hotel community is bringing significant dollars to the table to deliver this convention center project. They've been involved with us, Dan Fenton has led the team at Team San José. I think the product we're going to present to you gives us a good path forward. As the City Manager just said, not without significant issues of concern that we need to have the council fully understand. As we would step off the curb. The task you gave us as to analyze the feasibility of moving forward was a very complex one. It was the task you gave us last December. We wanted to align that with -- with that little moment of levity there, we wanted to align that with the council's consideration of the agency's budget. Because embedded in the agency's budget is a contribution to the convention center expansion and renovation project. And so as you'll move through this and then subsequent item, they tee up some expenditures that are reflected in the City's -- in the agency's budget, excuse me. So just to recap the direction that you did give us, we were here on December 15th, you received some recommendations from staff as well as some recommendations that Team San José made directly to the council about moving forward with a modified project that would be approximately 130 million. What's recapped here was what was embedded sort of in the direction as we left, which was looking to raise \$7 million from the new and we have acronyms so I'm going to be clear about some of them. The convention center facilities district special tax bonds, so it would be \$70 million to be raised from the new special tax that the hotelliers approved, 16 million from the agency's budget in year 1. The notion in that proposal, that you told us to go evaluate, was accelerating some agency funding. And then the notion, could we generate \$30 million from a General Fund lease revenue bond structure. Background, again, is that you, December 2, '08, had approved a much larger expansion, that contemplated at that time, in a different time, almost seems like a different place, that contemplated \$150 million from the agency and a bonding structure that would generate \$150 million from the special tax. The hotels did move forward. They did create these special taxing districts, that tax is in place, and is now generating resources. But what happened to us is that, as we all know, the most severe recession this country has seen since the great depression, and the state demanding resources that we were going to employ for this project and other projects. Just to remind the council, why are we considering this project? And why do we think it's so important? Key element is that for us, recognizing there is national competition for convention business, we believe, given our lineup of companies, that we are in the situation of losing business to other areas, as much as we are about attracting business here. So the notion of more events here, more visitors to Downtown San José, is very critical to this project. Construction jobs, hotel industry jobs, and our Teamster friends in the audience, Teamster jobs. More business we get into this facility the more jobs there are for this facility and that is an excellent driver for our economy. A key element that we are very mindful of and we think is very significant about this relationship is the hotelliers took a very significant step. For putting on this tax they didn't just put it on for this project. They put it on as a mechanism now to provide an ongoing funding stream to take care of this building. Something that we didn't have in place, something that will create an opportunity for the convention center much like we have for HP pavilion which I think has served us very well. Building it now will capitalize on the fact that we know the economy will turn and that there will be more business that will want to be booked into our hotel. Second and last is very critical because it is a fact that we have lost business, 90 both to the lack of space, and to the condition of the facility. We have lost major driving industry business to other locations in this state and elsewhere because our facility wasn't big enough, it couldn't accommodate the solar industry companies, for their event, and we are losing business on announcements of products, that should be ours. And so that is a key issue for us is the loss of business that is our business. Finally, I just wanted to tell the council we did do a return on investment analysis as a part of last time we were here. What we are proposing today not presuming any council action is that if we do move forward and go through the design-build process we will then know what it is we will be building. We would then test the return on investment and bring that back. The council if you move forward today will be proceeding sometime later this year consideration of actually issuing the bonds and moving forward with the project. When we come back at that point in time, we will bring back a revised return on investment analysis. I apologize that I'm taking time but it's a very complicated project, complicated program. First off the first thing that we had on our plate to test in terms of feasibility was, could we build something that would meet our needs, for \$130 million. And I do want to clarify and I do think it's important in terms of the agency's budget presentation. Now, the Mercury News was not accurate yesterday. This is not a \$130 million agency project. This is a public-private partnership of which

the \$100 million of the \$130 million will be coming from financing from -- combination what we are saying later on in my presentation, a combination of T.O.T. and now the special tax. The agency is putting a significant amount of money on the table. They have already put a significant amount of money in this project, some 20-odd million already. But again I don't want the public to be confused that a \$130 million of agency expenditure here when there is an array of other needs that the agency needs to deal with. So we've tried to create a public-private partnership now to develop this project. Again, agency is a critical financing component. The elements that we believe are necessary to move the convention center to a condition that will serve us well are shown on the screen. In front of you. We think very much the team the city staff that's involved in the collaborative senior staff team has been very keen to make sure that we take care of basic systems in the building, that have been 20 years or more old and are in a deteriorated condition. The scope, the size of the square footage being proposed to you is being reduced by some 50,000 square feet. Now this is just our preliminary take on it. When I talk about design build in a few minutes, we will go out and we will say, this is generally what we want to achieve, this is how much money we have, they'll come back with the proposal. But we needed to do some analysis about what we needed in a general sense. And this is what we needed in a general sense. The legitimate question council may ask, we've reduced it by 50,000 square feet. How are you going to achieve the same results? I think that the key point that's embedded in the memo with lots of detail is that in looking at this with the hotel community we think we can really reduce the prefunction lobby space and essentially bring the building closer together, and maximize the use of the existing prefunction space, and actually build space where meetings and functions can be held in. It requires a little more coordination but I think all of us have walked through the convention center have often marveled at the significant amount of space outside the actual meeting rooms that we already have. So to build more prefunction space doesn't seem to be something that's necessary. So that was one element. We team looked at the program. We think we can do it within \$130 million budget. The second element was you sent us off and asked the agency to revisit whether the agency could contribute more funds or contribute in a different basis point the answer to that, and I know Jana can speak to that in more detail when we get into questions, is that the interpretation was no, that the agency contribution that was contemplated was what the agency could do to maintain a budget that dealt with other priorities. And that the program to be bringing \$16 million in initially, in '09-10 and then a chunk of resources at the end of the project, as we were completing it, was the correct approach, relative to the other priorities you're going to consider later today. That's that point. The next element looking at the feasibility was to revisit where we are on T.O.T. and what could be achieved from the special tax. We went back to our consultant who has been with us on this project for many years, an independent third party consultant who is expert in hotel tax generation and revenues and those kinds of things, and the analysis is presented on the screen, while the special tax will generate a significant amount of revenues, it's important to note that we've experienced a very substantive decline since we first started talk about this concept and since the hoteliers put the special tax on their guests. As you can see the key element of the analysis is that it won't be until 2014 or 2015 until we return to '08 levels. And that the issue for the hotels is the rate competitiveness, what they have to -- what basic room rate they have to offer to increase occupancy in their hotels. So these were the numbers, very we think conservative numbers that we began to work with to begin to talk about what would be a feasible financing structure. In structuring a financing plan and Scott will be available to get into this in depth, key to everything, was I think the main direction we felt we received from the council in December. That it was very, very important that we mitigate and we insulate and we create a project financial structure that would not place any demands on the General Fund. And would not put the General Fund at risk. So some of the elements that were included in looking at various financial structures are shown also on the screen. One was that we would create a revenue stabilization fund which would have and hold one year of annual debt service, so that that was available to us if we needed to tap it, if we had shortfalls. You will recall that the special tax as passed had a special provision that said that an event that we had to draw from the revenue stabilization fund we could put on what's called a blinker tax, that would be to add an additional 1% on hotel bills until we could replenish that fund. And lastly, having an adequate debt coverage ratio, in other words, borrowing in a way that there was significant cushion between the money we had to pay the debt service, and what the actual debt service was. So we went off and we looked at three potential structures. We'll talk in more detail to the degree that council would desire that. But we looked at three structures. The one, the first one, CCFD tax bonds, that's how much funds in the current marketplace, we believe, and the memo describes how we did that analysis. If all we did was rely on the revenue from the tax stream alone, not any other pledge of city backing, but just the tax stream alone, that would generate a little under \$71 million. We then looked if we did a structure that had the city backing the bonds 100%, which is a significantly higher level of risk. And as you can see, that has a -- that has a very positive effect on what -- how much financing is available due to the manager pointed out just a few moments ago, strong city credit rating, strong fiscal management, we get good rates, we get good terms. So \$90 million is what we think we could

achieve there. The staff and you'll see in a minute, we are inclined to recommend to you a combination of the two. The main reason is that we get a significant uptick in available funds. But also, what -- by using a portion of the structure, being CCFD tax bonds that stand alone versus General Fund lease revenue bonds is we don't have to pledge as many city assets and we reduce the amount of city General Fund debt outstanding. Which again as the manager alluded to, that gives us more options in the event we have to borrow for other purposes. What that does under any scenario on relying on the special tax alone, we have a financing gap. And so the financing gap if you would have all are backed by sort of a General Fund lease revenue bond structure it's 10.1 million, to if it was just a CCFD bond we would be \$30 million short. So without other revenues or another funding source, we, with this structure, we would not be able to move forward with the project. But the staff didn't stop there. We thought, what are opportunities, what are other revenue sources that we could potentially tap to move this project forward? We have had some preliminary, very positive discussions with the hotel community, and with Team San José, and these are the sources that we looked at. Now, there are other revenues that are directed towards the convention center and convention center activity. As you know, 30% of our T.O.T. goes to convention center operations. That's the fund 536 that I'm often up here talking about, the operating fund for the convention center. We also, 15% of the current T.O.T. goes to convention center marketing. There is an annual fund general subsidy that you'll be talking about in a few months and then the hoteliers put on another tax that is really designed to help with the marketing. We believe, and are recommending in our memo, that the right approach would be to combine the special tax bond with the convention and visitors bureau T.O.T. We're essentially then having the combination of the news 4% special tax plus the 1.5% and that gives us more than enough money to feel comfortable in terms of debt coverage and the other risk factors that I talked about a few minutes ago, that Scott will talk about in more detail in a minutes. Almost done with the presentation. We thought it would be good to try to illustrate by -- graphically how this works and that's what this chart attempts to do. And what it attempts to show you is the layers of protection by the General Fund by the structure that we are proposing. So the blue bars are the debt service, if we would move forward with the \$100 million financing. The pink line is who 4% would generate. So you can see we are almost a one to one coverage ratio which is not a comfortable circumstance for us to be in. Specifically that we would be issuing bonds that would be backed by the full faith and credit of the city and liable to the General Fund to provide support. But if you then layer in as a back stop, as a place to go, to pay debt service, the Convention and Visitors Bureau T.O.T, that's the blue line, so you can see we're generating significant revenues more than we have in debt service. And then if things got significantly worsened in the marketplace and you had to accessing the blinker, you can see that we have a very good coverage ratio. The two of those combined, the one moves us to a 1.17 coverage ratio, the second one moves us into the range of 1.40. We think that is a prudent financial structure and the staff is collectively very much prepared to recommend that to you today. Second graph is just to understand and take the council back to what -- how the special tax is structured. So if you go back with me, as you can see, once we sell the debt, it's a fixed debt service. So it goes out over time. And what the 4% does is that we would at a certain point, as hotel revenues come back, as occupancy comes back, as we have more hotels in the community, we would begin to generate revenue above what we needed for debt service. And this gets to the additional protection to the General Fund. But more importantly, it shows you that over time, we will begin to develop an ongoing capital resource to reinvest in the center. And that's actually a real critical point. If you go back to the initial slide, where we talked about the program, one of the things that we really need to address and hopefully design-build which I'll talk about in a second will help us with is that as we take care of the basics, we try to see if we have savings that will free up money for us to take care of the cosmetics that are desperately needed in the center. And this shows that even if we can't take care of that initially we will have the chance over time to begin to tackle those issues on the building. Just a few points on design-build. We agree, both the agency as the city are positioned under existing laws to proceed under design-build process. As you know, the community passed a charter amendment that approved a design-build process that essentially provides a high degree of accountability and transparency. We've had greatly success. There's no question about it. Using this technique, in terms of what we've been able to build at the airport, there's significant savings in terms of cost efficiencies, and reduced soft costs. And the key element is just to understand, this is an alternative to traditional -- the traditional design-bid, bid-build system where we contract with the single entity to provide both design and construction services. It's best described as a project delivery method, in which we go through a process and select someone who essentially works with us in a partnership way, to deliver the project in a very cost-efficient manner and creates the opportunity as we've had in the airport to add elements back to the proposal as we see efficiencies as we go along. So we very much embrace the notion that we should go out, not presuming council action today but immediately have the teams work together to pull together the design-build procurement. So when I talk about the schedule in a second, we will be in a position to move forward at the earliest opportunity. So just in conclusion,

and putting us in a position to answer, I'm sure, a lot of questions about what we're proposing, the project itself is not feasible without finding a nongeneral Fund source to supplement the special tax. We wish the special tax was sufficient. We wish that the revenue, the hotel rates were higher in the community. We wish there was a higher occupancy rate but that isn't the case at this moment. So if we want to move forward now we need to make sure we have another General Fund, nongeneral Fund resource. We do really believe that our partners are on board with us but it was the recommendation of the staff in the memo that we think we need to have a direct conversation with the board of Team San José and CVB to be sure they're on board with what we're proposing which is, we would hold on to the 1.5% that is the current T.O.T. that goes to CVB. If we don't need it for debt service we would then release it for market purposes and we would do that on a regular annualized basis. We may need to use it from time to time, that would have a ramification on marketing. We've got a positive response, and I'll let Team San José speak for themselves but I'm recommending to council we want to have a dialogue with the board to make sure they're with us. That we have already begun a strong working I think relationship, you recall under your approval of the operating agreement to extend Team San José we established a capital facilities advisory committee. There are hotel members on that four members from the hotel community, four members from your city team and we are going to work together to make the decisions on how to move forward with the project. We would recommend if council concurs today, that we proceed with the design-build process. We get out in the marketplace with the procurement. But it's important for the council to understand that we are still undergoing the validation legal process, and Rick left the room, so if we need any explanation on that he'll be back in a second. We won't be in the position to issue bonds until after November. That's why I said to you earlier, we will do the work, we will go through a design build procurement, we'll test the ROI, come back to you sometime in the late fall with a financial structure and a recommendation about proceeding with the bond issuance. Mr. Mayor I know that was a lot and I apologize for the time I've taken but we're ready for questions at this point.

>> Mayor Reed: Thank you. One thing you didn't cover in your staff presentation, I'd like you to touch on, was the matter with the national decorators and Team San José. I thought we were going to get a report back today as part of this presentation, so I'd like to take that.

>> Mayor Reed: Thank you, mayor. One of the things, what was included was for us to come back and report to you on what was going on relative to the operations of the center that has been widely covered in the news media. And I would say, mayor, we didn't receive as staff, we received a press release on the recent changes on Friday. We had a management oversight meeting with Team San José on Monday. We are still having discussions with them about that and will be prepared to provide an info memo to the council. But today we haven't fully worked through and understand what the -- what the changes are. Perhaps Dan Fenton, I know he's in the audience, can speak to that. But we do know that the exclusivity provision that we talked with you about in December has been lifted, and it's our understanding and I'm not the expert, there's others in the room who can speak to it. But it's our understanding what that means is that decorators are free to choose any labor source that they would like to choose to work in the building. So that's what we understand at the current point. So that's the information I have now, mayor.

>> Mayor Reed: Thank you. Well, on that point let me just disclose that I've met and talked with Dan Fenton and Team San José, Matt de Napoli and the hotelliers, Bob Blanchet of Local 287 Teamsters Rome Aloise, regional Teamsters international brotherhood vice president and Aaron bloodworth who is decorator representative sort of of the national decorators. And as I understood it, the decorators are willing to do business with us again. And have said nice things about us. But there is still some open questions about how the labor issues get worked out. And when I met with Bob Lanche and Romeelose, they were interested in trying work an accommodation and thought it would be possible to do some sort of agreement between local 85, and local 287 and the decorators. But I don't think that work has been done. So I still think we have an open question there. But at least on the Team San José side and the decorators side they seem to have come to some sort of a accommodation, one in the press release, one from Team San José and one from the national decorators. That is some of the information I can add to this and I'm sure we'll hear from some of the Teamsters later when we get to public comment, which I would like to do now if that's the end of the staff presentation I'd like to take the public comment and then we'll come back for council questions and discussion. So we'll take the public comment at this time. We've got about a dozen people who wish to speak. If you want to talk please fill out a yellow card so I don't miss your name. Please come on down when I call your name so you're close to the microphone. Ben Field, Bob Blanchet, Hector Guzman, Alex Griego.

>> Mr. Mayor, members of the City council, my name is Ben field, I work for the South Bay labor council. We support the convention center expansion and the memorandum by Mayor Reed, councilmembers Herrera, Nguyen, constant and Kalra. The difficulty of these economic times makes innovative solutions to our problems all the more important. The city should continue to move forward with creative plan to finance the convention center expansion. As many have pointed out the convention center is an engine of economic development, creating construction jobs, hotel jobs and jobs at the convention center itself. The flip side is that a failure to make the expansion happen would be nothing short of a disaster. There really is no good alternative to the convention center expansion. We are concerned that an insufficient number of jobs created by the expansion will go to local people. A design approach, a design-build approach will help address this problem by giving the city greater control. We urge the city to adopt that approach and we will be looking for other ways to preserve and create local jobs. Thank you.

>> Mayor Reed: Bob Blanchet -- [applause]

>> Hi, Bob Blanchet, president Teamsters local 287, business agent of the temporary employed workers at the San José convention center, even though we've got a collective bargaining agreement for three years. And how someone can say they can give up certain parts of that collective bargaining agreement without the union signing off of that beats the hell out of me. If any of you guys are labor lawyers please explain that to me. Please explain the word temporary, that's a very broad word. You can't get any defined meaning out of -- can't get any defined meaning out of that when you explain to a worker how long you'll be replaced by imported labor. That was never worked out. We do support the expansion, 100%. It's the right thing to do. It's going to provide good paying jobs for a lot of different people, and a lot of different crafts. Hopefully, these jobs will be local jobs. That's what they should be. Our mission here is to provide good-paying, local jobs to city-run venues. We hope that all the jobs that are created by this redevelopment and expansion are local paying union jobs. As the Teamster representative, I'm here today to put that caveat on our recommendation for approval. That we get those jobs. And we did meet with mayor Wieden, thank you for coming to our hall, we greatly appreciate it. And maybe he got some clarity on that issue. We do have sanction from the joint council on jurisdiction here. I don't know where the arguments are coming from over that sanction. We have a constitution that we go by, and it clearly states in there that the joint council establishes any issue with joint -- with jurisdiction. And we have a letter from the president of the joint council stating that Teamsters local 287 does in fact have the jurisdiction for that venue in San José.

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

>> Thank you, and -- [applause]

>> Mayor Reed: Hector Guzman Alex Griego, Leland Washington, Arnold Borges, somebody's moving. Come on down, please.

>> Some of us is kind of hard of hearing.

>> Mayor Reed: Okay, I'll go through names again. Hector Guzman. Alex Griego. Are.

>> Yes, sir, my name is Hector Guzman, junior. And I've driven buses for a number of years. The thing is, with handling passengers, you have to basically think about safety issues in the buses. People that are in the buses, when you're in working for VTA. I've done that for a number of years. Another concern I have is, when there's you know you pick up the people and you basically have to make sure they pay for their tickets and to transport people to certain areas. I mean I've driven buses from San José, all the way to Stanford, sir, okay? The question I have is, I'm kind of wondering why Mr. Constant is always questioning the transportation systems, okay? I think it's a better situation with it's efficient system if you drive buses, but if you get into light rail, you're basically driving a track on a track and it's basically rapid, okay? When you are driving into say Santa Clara, I have driven for VTA, and I was working for a limousine company, all right? The thing I have a concern about is when I worked out in that area, you know, there was a situation with a gentleman that I encountered, and basically what it was was a situation where I just decided to either get out of that job, and get into another job, sir. I'm kind of wondering, you know, obviously people have to pay their taxes, okay and what I do is I donate my clothes to the goodwill. And that's just like the tax writeoff to me. So me and my wife you know we think about things how they're built, how

homes are built, okay? Another question I have is, kind of wondering, we are in an area, the Silicon Valley everything is computers --

>> Mayor Reed: Time is up. Thank you, your time is up.

>> Thank you.

>> Mayor Reed: Alex Griego, Leland Washington, Arnold Borges.

>> Mayor Reed, city council, that last presentation was outstanding, gave us a look at all the revenues that this project is going to generate. Not just for the City of San José, but also, for local businesses. And also, for the jobs that it will create, good jobs for Teamsters local 287. And I just want to say that I've been a member of local 287 here for over 20 years. And it's a good local, and we provide good quality work and good service. And I just wanted you to know that so when the time comes, we can get to work. Because we haven't been work, and times are tough. And we need these jobs. Thank you. [applause]

>> Mayor Reed: Leland Washington, Arnold Borges, Daniel Loyell Garcia.

>> Good afternoon, mayor, distinguished councilmembers and to my Teamsters brothers and sisters. My name is Leland Washington. I've been an outstanding Teamsters member for over 40 years. I've been a resident of particularly San José for 40 years. Fought from my country in Viet Nam. I left from San José to go there. I participated in past activities with mayor Janet Hayes to bring the San Francisco giants here. So my purpose is not just for the Teamsters. I consider myself a good citizen. I'm here to show my direct support for the expansion and renovation of the San José convention center. But I'm diametrically opposed to the importation of the outsourcing of labor in anywhere other than 287. It is hard for me to comprehend as I stand here today to see that we would have any debate on where our local jobs should go to. We pay taxes here, we help support you as a council and the mayor, and I can't believe that we having a discussion on sending work to San Francisco when we got members here that pay taxes every day and that is struggling and high cost of living in Silicon Valley so I beseech you, I'm not here to belittle you but I'm looking for and urging you to support us in trying to provide jobs for our families. Thank you so very much. [applause]

>> My name is Daniel Garcia. As you can see, I've worked the convention center. Okay? I'm one of the men that have been hired by Team San José. I'm here to discuss the contract. For nine years we've been fighting to get a contract. Now we finally have one. And we don't want anyone, or this council, to step in and take it from us. After we fought for, for nine years. I also would like to say thank you for letting me speak today. Before we start I would like to share a little knowledge with you. My family came to San José from Portugal and served San José tirelessly. My great granddad, John Silva pounded stitches at 343 East court, San José, for the rodeo. He tooled saddle to support his family. My great grandmother gave her little savings to help build the first church on King Road, and her name still hangs there today. My mom lived and raised us on Esclover lane. My granddad worked as a barber right across the street in the first hotel in San José. And you all are sitting here today in the prune fields I ran and played as a child. I never thought I would be here to speaking before you, my fellow Teamsters, and city council, on such important matter as I am today. Anyway, thank you for the moment to pay tribute to my heritage in San José. So honorable city council, my Teamster brothers and sisters, and the press, because we've been getting a lot of negative press here, and I'm tired of hearing it and that's why I'm here today.

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

>> Ladies and gentlemen, I'm here taking the moment --

>> Mayor Reed: Your time is up sir I'm sorry your time is up. Sir your time is up.

>> Taking the time to influence --

>> Mayor Reed: I'm sorry, thank you. [applause]

>> Mayor Reed: All right, Arnold Borges, I'm guessing on the name, because I'm blaming the bad hand wring not my eyes, JosuÉ Garcia, Vicky De Leal, Frank De Fu, please come on down. Robert Hipskin.

>> Good afternoon, mayor and city council. Basically, I guess my other Teamsters have basically said what they wanted to say and what we wanted to put our point across to you which I'm sure you already have that idea. But the main thing is that there is going to be many jobs provided, if that redevelopment of the convention center does happen with you. And with us. But mainly, was ye, to stand here and to say that I've also been a Teamster for 15 years, I'm on the executive board, and there's nothing that I can think of except to think that the jobs would be offered to us. There shouldn't have been any issue in regards to who those jobs would belong to. We're all local citizens here, and if the jobs are here, to provide for our people and to provide for the community, then it should stay within the jurisdiction. There shouldn't be an issue, there's a lot of people that do not have jobs at this time. And that's our main concern, is getting our people back to work and getting everybody back to providing for their families. Thank you for your time. [applause]

>> Mayor Reed: JosuÉ Garcia. Frank De Fu and Robert hipskin.

>> Hi my name is Robert Hipskin, Mr. Mayor and city council. I lost it. I'm here -- I've been a Teamster for over 40 years between retirement and working and I'm here on behalf of my Teamsters brothers and sisters that are still working. I don't have to go into detail of our job losses of companies moving out of the country and into our cities. We don't have problem with the convention center, it's definitely here to stay in San José because it's sitting in concrete. We have no reason to lose these jobs that you already have with your teamsters, you have the best teams you have here right now taking care of your convention center and the City of San José and in return I think the City of San José can take care of its own Teamsters. We're all in favor expanding the convention center and in favor of you supporting us and us supporting you. Thank you. [applause]

>> Mayor Reed: JosuÉ Garcia. After JosuÉ,.

>> Thank you for giving me the opportunity to speak before you today, we are here, on behalf of the building trades council the members that we represent, to ask you to support the expansion of the convention center and to support the memo by Mayor Reed, Councilmember Nguyen Herrera and Kalra. As you know we have been here before to let you know that the unemployment rate in the construction industry, it's 30%, and that is big. Our members, and not only our members, also nonunion workers are losing their homes, health care, returning their cars. It's the unemployment is devastating our community. Recently, we did -- I did a research for projects funded by the City of San José, and the research shows that two-thirds of the contractors doing your projects are from out of town. And that means that our local construction workers are not being employed with city funded projects. And we support the expansion of the convention center but we want to make sure our local workers are employed. That is why -- that is one of the reasons why we want to recommit as well to support the design-build process. This will give the city a tool to employ local construction workers which desperately need a job. We want to ask you to please direct staff to work with labor and Team San José to work on this issue, as we saw it, on the staff recommendation it also makes financial sense. And we have a big problem in front of us, and at least we know two things, that we need the jobs and we need tax revenue in the expansion of the convention center will create, will give us the answer to those things. It will bring jobs and tax revenues for the city and jobs for our community. Thank you so much.

>> Mayor Reed: Frank de Fu. Then George Netto and James Payne.

>> Good afternoon, mayor councilpeople. I'm here not to repeat what our fellow speakers before you, I'm just here to remind you one thing. Your mothers and your fathers and your relatives came from San José or you wouldn't be sitting here representing the city that you don't like. So we feel that you're part of us, also, but there's one thing that has been left out. It takes a village. San Francisco is not a village. It's not San José. 287 is San José. Everything that comes through this town comes from 287, and other trucking industries. We give our love, our life, our sweat, being away from children to make sure the packages are there and make sure the convention is working. Make sure the time is used wisely. We're here to serve you. Not to fight you. And remember, when you took an oath to work for the city, we took an oath in you. That's why you were elected. Thank you. [applause]

>> Mayor Reed: George Netto then James Payne and Michael Mulcahy.

>> Mayor Reed, city council members, first of all I want to thank you Mr. Reed for coming down to the Teamsters home our office to try to get a grip on this situation. In fact, I believe it was a mandate from the city council to have your staff, when we appeared here about a month ago, to give you a report on the status on what's going on in the convention center now, not in the future but current affairs, and that was a very firm directive on the motion that you people passed. And I find it very appalling that we get bashed in the San José mercury with information that your folks here that are supposed to be representing your interest can't even give you an itemized report today. We encourage you to expand the convention center. The Teamsters are a national organization. We've got 1.4 million people across the United States. We've been in San José for over 100 years. We're not going away. We believe in due process, we believe in collective bargaining. Team San José submitted a proposal to local 287. We negotiated over for a period of two years. We have a contract. We are believing, and we are of the belief, that now somebody is trying to take collective bargaining away. That is wrong. Please review what Team San José and Mr. Dan Fenton and his current practices are. Thank you. [applause]

>> Mayor Reed: James Payne then Michael Mulcahy and Pat Saucedo.

>> My name is James Payne. If you notice I do live in Hollister but I have been working in San José. Well, I started in 1989, when I first went to college here in San José city college. I'm not a public speaker so if it doesn't come out straight, I apologize. I don't want to lose my house. I mean, the brothers and sisters talking about different things, I'm going to be straight-up with you. I do not want to lose my house. Job equals house. I've been teaching my two daughters, plain and simple, you work, you cut my grass, you get allowance. Shoot, I'm even going to have to borrow money to pay my kids to cut the grass. That is a joke, I am going to pay the kids. But the point is, I'm teaching my kids just like my father taught me, just like my grandfather taught my father. You work, you get to live comfortably. I talked to another Teamster that was in the 285, whatever, San Francisco. They come over and saying, well, we're going to be taking your work. When this doesn't happen we're going to -- well, wait a minute why would I allow to you come into my house, eat my food and then sleep with my wife? This is what is happening. These people are coming in, they're going to take my job. And that's not fair. I mean just plain and simple, I'm look at taking care of my family. And I want you guys to support that to help me with taking care of my family. Thank you. [applause]

>> Mayor Reed: Michael Mulcahy. Followed by Pat Saucedo and Gary Higman.

>> Hi, good afternoon, Michael Mulcahy, an investor in the San José Hilton and Crowne Plaza hotels, downtown San José. I want to thank the makers and supporters of the February 18th memo on convention center expansions. This is a great next step. To the mayor thank you for reiterating your commitment to the project at the state of the city last week and many thanks to Councilmember Constant for serving as the liaison to the center and to its manager. It has not been easy. And to Paul Krutko and Harry Mavrogenes, thanks for staying on the roller coaster we've been on with this project. So it's great to see the positive momentum across the mayor and city council offices for this vital project once again. I hope the momentum will continue once the direction is given to city staff today to move forward. I'd gotten concerned about the pessimistic protectionist language in recent memos as it seemed the city had lost sight of the fact that this is an investment in our future and a public private partnership worth thousands of jobs directly impacting downtown businesses, arts groups, valley company needs while driving positive revenue to the city's General Fund. The memo does a good job in directing the priorities how to move forward. Move forward with design-build, move at the speed of business, if I can quote the mayor, move to identify a team to manage the project, bring the best and the brightest but make sure that someone's empowered with decision making capacity. Move as expeditiously as possible, and determine the cost, then move, to fill any gap that has already been identified with sources. The city must look at the same way that the hoteliers looked at this opportunity. We're investing in our future, we're investing in the hotels that we've already got millions of dollars invested in. This is an opportunity to grow our city. So we must seize the moment and seize this opportunity with the lowest construction cost we've seen in a very, very long time. Thank you. [applause]

>> Mayor Reed: Pat Saucedo. Followed by Gary Higman and Vicas Patel.

>> Mayor and council, Pat Saucedo, San José Silicon Valley chamber of commerce. This is a great project in that its keynote jobs, job creation, public private venture, and something very exciting for the city, a public facility that will have a built-in operations and maintenance budget. The chamber supports the recommendations before you

today as contained in the mayor and councilmembers memo of last Friday. The execution and implementation of the contract to execute the design and the convention center expansion and renovation is a critical action to be taken today, preceding an economic future for Downtown San José of tomorrow. Coordination of a hybrid team to manage this project by drawing on the City's internal design-build experience and the redevelopment master planning expertise is a crucial opportunity we need to harness in this particular project. However we also need to ensure that the overwhelming majority of the funds earmarked for this project will be utilized towards the actual design, or the build, of the project. We really need to contain any kind of project management overhead because the dollars are finite and we already have heard today, looking for additional dollars will be very, very difficult to complete this project. With the private sector willing to take the risk and tax themselves, it is critically important that the department serving the convention center team not charge their typical overhead fees to process and manage this project. This would be the City's investment in this public-private partnership, and would enable the bulk of the dollars available to actually be utilized in building and expanding and renovating our convention center. I would also like to suggest that as you look to the management team, think about possibly a third party leader for this management team. Possibly looking outside to your private sector investors to provide the lead agency for this oversight management team of internal people within the city. Thank you very much and we do look forward to this project moving forward.

>> Mayor Reed: Gary Higman Vicas Patel, Diane Driscoll.

>> Honorable mayor and city council members. As chairman of the board of San José hotels Inc. and in support of a letter sent earlier today we urge you to move forward immediately with design build by supporting the memo from Mayor Reed, councilmembers constant, Kalra, Nguyen and Herrera. On behalf of the hotel community and San José hotels Inc. board of directors and membership we are here to demonstrate our support for the San José convention center expansion and renovation project and moving forward with design-build now. Our hotels have taken a risk and reinvested their own dollars for future economic growth. In that light we ask that the city partner with us and take as much risk as possible to support a financing plan that generates maximum funding for the project. Additionally we urge the city to ensure the blinker tax be utilized first, before other essential funds are used. The hotel's intent of supporting the blinker tax was with the understanding that other essential funds like CVB, convention center operations and the General Fund are safeguarded by using the blinker tax as the first buffer. Finally, with the opportunities in front of the city with the completion of the airport and immediate start of expansion and renovation of the convention center San José's economic vitality looks bright. Thank you.

>> Mayor Reed: Vicas Patel, Diane Driscoll, Ross Signorino.

>> Honorable mayor city council members and staff, my name is Vicas Patel. I actually represent the small hoteliers of San José. Typically we are a smaller voice but definitely a strong voice. I also sit on the advisory board with the committee on overseeing this project with Team San José. And I'd like to express my concern that we are very for the expansion of the convention center. And the point is very simple. You have to spend money to make money. And although economic times are tough the hotels have already invested a lot of their funds already, especially with this transient tax, the special tax. A lot of the hotels are covering the tax, they're old funds and so they're making less profits right now and they've taken a big step into supporting this project and I think once this project does get underway there will be plenty of jobs and plenty of revenue including transient occupancy tax to make up the difference in the gap. So I encourage the city to continue on with the project and so forth. Thank you.

>> Mayor Reed: Diane Driscoll, Ross Signorino and that's the last card I have on this item.

>> Honorable Mayor Reed and esteemed councilmembers. Mayor, I heard you speak once again at the economic summit and I appreciate the level of optimism that you spoke. I or I would say we believe the worst is behind us. Thank you for those that created and signed the memo dated February 18th. Many of us have invested precious time and effort to creatively drive this project forward. When I got the memo I was the most excited with the fact that it celebrated our success story, and that is, the airport design-build project. Let us get started with making our second success story and that is convention center design-build project. I saw several our councilmembers at the SVVTA event in January. It was discussing the airport and the convention center expansion. I also saw our backyard corporate partners who were in attendance. In fact it was a record attendance for that meeting. They all appeared quite riveted to every single word that was spoken because they're eager to invest as well. Lastly, on

Sunday I heard governor Schwarzenegger speak, I didn't hear the whole interview but he mentioned the priority of jobs for our state. By getting our design-build projects and documents out to the public so we can start to get the ball rolling we'll be doing that and what a great investment for us to be creating jobs and additional revenue for our city. Thank you. [applause]

>> Mayor Reed: Ross Signorino Bill fairweather, Lisanne Reynolds, Gary Graves.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. One would have to say, listening to you in regards to this project that this is a very imprudent move to make right now with the economic conditions the way they are. But in reality, it's a good move because maybe you can get some good bids on this job that probably if the economy turns around, you wouldn't be able to get these good prices. But don't be naive or fooled in any way that you think that this economy, here in the valley especially, is going to turn around any time soon. The vacancy rate in our office buildings in the valley here, the vacancy rate is the equivalent of 13 empire state buildings. That's a lot to try to fill within a certain length of time. And I think, from what I understand in the valley, it's going to be harder because the unemployment rate here is much greater. But at the same time, I think it's good to go ahead with this project, because the jobs are needed. It's an infrastructure that needs to be done. But at the same time, we must not forget what the Teamsters union tried to do, I read in the paper I think it was Saturday or Sunday -- not Sunday, maybe Friday, that the Team San José handled and settled the thing, the Teamsters union problem with the San Francisco Teamsters union but then I read Sunday, oh, the whole thing was reversed again. Somehow or another you have to come to a conclusion in the matter that the jobs stay here in San José. As the people got up and testified they raised their children here, they pay taxes here, they work here, they deserve the jobs. Thank you.

>> Mayor Reed: Bill fairweather, Lisann Reynolds Gary graves and that's the last card I have.

>> Good afternoon. It's a pleasure to be here today. My name is bill fairweather, I'm a Team San José board member, as well as the business agent for local 134, the international alliance of theatrical stage employees. First I'd like to thank Mayor Reed, the city council and the city staff for all the incredible amount of work that you've done in an effort to push this forward. And I will read the rest of my remarks or I'll go way off, offline here. So: I think it's imperative that we -- I think it's imperative that we do quickly on the expansion of the convention center. Our local has been a part of the San José labor movement for over 100 years. Our members have worked in the San José convention center since the day it opened. And worked there almost on a daily basis. The one recurring theme we hear constantly from clients and users of the facility is that it needs to be bigger. In the heart of Silicon Valley where the tech world began it's a shame that companies such as Apple Cisco systems HP and others aren't able to use our main town town venue due to lack of size. I can remember when we used to do all the apple events at the convention center, would employ up to 125 employees for that event, for a two-week period of time. Imagine what type of benefit that is, financially, to the restaurants and other businesses in the area. We need to change that. The whole idea that we -- we noticed to change the idea that we shouldn't expand now, we definitely need to press forward. I was recently talking with a client at an event, at the Santa Clara convention center. He told me that after next year they would no longer be able to use the Santa Clara convention center due to the fact that the building was too small. He said they would love to keep the event here in the South Bay but even the San José convention center wouldn't be big enough for their event. That show employed almost 40 of our workers over a four-day period. Our jurisdiction runs from Gilroy to Palo Alto. I'm happy to --

>> Mayor Reed: Sorry your time is up.

>> Thank you very much I would like you to know we support 287 and the Teamsters wholeheartedly. Thank you.

>> Mayor Reed: Lisann.

>> I just wanted to call your attention to the letter that the county has submitted for the record on several agenda items including this one. And Gary graves our chief operating officer will provide the county's substantive comments.

>> Mayor Reed: Thank you. Gary Graves.

>> Thank you, Mayor Reed and members of the city council, my name is Gary graves, I am chief operating officer for Santa Clara County. I'm here on behalf of Jeff Smith, the county executive to formally lodge on the public record the county of Santa Clara's objections to several proposed actions on your agenda today, specifically to the redevelopment agency budget. Although the county remains hopeful that the parties can resolve the outstanding issues related to the agency's nonperformance under the 2001 amended and restated agreement between the county, city and agency, the county must nonetheless preserve its legal remedies by making this objection. Thank you.

>> Mayor Reed: Thank you. And that concludes did public testimony on this matter. That will bring us back for some council questions and discussion. I had a couple of questions to start with. First, the source of funding for the redevelopment agency portion, the \$30 million. I know we're going to get into the redevelopment agency budget later but I think it's important to know where the \$30 million would come from as part of this financing package.

>> Mr. Mayor, Janet Kerns, deputy executive Director. The source of the funds is from tax exempt bond proceeds, so it is restricted funds.

>> Mayor Reed: Thank you. I had one question in the staff report regarding the money that could be gained from the convention center financing district, special tax revenues. Page 6, there's a small chart that shows \$4 million in 2010. I'm looking at the staff memorandum from February 12th.

>> Paul Krutko: Yes, mayor, it's on the screen also.

>> Mayor Reed: \$4 million but then if you turn over to page 10, the chart and the graph, it looks like it shows \$6 million.

>> Paul Krutko: Mayor, excuse me, it's Paul Krutko again, chief development officer. They're internally consistent. What the \$4 million is showing is that reflected the turn-on of the -- remember the taxes got two districts. There's a downtown district and a larger district. So the chart does show that the turn-on of the second district, there was a phase-in proposed. So the number you're seeing in 2011 would actually be reflective of 2010 with the phase-in of the second district. Which is the outer ring hotels.

>> Mayor Reed: Thank you. On the design-build process, I know that a year ago, we were trying to figure out how we could do a design-build on this and I think we got the go-ahead in the state budget process somehow getting authorization to do another design-build. So that we're fully ready to go, legally, there aren't any legal issues.

>> Paul Krutko: Mayor, believe it or not, both Katy and Janet can respond to that. Either way we can proceed with the design build, either the city or the agency, I've checked with the City Attorney and I see him nodding his head.

>> Mayor and councilmembers, Janet Kerns again. If I could add, because agency funds are involved in the process, then the rules of the agency which are more restrictive than the rules of the city applied to a project like this and prior to job of this year the agency was not authorized under state law to use design-build. That changed effective in January. The agency has complied with the rules to be able to do design-build. And since the city has such experience with design-build we believe we will be able to utilize the rules of the city, we'll just have to adopt them. We'll bring that back before you and we'll be able to move quickly.

>> Mayor Reed: Okay, good, it's nice to see that some of the problems have gone away over time. That's a good one.

>> Paul Krutko: That's a good one.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you mayor. I'd first like to start by moving the memo that was authorized by the mayor, me, Madison Nguyen, Rose Herrera and Ash Kalra.

>> Second.

>> Councilmember Constant: Few section there.

>> Mayor Reed: Motion is on the floor.

>> Councilmember Constant: I have a few comments. First of all in disclosures, as the liaison to Team San José I've attended several of their board meetings and had extensive conversations with Team San José staff including Dan Fenton and Megan Horrigan. I've also had additional conversations with Michael Mulcahy and several members of the chamber of commerce. So we have been talking about this for a long time, way before I got here. And as the mayor mentioned it's great that we've seen some hurdles kind of go away, other hurdles like money seem to have gotten bigger. But the important thing is we've kept moving in the right direction. I think we've had plenty of discussions at the council level about the importance of this. I think at least in my district talking to my community there's widespread community support for investing in the economic development of our city and our convention center. I think that we've seen very clearly that the hotel community have really bought into this and become major players in this project. By moving for the increased tax that will provide a lot of things, but most importantly leverage. It really allows us to leverage the agency funds that we have by an incredible amount. And it's that leverage that's really going to allow us to move forward with this project. The other thing that was mentioned by a couple of people briefly is the sinking fund and the ability for us to not only build the facility but to ensure that that facility stays top-notch. And we've made the comparisons here before of the convention center and the arena and it's like night and day. And this project going forward in this manner is going to allow our convention center do continue to look like the day we cut the ribbon. And that's going to be really important. Because we know that we've lost business not only because of the size but also because of the condition. And we know that some of the conditions there especially the central plant and some of the other things, it's bad and we're going to have to spend money one way or another. And it really makes sense for us to spend this money in a way that not only fixes the problem but creates new opportunities for us going forward. And I think that while the economy stinks, there is no better time to be investing in your convention center than now, when the demand for the convention center is low. When the construction bids are coming in low. And it puts us in a position to be ready for the business as the economy turns around. And I think it also sends a very clear message to the businesses that operate in San José, and the businesses that bring their business to San José, that not only do we want their business today but we're building so that we can accept their business tomorrow and the year after that. I think that you know the availability of us to use design-build is huge. We were talk last year about how great it would be if we could use design-build and for once, Sacramento did something that would actually help us instead of hurt us. And I think that's important that we take advantage of that and we move forward. We know obviously the successes we've had at the airport in the renovations at the airport. I think that as we move forward we will not only be able to complete the major project that we want, but I think we'll hopefully realize savings that will allow us to do some of the things that we don't feel like we can do right now. And I think that that again is clearly visible by what we've seen recently at the airport. While I had reservations moving forward with the library district earlier today I have no reservations about moving forward with this project. I think this project is of critical importance to the city, its residents and its businesses. And I think that we, we really need to step up to the plate like the hotel and business community has. We need to step up and we need to be ready to put money into our city to make it the place where people want to do business. I know that we really don't know what this design-build process, what the dollar amount's going to be. And we'll never know unless we move forward. And we don't want to be in the chicken and egg position, and we don't want to go out to bid because we don't know how much it will cost and if we don't know how much it will cost we can't go out to bid. And we don't do anything. The opportunity cost of doing nothing is simply too high. Now, hopefully we're going to be pleasantly surprised and we're going to get some bids that are going to enable us to look at a chart like we did on the Calabazas library where the engineer's estimates were low and the bids were even lower and we were able to do a project that, as we layered in the library, we're not only able to do the project but it left enough funding to fund another library and hopefully that will be the case. Now if there's not our memo in item number 4 addresses that. We need to come back to the council and we need to have a council level discussion, again on the priorities and the sources and the use of funds, all of the sources and the use and the funds that we have at our disposal. I know Sam you put out a memo, today I had a chance to read it, as we started. I understand your concerns

completely. The concern I have with your memo quite frankly is I feel it starts to put handcuffs on us on how we can deal with the problem in the future. I can tell you as one of the primary authors of this memo it was not our intent to I forget your exact words but just open it up and go everywhere. It's really just an attempt for us to make sure that the council reserves the right to have a broad discussion to look at everything, all of our sources, all of our uses of funds in context of the results that we make an informed decision and a budget decision much like we're doing today. I fear that if we do follow your memo recommendations we may just hamper that a little bit. So I hope that we can move our memo forward and that you'll have the confidence in what our intent was in the memo, and that the confidence that the council as a whole will be able to look at what we have in front of us and make the correct decisions. With that, I just want to thank everybody that's been involved. There have been tons of people involved from all level of the community, business leaders and everybody in between. I think this is the right project at the right time that we need to do this, and I think it's up to us now on the dais to work quickly, act fast, move forward, and vote yes. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Was that a motion, Pete? Okay, great.

>> Mayor Reed: There is a motion on the floor.

>> Councilmember Liccardo: Do you want to clarify what other sources of funds you might be looking to try to fill a gap other than the funds that were identified through a very extensive process that staff engaged with all the community partners including Team San José and the hotels and in fact I think came with a very creative solution that I think was a fairly exhaustive process, what other sources of funds might we be looking towards to fill this gap?

>> Councilmember Constant: I think if we look back to a year or so ago when we start talking about this staff didn't have these options because they didn't have the time or the freedom at that point to explore all options. And all I'm asking is that between now and then, whenever then may be, the staff continues to look for the resources and the best creativity for us to make the decision that we need to make. The anxious is I don't know but I don't want to shut the door without nothing.

>> Councilmember Liccardo: And on any given Tuesday certainly we can change our minds about what funding sources we ultimately pick. The question I would have then for Paul is, with design-build contract we can essentially set a ceiling on the price, can we not?

>> Paul Krutko: That's my understanding. Lewell --

>> Mayor Reed: Katy Allen is shaking her head yes.

>> Paul Krutko: And so is Janet.

>> Councilmember Liccardo: That's helpful. So the concern I have is this: I think the important message here is that we need to build to our budget. We are facing unprecedented times both at the redevelopment agency budget and our General Fund. We are facing extraordinary constraints like we've never seen before in this city. And the proper way to treat a project when you can't afford to -- can't afford to build it all now is to call the future construction phase 2 and to build within your means rather than to scrape and find means that you don't have to build something that exceeds your capacity to finance. I'm very confident in the extraordinary efforts that have already been exerted by our agency and our city staff to be able to come up with a proposal that can put us over the goal line. What I don't want to do is communicate either to bidders or to anybody else in this community that we're willing to dig into our pockets for more when there is no more to dig in for. And I think that's a dangerous message. I think we have to communicate clearly that we're going to build this within our means. And so I'm -- as I expressed in my memo, I'm very happy to support design-build process, I'm happy to support going forward. But I'm not willing to support a message that says to people that we're not going to stay within our means when we build. I wanted to ask just a couple of questions about the financing mechanism if I could Paul. I appreciate your thorough explanation. One question I had related to the chart that's on page 10. I know it would appear in your overhead and that relates to the debt coverage essentially that we have, the bar graph that relates

to the net debt service and the three lines that describe the base plus the base with the T.O.T, the 1.5% from CDB and then -- yeah, you got it there and then the blinker.

>> Paul Krutko: And I wanted to correct myself, when I went and sat down, on page 10 of the memo we actually did calculate the ratios, and I actually had them too low. So as you can see, with adding in our recommendation at this point, the CVB T.O.T. the ratio rises to 140, adding the blinker takes us to 170. I had a little lower than that when I made my earlier presentation.

>> Councilmember Liccardo: Okay, that's helpful, thank you. The question I had is about that green line, the blinker.

>> Paul Krutko: Yes.

>> Councilmember Liccardo: Because my understanding is that is triggered when T.O.T. is in real bad shape and I forget exactly what the precise mechanism is. Maybe you can remind me.

>> Paul Krutko: I'll ask Scott if he's prepared to answer that.

>> Scott Johnson: Councilmember, Scott Johnson director of finance for the city. Yeah, you are correct, in the formation of a district, due the formation it was anticipated that the blinker would be turned on if it was not sufficient tax revenues to generate to pay the debt service.

>> Councilmember Liccardo: So wouldn't I guess the question I have then is it looks as though the blinker has the same slope as the T.O.T. base case. Which is fairly flat over time. And in fact if the blinker were to be triggered, wouldn't that mean that in fact you have very low level of T.O.T. and this graph should look considerably different?

>> Scott Johnson: Let me try to explain something on this graph. What this graph does basically, it outlines the debt coverage, the coverage. In other words, what revenues would potentially be available, you know, for funding if we needed to draw upon them. So clearly, as Paul pointed out, the pace, based on the current revenue structure and the current revenues that we are taking in today, and our projections in the two zones, and the revenues as they are triggered, we believe on the current market and the assumption is that we are at about a 1 to 1 ratio. In other words, that we will be able to generate about the revenue from the special tax equal to what the projected debt service would be. That's not enough. When we two to the bond market we need higher coverage. So then, the thought here was, the next line was the base, plus the 1.5% CDB T.O.T. So that gets us then to about 140% coverage. As Paul mentioned, the rationale for this approach, in this alternative approach would be that we would draw upon, we would basically bank one year's worth of that 1.5%, and then to the event that it was -- that debt -- the revenues weren't sufficient we would use that to pay the debt service. If it was sufficient then we would then give it to the CVB to be used. So there would be a one-year deferral on that revenue stream but here again, it's very important to understand that that revenue stream is being used as coverage to leverage us to get us to the lowest cost financing that would be available. So then, the third one was the blinker. So if the revenue was not sufficient for the CVB 1.5% then we would factor the blinker, the additional 1%. If we look at all three of those revenue streams, the base special tax, the VCB 1.5% T.O.T. plus the 1% blinker that gets us to about 165% of debt service coverage.

>> Councilmember Liccardo: Which is very safe, I recognize that.

>> Scott Johnson: I just want to reiterate when we go to the market when we sell these bonds, we need to -- you know, I'm looking for direction from the council to allow us flexibility, especially in these current difficult financial market times. And we worked very closely with our financial advisor, and we feel that this is probably the best approach we can take, and provide some flexibility, where if we didn't need to draw on the 1.5% CVB TOT then we could then the next year turn it over to the CVB to use for other purposes.

>> Councilmember Liccardo: Right, and I certainly agree with everything you said Scott about the need for flexibility and all those proposals are contained within the staff recommendation. I mean we don't need to go outside this document in order to have that flexibility, is that fair?

>> Scott Johnson: That's correct.

>> Councilmember Liccardo: Okay. When you look at that blinker tax, the additional 1% though, I understand this is the projection that you have, and this helps us get lower financing cost.

>> Scott Johnson: Correct.

>> Councilmember Liccardo: And we actually should do that in the projection. But in the reality, when the blinker actually kicks in, I could imagine, I would assume that our situation scenario was actually going to look much worse if that blinker were to actually kick in.

>> Paul Krutko: Councilmember, I think I do understand your question. So let me try to play it back. What this graph shows is, essentially, the three lines are going to move in tandem, all right? It's just a percentage off of the base that we're generating from hotel occupancy in rates. So what you're reflecting on is if we were in a circumstance in which the pink line was actually dropping, so if the pink line was insufficient to cover the debt service, under the provisions in the tax, Scott, correct me if I'm wrong, that would turn on the blinker.

>> Councilmember Liccardo: That's right.

>> Paul Krutko: But in terms of the graph what we would see in real time is you would see that pink line dipping, so would the one and a half -- because they're all tied together.

>> Councilmember Liccardo: Right.

>> Paul Krutko: The three of them are tied to the actual performance in the hotels.

>> Councilmember Liccardo: The same source, right.

>> Paul Krutko: So what would happen is the line would be coming down and what, in the discussions we've had about this it's very important for us to put in a series of layers. Now recall what would happen in that event under the existing structure that council's already considered, already has in mind, we have the revenue stabilization fund which we would go to first so that we wouldn't be turning in the blinker and looking to go collect those dollars. We would go to that revenue stabilization fund first. So I think I got your question -- did I get your question right that is how that would --

>> Councilmember Liccardo: Yes. Forgive me, that revenue stabilization fund is that another word for 536? Or are you identifying another source?

>> Paul Krutko: It is not. The way we're looking at is we're collecting revenues at this point that enables us to fund that correct?

>> Scott Johnson: The revenue stabilization fund the foundation documents anticipated that we would have a minimum of maximum debt service coverage roughly \$7.7 million would be maintained in there.

>> Councilmember Liccardo: Right.

>> Scott Johnson: If we would draw down in there if there weren't sufficient revenues we would implement the blinker and replenish the revenue stabilization.

>> Councilmember Liccardo: Got it.

>> Paul Krutko: Just one other slide. One of the things that we would want to be sure that the council's aware of and caution on, is that 536 is the operating account, that's what pays the salaries in the building, that's what keeps the lights on. That's why when we looked at sources in our recommendation, we weren't saying, 536 should be a source. Recall the phraseology we used before, glide path, we're very concerned that we're going to

have to be using those dollars to, you know, bad Ross Perotism, we're working on the car as we're driving it. It's like the airport. We're going to be holding events in the facility while we're doing the construction project. We need the operating fund to be solvent. If it's not you'll recall at the first year of Team San José's operations we had -- they had to borrow -- it was a borrowing from the General Fund. Since subsequently and we've talked to the council about this in numbers of meetings, operations are going well, we've been building a fund balance but that gives us the luxury to continue to book events, pay the staff, do what we need to do, while we're in a two-year construction period. Because even with design-build and I think that's our consensus it's going to take -- it's going to be a shorter window and that's great but it's going to be two years worth of construction.

>> Councilmember Liccardo: And we expect that 536 fund to diminish rapidly.

>> Paul Krutko: Right.

>> Councilmember Liccardo: The suggestion in paragraph 4 that we look at utilizing that fund that's not a realistic path.

>> Paul Krutko: We are very respectful of council direction. We'll certainly evaluate that again. It's just I did want to bring to council's attention that what 536 is, 536 is not a fund, we fund small Band-Aid capital projects, but the bulk of it is used to pay operating expenses. And we -- as we now -- as we do know, Team San José, while generating more revenues for us, the center still runs at a deficit. We need the T.O.T. dollars to subsidize the operation costs of the center.

>> Councilmember Liccardo: In fact when you say runs at a deficit in '08-'09 it ran at a net loss of \$5.4 million.

>> Paul Krutko: Yes, sir.

>> Councilmember Liccardo: So that fund is dropping quickly.

>> Paul Krutko: Yes, sir.

>> Councilmember Liccardo: So I think -- I appreciate the answers. I think it's clarified for me that 536 is not a useful approach as suggested in paragraph 4. I think you and your team and RDA and everybody else that have been involved have really outlined a set of options here that I think, while they're both creative they're actually real and I think we ought to be focused on those options and I think that would be a good signal to the credit markets as well so that we're not as well as the county and other partners who may be out there who are look at a redevelopment agency and other entities and they're concerned about our fiscal condition. So I would just urge my colleagues to think very, very seriously before we give a signal that we're willing to go outside the staff recommendations about financing options in this case.

>> Mayor Reed: Want to remind everybody that this is not a contract, this is not a spending decision. We're moving ahead to get there, we're probably six months eight months away from knowing how much it costs and how much we need spend, additional work needs to be spent to make sure we have enough money to pay for whatever it is we decide we're going to spend and that work is outlined in the staff work of how we're going to get there. Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor and thank you, I want to thank all the staff that's worked very hard on this and just try to move quickly. Whenever I have chamber of commerce and labor big hotels small hotels Teamsters and building trades in agreement, I think that we should certainly take those -- the suggestion very seriously in regards to moving forward with this convention center as soon as possible. Quick comment on the number of the Teamsters that were here. I'm in agreement that just like when we talk about bringing stimulus money for emerging technology jobs, just like we talk about bringing job growth to San José, similarly we should always try to focus on job growth for those that live and work in San José. And to have outside forces trying to influence who works in our convention center can always be problematic. I understand and I appreciate the work that Dan Fenton and his team have done to try to create an atmosphere in which we can work with the Teamsters both here as well as the San Francisco Teamsters and the decorators in coming to some conclusion. I know we're heading in the right direction in that regard but I always err in the regard of trying to support our San José

residents and San José employees. As Pete indicated that there's no better time to invest in a time like we're in now it's also a very challenging time so I want to really commend the hotel industry. Because as challenging as it is for us it is as challenging of a time I know that they've seen in decades. And so for the big hotels it really gives me -- it validates my optimism to see them have the faith in this city to be able to invest so much in our city. And for the small hotels, I know that there was some trepidation early on and for them, for the small hotel owners to continue their belief that this is the right move to make understanding that we need to invest in our community, invest in our economic development in order to gain something in the long run is really powerful to me. And finally in regards to the funding, I agree with Councilmember Constant, that I believe that the memorandum that the mayor and four council colleagues put out is the appropriate course of action in terms of getting this process moving forward. Although I respect the comments by Councilmember Liccardo, I don't believe by putting forward the memorandum that we signed onto in any way removes flexibility, if anything it adds flexibility. I don't think it's a matter of being unrealistic, the mayor put it very well in his comments a few moments ago, this is an early part of process, we're not making any final decisions. As we heard from one of the hotel representatives, they would even prefer a blinker tax before you take money from convention operations. We have to consider that option as well as all the other options we have on the table as we move forward. It doesn't mean that we're not going to ultimately go with what staff is recommending, which I agree with Councilmember Liccardo, a lot of time and energy was put into it. And that very well may be where we end. But at this stage I would much rather have that greater flexibility to have all options vetted including some that have been mentioned here on the dais. Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Councilmember Constant, articulated eloquently earlier about why it's important for us to move forward with this project and I wholeheartedly support that so I'll keep my comments brief. I just wanted to thank Paul and the RDA staff and your team actually for the enormous amount of work they have done so far. This is a very, very important project for our city, for the convention center and also for residents. And as you have alluded to earlier in your presentation moving forward with this project creates more jobs, brings more revenues to the city, brings more visitors and events to downtown and that's what we all want. So I signed onto the memo, I'm going to be supportive and I hope we can move forward and as Michael Mulcahy mentioned earlier we should move this project forward with the speed of business. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I too signed onto this memo. I've been saying for a long time how important I think the convention center project is. The convention center is part of the economic engine that will move us forward. One of the Teamsters mentioned the fact that convention center represents business that's here in San José. That essentially can't be outsourced because it's local. I mean work could be outsourced but the actual business occurs here in San José but we have to be competitive or that work will go somewhere else. I think that's the challenge to make our convention center competitive and make sure that we support this project so that we can really get it you know get it moving. I think that will help us keep the business we've lost and regain some new business. I think there's concerns about convention center business not moving forward as fast as it could, that there is actually decline in it nationwide. But a lot of the projects we're losing are local and going to local areas. We could in fact have the business if the convention center was up to speed and wasn't in such bad condition. I think it's great that we can keep the convention center operating while we're doing this so we can have business continuing while we're making these improvements. It's also economically stimulative and I think that's important because we need to have infrastructure stimulative things going on here. I think jobs first have to be our first concern. It's synergistic with the airport, which is really important as the this airport project finishes up. I think we need the convention center as a eighth gateway into our community. The last thing is we need to be optimistic about the future. Even though we are in really tough times now I can't imagine how much worse it could get. I do think we're going to come out of this and this puts a stake in the ground for some optimism because if we aren't going to come out of it we might as well fold up and give up now. I'm pleased that the hotel community and labor and everyone has come together to say let's move forward, we have a future let's move this forward. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. First of all I want to disclose that my office met with Dan and Megan, and some local hotel owners. And then I wanted to ask a question, Katy, we've been talking about design-build and I'm excited that we're moving in that direction but we're also talking about creating jobs and talking about creating local jobs. What are the restrictions of giving any type of directions for you and staff to sit down maybe with some of our entities and partners to look about how we can create local jobs around this project?

>> Katy Allen: Councilmember Campos, what worked really well at the airport was the fact that we were able to factor into our selection criteria the City's small and local preference. And so specifically at the airport, if you were a local proposer you got five points in your evaluation. So it really assisted us. Because in a low-bid environment we're not able to do that. But in a design-build negotiated selection based on qualifications, we can build in small and local. Unlikely we're going to get the small part, of it but likely we're going to get the local part of it. Even more importantly, during the negotiation of their contract we were able to address their strategy on how they were going to keep the project on schedule, the labor informs they were going to use, how they were going to solicit those labor forces, and it proved to be very, very productive. And so I think the project at the airport has benefited greatly from local contractors. I don't have the exact numbers on the tip of my tongue. But Hensel Phelps, our design build contractor, actually goes to the small business commission, reports out on those numbers and we have seen nothing but great appreciation for the number of jobs and the number of local contractors that are being used at the airport. So to go back to your specific questions, those are the kinds of things that we can do with design-build. And they would greatly assist in our ability to place a factor of consideration by hiring local contractor -- a local contractor.

>> Councilmember Campos: So one more question. Will you be sitting down and bringing different parties of interest to the table to make sure that as much as can you tighten it to get input on whether there are some areas that we need to improve, it sounds like you have every corner addressed. But just to be sure that we can get buy-in around this project like you did for the airport?

>> Katy Allen: Absolutely. What really also helped as we were developing the RFP in this very room, we had a Q&A with all contractors, a design-build contractors and trades asking questions about the proposal. And we were able to answer all those questions. So it was very, very clear. In addition, when, in working very closely with the agency on how that RFP is all going to come together, we can incorporate many of the lessons learned that we used at the airport. The other factor is that when we go through qualification selection process, the selection process is very broad based. And we look for I think many sectors of the community as well as stakeholders in the project to assist us in the evaluation of the criteria.

>> Councilmember Campos: Good. I'm excited about the opportunity to be able to vote on this, so the discussion moves forward and we get to build a convention center that will serve as an economic engine for the city. In a lot of ways that you've state Paul through your presentation, so this is very exciting, and encouraged that we'll be able to create a city that is viable and exciting and that people will seek to have their convention here. So I will be supporting the motion.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: Thank you. The memo by the four councilmembers and the mayor I think is a proper direction. This will be coming back to us. So address Sam's concern about using the staff's recommendation for funding, if I understand this correctly, it's asking that 536, and that was a concern I had, because as Paul said, that is the fund that we use, to insist with the staffing of the Team San José. But I think if you come back as it states here, complete an analysis, I think that will be reflected in the analysis. So that will be brought to council. So I will support the motion. I think the direction gives us the chance to look at the funds. And so I think that's not a bad strategy. These are restricted funds that can be only used in this type of a project. And I think it is something we need to be very serious about, on how do we, as the mayor said in his state of the city speech, when you're in a hole, stop digging. And hopefully, this begins to build a way out of the hole. So look forward to next steps, and the information that will come back from staff. So thank you all, so much, and everybody in the room, as well as those that are not. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Thank you, councilmember Nora Campos for having most of my questions answered and asked. I want to disclose I talked with Dan Fenton early on. I definitely support design-build and going on with it. Again I want to emphasize that we definitely work with the Team San José, the local construction, to make sure that local job has the priority over the out-of-town workers. So thank you, mayor, very much, I'll be supporting this motion.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. If all this build up in suspense, I'm just wondering what it's going to be like when we have the final proposal, the financial price tag on it. I view the positives as this. If we have this design build this design process will come back to the council, I think that will be good as long as we are picking the best choice and we're not making a political choice. I have fear that we're going to have things that are going to enter in the system that might not choose maybe the best price out there. Lo and behold, we'll wait to see what happens, I hope I'm wrong. Positive sign, the hotels are taxing themselves. You've got to admit they have a lot at stake here and they have a lot in the game. I think Councilmember Constant covered it well about taking care of some of the repairs of the current facility as well as creating the sinking fund. I'm hesitant of borrowing with nonvoter tax-approved bonds, much like we did with the Hayes mansion, I can only imagine that discussion. I wasn't here for it, and also the golf courses, and any exposure we're going to give to any fund that provides a service to the city. Should we hit that funding gap I really hope the council will be open to maybe not draining a particular fund, but maybe, do something that would essentially cover that gap, and as I've talked about this before but you know we have two legal card clubs in the city. Certainly allowing some of them to move some their tables, not the full thing but maybe a portion of their tables to fund the gap, hopefully we don't have to go there but I just throw that out there because if you want to drain one fund to take away city services or allow them to be somewhere else or a portion of the business to be somewhere else to fund the gap I would be certainly open to seeing that happen if we're in that position but hopefully we will not be there so I will be supporting today's motion.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Very quickly, mayor. Just to follow up on Councilmember Campos's comments that the -- in any manner in which just not the contractor but the subcontractors as well can have local preference in some way again as Councilmember Oliverio has said within the appropriate legal and procedural framework what's allowable, I understand there are rules and there are rules there for a reason to make sure that the political process doesn't play too much of a role. But again, as has been stated you know want to try to find as much employment for local workers as possible in any way that we can that's appropriate. And so I would just ask if the staff, the redevelopment director, City Manager and Katy as you work with both RDA and the City Manager, if you could at some point also engage with the local building trades to see what suggestions they might have, again, that are within that appropriate framework to encourage local employment.

>> Paul Krutko: Yes, we can do that. I mean, it is the leaky bucket theory of economic development. We want the money spent here because that's what causes the spin in our economy. So we're on the same page of trying to make that happen.

>> Councilmember Kalra: Great, thank you very much.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I know the question will be called shortly. I just wanted to express my view about how we should fund projects in this city. It seems to me that the notion that in the event that the design-build process results in a funding gap suggests that we decide what we want to build, and then we figure out the money situation sometime later, we're at a time in the City's history when we have to decide how much money we have and then decide what we're willing to build within those constraints. And so that's why I'm not supportive of this memo. I think the approach that we need to take is one that's -- the city staff's clearly recommended with RDA staff after an enormous amount of work. I'm concerned what happens after we come back with the design-build and if that number happens to be too high because of some additional bells and

whistles are somehow deemed to be necessary for the project I think we send the signal that it's acceptable to be working elsewhere and that's not the right signal at this time.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: And I see Katy is thinking about this as well and maybe we're on the same page but I want to make clear that you cannot award a contract until you have the money in hand. So it's not until you've actually issued --

>> Councilmember Liccardo: I'm very conscious of that Rick. The probe is how we get that money is terribly important.

>> City Attorney Doyle: You'll issue bonds and the risk is the issue of paying debt service and that's the risk. That's where Scott and his team will come back with the various scenarios. Katy and her staff, I'm not taking sides here but Katy and her staff are very good in value-engineering these projects and coming up with ultimately a project that council can award feeling comfortable with the budget but I just want to make sure that nothing is going to get awarded without the money being in hand.

>> Councilmember Liccardo: I know that, I know that as a legal matter. The question is what as a political matter takes place between the time when we decide what the budget ought to be and the time at which we make that award.

>> Katy Allen: If I can add something Councilmember Liccardo and work closely with Janet Kern and both Public Works and agency staff we can frame this project in a way that quite frankly the budget is set. It's \$130 million. The question is going to be how much project can we get for that budget. And in the course of developing that, and we have a lot of work to do after the action today, but we can frame it in a way where the project's 130 and we craft our qualifications based on experience and that the experience of a design-build contractor, and then we test them to bring us back a project that will demonstrate our ability to maximize that budget. So the variable is not the budget. The variable is the scope. And that's the way that we can craft this RFP.

>> Councilmember Liccardo: And Katy I very much appreciate your abilities to do that but there's one more variable, not just the budget but where the money comes from. I think that's a terribly important question for us to get a handle on, particularly after all the enormous amount of work that's already been done on financing.

>> Mayor Reed: We need to bring this to a halt. We have beat this horse to death and this is not the first time we've had this horse in front of us. So we have a motion on the floor, and I'm going to lose a councilmember very soon, he's got to go to a doctor's appointment. I want to get the vote in. The motion as made by Councilmember Constant. All in favor, opposed, one opposed, Councilmember Liccardo. The motion passes on a 10-1 vote. Thank you staff, go find the money. [applause]

>> Mayor Reed: Now we'll move to 9.2, the agreement on the 4th and San Fernando parking garage debt service payments. Take a second to change staff. Staff does have a presentation on this one, get it teed up here.

>> I'll go ahead and begin. Mr. Mayor, minutes of the council, Jim Ortbal, assistant transportation director. And with me is Abi Magamfar, from the redevelopment agency. We have a short presentation for you today relating to our amended agreement between the agency and the city related to the payments for the fourth and San Fernando garage. This item also plays a role in the redevelopment agency budget actions later today providing a funding source. This action today is going to postpone agency repayment of an existing \$6.8 million loan to the City's parking fund from 2012 to 2015. It also currently provides an additional \$6.8 million loan to service the next two years of debt for the garage, and that would start March 1st. It does eliminate our reserves in the park capital development fund. It will enhance all parking planning and development for the foreseeable future. Fortunately we have plenty of available parking in our downtown. So no new parking is needed at this time. And the reality is, we can't afford to develop new park at this time. It's important to understand the condition of the park fund as it currently stands. The city's park fund is solely reliant on the revenues it generates from its parking garages, lots, meters and interest earnings. Any revenue from the capital funds come exclusively from the net revenue from the operations of the system. Two weeks ago, at mid year, this council took action to reduce

revenues and expenses due to the economy and park activity being down. The fund is forecast to be out of balance necessary fiscal year and staff will be bringing forward actions in the May proposed budget to bring the fund back into balance next year. This new loan does further reduce interest revenues into the fund, and the disposition of parking lots in the system for development purposes will further impact revenues into the system. We raise all these issues because a combination of all these factors has put pressure on the fund, and it requires careful decision making as it relates to any other actions that may impact this fund in the future, an item that will be scheduled in two weeks, the park incentive item is something we need to keep a close eye on because it could have further impacts into the revenue stream into this fund. And finally consistent with the city's prudent budgeting practices, the fund will continue to maintain all that's legally required in emergency reserves. And so with that, we're available for questions.

>> Mayor Reed: We have a motion to approve, the staff recommendation on this one. Councilmember Oliverio.

>> Councilmember Oliverio: On the pecking order of money that's owed, where does this come in line City Attorney? Is this a matter of discretion for the agency board or the city council?

>> City Attorney Doyle: Well, use the word discretion, I think it's -- I mean, it's really a budgetary issue and park fund has obligations that are bond covenants. And you know I --

>> Maybe I can give an overall.

>> City Attorney Doyle: Budget issues yeah --

>> I'd be happy to give a quick explanation on it. The debt that the agency owes the city in this regard, it is junior debt to their other obligation. So it's a rung below their senior debt in that respect. The park fund, though, is the main pledge along with redevelopment agency tax increment for the 4th and San Fernando bonds. So the park fund was the vehicle that was used to originally issue the debt but repayment of the agency on this loan is a secondary debt to their other tax, to their other debt.

>> Councilmember Oliverio: So if someone could help me here, what's the most senior, paying back revenue, paying back the bonds?

>> Abi Magamfar: That's correct, Abi Magamfar deputy executive director redevelopment agency. The senior debts sir they take priority.

>> Councilmember Oliverio: Okay.and then that's it then you have the long list of junior debt?

>> Abi Magamfar: Correct.

>> Councilmember Oliverio: Then is there any priority in the junior debt that's what I'm trying to --

>> If I could answer that question, David Baum chief financial officer of the agency. The variable rate bonds are the most -- are the least junior or the next junior to the agency's senior debt. Below that is the convention center debt which is about \$14.7 million this year and then next, actually I got that backwards. Next to the variable rate debt is the park fund debt and then the convention center debt. Is how -- is the order of subordination in the agency's legal and financial structure.

>> City Attorney Doyle: And then if you take a look at the memo that the City Manager and the executive director sent there's the other obligations that are even more junior and then there's the county obligations as well. So I mean if you wanted to take the pecking order and look at the list that's the list.

>> Councilmember Oliverio: Okay.

>> Mayor Reed: We have a motion to approve on this. I have no cards from the public, none. All in favor? Opposed, none opposed, that's approved. Our next item is on the joint financing authority, it's item number 2, supplemental education revenue augmentation fund financing plan, which is the fancy language from the State

of California for justifying why they are taking our money, I just call it the state take away, keep it simple. \$75 million we have to pony up over the next two years, \$62 million is due on May 10th. If we don't pay them the money, the redevelopment agency will suffer the death penalty. Now, this strategy is something that we've asked the staff to do to come in and figure out a way that we can fund the state take away and maintain the fiscal health of the city and the redevelopment agency, so that we can continue to do redevelopment work. Also attempting to minimize the risk to the General Fund and the City's housing programs while providing some flexibility to allow the council and agency board discretion so that terms can be flexibility based on changes in economic conditions. So that's why the structure's gotten a little bit more complicated but I want to thank the staff for work through a lot of issues over the last couple of months to come up with this particular package of ways to be able to fund the state take away. Our share of the statewide take away is only \$75 million, statewide is \$2 billion. But there are many other agencies, redevelopment agencies in the state that had money, because they don't spend their affordable housing dollars. And that's why the state pointed the agencies towards those affordable housing dollars as a financing source. So it wasn't as easy for us as it was for others but the staff has done a good job of putting us together and we'll take a few minutes to allow them to explain the structure.

>> Scott Johnson: Thank you, Mr. Mayor, members of the council, I'm Scott Johnson director of finance. I'd like to walk you through the financing plan and the issues that we've been working with with the interdepartmental team along with the redevelopment agency on this project. So on the first slide, I'm bringing it up here as we queue it up, as the mayor mentioned, you know, this is not a City of San José or City of San José redevelopment agency issue. This is a statewide issue. Where the state is, per their legislation, is requiring that the redevelopment agency deposit \$75 million into the supplemental education revenue augmentation fund, otherwise known as CRAF, to fund schools. The California redevelopment association has already filed the lawsuit, and we are hopeful that CRA will be successful in that lawsuit. However, given the legislation the redevelopment agency is required unless there is positive action in regards to that lawsuit. So we have developed a financing plan that anticipates two payments to the CRAF fund, \$62 million would be due by May 10th of 2010 and \$13 million is due May 10th, 2011. The mayor mentioned the guiding principles. And these guiding principles quite frankly have been our guiding light in developing a financing plan that makes sense to the city, to the redevelopment agency, to our housing fund, with the goal of maintaining the city and the housing ratings, it is very important that we maintain the good ratings that we have and that we conform with fiscal management best practices. In addition, it's important to minimize the risk to the General Fund and to the housing fund to maintain that the General Fund and the housing fund are made whole and that we follow city council's interfund loan policy. In regards to maximizing flexibility we want to -- we present a plan to you today that allows the council and the agency board some discretion. And the terms can be flexible based on the changes in economic conditions as we move forward. And we have an attachment, a comprehensive attachment of the terms and conditions of the loan agreements and the financing plan. On the next slide, this is to reiterate the council direction on December 15th, and I'd just like to kind of walk through how our proposed financing plan fits in with council's direction from December 15th of 2009. First, council directed that \$40 million would be loaned from the housing fund. This is included in the proposed financing plan. Second, the council directed that \$10 million be used for interfund loans. \$3 million from the subdivision park trust fund. \$5 million from the sewage treatment connection fee fund. And \$2 million from the ice center revenue fund. This is included in our proposed financing plan. Staff has also directed to evaluate other sources of funds. I'd like to go through those. There were four of them. First was savings from additional project cuts in the redevelopment agency budget. And the agency, in addition to the layoffs of nearly 25% of agency staff, and a 60% reduction of their current year capital budget from what was adopted in June, the agency also further reduced their capital improvement project budget by \$22 million. The other direction was to look at issuing commercial paper notes. This is included in the proposed financing plan. We were also directed to look at additional borrowing from two of the funds identified by the council and this is not recommended at this time because we feel that we have a financing plan that's put together where it's not necessary for us to borrow from additional funds since we're already borrowing \$10 million. But however, we do want to note that we want to keep that option open, and potentially it would be revisited if any of the proposed financing plan components end up where they would not be available to us. And finally temporary loans from various other funds, that's not recommended at this time for the same reason as I mentioned earlier. So our -- on the next slide the CRAF financing plan an interdepartmental and interagency financing team was formed. And this took a lot of work, working with our financial advisors and working with members of the Department of Finance, Housing, the City Manager's Office, the Budget Office, the City Attorney's Office, the Redevelopment Agency, our bond counsel, and as I mentioned, the financial advisors. In the plan, the city would loan the agency a total of \$75 million in principal. And then full reimbursement of principal, interest and fees would be reimbursed to the city

from the agency. The loan as I mentioned is subject to certain terms and conditions as we outlined in attachment 1 that's attached to the memorandum. The agency's 2009-10 budget and the agency's 2010 through 15 CIP includes repayments to the city starting in 2012-13 going through 2014-15 that total approximately \$83 million. However, that's -- that doesn't add up to the full amount that would be due back to the city due to the original principal plus the accrued interest and fees which mostly are third party fees and mostly third party interest from the sources of funding. So it is anticipated that in scarlet 2015-16 that that -- fiscal year 2015-16 that that final payment would be made back to the city. This last slide just graphically shows the sources of funds that I have already identified, \$10 million from interfund loans, \$52 million from a housing fund loan and the components of the sources of those funds, the housing department would issue housing bonds of \$40 million, and the city -- the financing authority would issue commercial paper notes that we would loan to the housing fund, the housing fund would use the commercial paper notes proceeds for housing purposes. Therefore, freeing up housing funds that could be loaned to the agency for the purpose of funding the CRAF payments. This next slide just shows the time line, and so here again, just to reiterate some of the key dates. May 10th, 2010, absent success in regards to the CRA lawsuit, would be the first payment that would be due to the county, to the CRAF fund of \$62 million from the agency and then on May 10th, 2011 an additional \$13 million would be due from the agency. On the next slide this is just showing the agency's repayment obligation, as I mentioned \$75 million in principal, and we anticipate and estimate that the fees and interest associated with the sources of funds would total approximately \$23.7 million. I do want to mention that the all-in cost to the agency for this loan would range from four to 5%. And that's due to the city and the housing department's good credit rating. So we're able -- we're using vehicles at the lowest cost available to us be it the commercial paper program and a variable rate housing financing plan. Moving on to key terms and conditions, the agency intends to repay the housing fund loan within five years. And that's very critical. Because the legislation that was passed by the state, states that if the agency failed to pay within five years it triggers an increase in tax increment from the housing fund. The housing fund currently receives 20% tax increment from the redevelopment agency. That increase, that increment would be increased if the agency did not pay this loan within the five-year period. And it's the City's intent then for the first priority, the agency's repayment to be applied towards the housing fund, so that we could mitigate any potential triggering of this additional increment penalty that the agency would be subject to, based on the state legislation. So the agency would fully reimburse the city for the principal and interest and the fees for this loan. Moving on to the key terms and conditions, the repayment from the agency will be from any legally available unrestricted funds and potentially and including any future bond proceeds. The loan would be callable as needed and this is important because if we're using commercial paper notes we do know that as council knows, council recently approved an extension of the letter of credit for our commercial paper program. And if we were not able to secure an extension of that letter of credit, after three years, we might have a need to call those proceeds. In addition, you know, since we are funding \$10 million from interfund loans the city council's interfund loan policy states that if the fund that loans the money needs those funds for other purposes then those funds are cullable. So then if that were to occur we'd have to either look for additional funds that we could switch out that loan or the General Fund would be at risk to repay, until the agency was able to repay the loan. There would be no prepayment penalty and the California theater would be used by the agency to be pledged as collateral for security for the commercial paper notes for the City's commercial paper note program. Just some additional considerations that we've looked at, and the City Manager touched upon this in regards to the supplemental memorandum that our City Manager issued along with the agency executive director. First, the CRAF loan increases the agency's total obligations to the city of over \$120 million. The agency's existing annual obligations which do not include the CRAF loan total over \$23 million annually, with potential General Fund risk and Mr. Baum just kind of laid out that on the other item in regards to the convention center, the fourth street garage and some other loans that the City's General Fund is at risk if the agency does not have sufficient funding to pay for those annual obligations. In addition, council is aware that in spring of 2009, the city loaned the agency unrestricted funds for the agency's cash flow needs. And we loaned the agency unrestricted funds for restricted bond proceeds. And so that loan occurred within a day, however, that we do have approximately \$45 million of tax exempt unspent bond proceeds that need to be used by the city for projects of benefit to redevelopment areas. And the city does not have capacity to undertake any additional loans of this nature, especially given our budgetary challenges in the General Fund. In addition the city maybe subject to additional risk potentially depending on the financing structure for the item we previously talked about in regards to the convention center expansion financing. So follow-up council action items are March of 2010, we anticipate based on this financing plan, that we would bring forward to the council approval of issuance of housing set aside tax allocation bonds and then in the time frame of April or May of this year, we would bring forward approval of amendments to the commercial paper program, because the letter of credit providers, the two banks that are letter of credit providers

for our City's commercial paper program, they require that they approve, and we would have to modify the agreement for the use of the commercial paper proceeds for this purpose. And we would bring that forward to council for approval. And then finally any necessary budgetary actions related to the CRAF loan. So in summary we believe that this proposed financing plan, it implements the council and agency action that was taken December 15th. It achieves the goals that were established for the CRAF guiding principles and it provides funding to enable the agency to make the CRAF payments as required by the state law assuming that the lawsuit is not successful. We're hoping that it is but it's important that we have a plan in action based on the legislation for the required mandated payments. And we're available for any questions you may have.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Hey Scott, I see on pages 10 and 11 the costs, administrative costs involved here. I can't tell though whether the administrative costs are variable or fixed.

>> Scott Johnson: Councilmember Liccardo, the interest costs are variable. And the fees, there are some fees that are city related fees, which are pretty low, we negotiated basically a reimbursement. But the interest costs that we are projecting are variable based on current market and we also put some buffer there in our estimate in regards to potential increases in interest rates.

>> Councilmember Liccardo: Okay, great. Well, I appreciate all the analysis, this is really thorough report. So I want to congratulate the housing department, and our finance department for working out all the refinancing. It appears we are very close to the goal line with all the refinancing the housing department has had to deal with, with various problems in the financial markets. So I think that's a great success. The other question I had was, it appears that we're essentially issuing commercial paper to pay the housing department, to pay the RDA, to pay the state. Why aren't we issuing commercial paper to pay the RDA directly?

>> Scott Johnson: Councilmember, we talked to the letter of credit provider and the main letter of credit provider indicated to us that they do not see the use of the commercial paper proceeds for the redevelopment agency's work capital. So in order -- they were more comfortable with funding housing related costs and projects and so that's why we were structuring it in this way.

>> Councilmember Liccardo: Okay. Well I think this is really the best possible way, going forward. And I really want to point out, on page 11, how much we save in lower costs by going this route with commercial paper rather than having RDA out there borrowing on its own at 8.5%. We are somewhere on the order of 400 basis points lower if you throw in all the administrative costs including interest by my estimate on \$25 million that's a million dollars a year in financing cost and I think that's really significant, certainly saves our RDA budget enormously. For that reason I'd move to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion to approve the staff recommendation on this item. Vice Mayor Chirco.

>> Councilmember Chirco: One of the questions that we were wondering about is, there was a recent announcement of a county wide reduction in property tax assessments. And are you still confident that our tax increment projections are accurate?

>> Board member Chirco, David Baum. We behave our best effort last September to do the tax increment projection. And this is certainly a question that's -- we've frequently answered, and one of the questions that, in December, that you gave to us. And at this point, we did assume that there would be a 2% prop 13 inflation factor in the growth for the next fiscal year, 10-11. And what happened with the recent announcement from the state is that instead of there being a 2% prop 13 inflated growth, there in fact is a .23 negative growth that's applied to real property. So that would be land and improvements. And considering the fact that for the agency, the assessed value is probably about 75% real property, and about 25% personal property, that 2%, had a we had anticipated which is the typical growth, instead will be flat or slightly negative. So that would reduce our tax increment theoretically by about \$1.5 million. Now, on the other hand, our supplement assessments for the current year are ahead of plan. We forecast \$3 million in supplemental assessments and that's roughly 1.5% of our total tax

increment. To date we've received about \$1.9 million in supplemental assessments. So that's the sort of thing that could be used to offset this prop 13 issue where it's a slightly negative for next year.

>> Councilmember Chirco: I like to tell you I understood everything that you just said but I think TTY's last sentence that I understood. You're saying the supplemental will offset the anticipated shortfall in the real and personal property?

>> That would be our hope, and the fact that there is not a lot of new construction but there are projects like the brocade project in north San José, like the Equinix project in north San José, Lowe's is opening up a new store in South San José. So those kinds of things we hope will generate growth in the coming year. The offset would be of course maybe assessment appeals or the assessor has said besides the prop 13 there's the possibility of commercial slow down in property values. But that remains to be seen.

>> Councilmember Chirco: And then it's my understanding that we were using commercial paper to not only pay the state but also to cover the financing cost for several years until the agency begins the repayment, and are these financing costs covered by the state's statutory repayment as required for the housing fund?

>> Scott Johnson: Vice Mayor, Scott Johnson director of finance. In the memo we indicated that it is unclear to us whether or not it is subject to the statutory trigger. However, the way that we were looking at the repayment and the priority, if the agency repays in accordance with their five-year budget, and pays the final payment, and if the interfund loan is last, then it wouldn't trigger, it wouldn't be subject to the trigger. However, if it's not and if it is subject to the trigger that's something that we're going to have to work with our attorneys on. And if it is, then the agency will need to accelerate, you know, those payments.

>> Councilmember Chirco: And then just one last question having to do with the \$3 million from the park trust fund. And this is a question we've asked, I wanted to ask it in open session, is, there is a five-year commitment from the time we receive them to when they have to be committed. And does the proposed repayment schedule allow us to meet that requirement for the park funds used in the loan?

>> Hi, Matt cano, division manager Parks, Recreation, and Neighborhood Services. You're right, the park funds have to be committed to a specific project within five years. We can make these loan work, though.

>> Councilmember Chirco: These are all questions we've asked. I really want to thank everyone again that worked so hard to come up with the solution to an insolvable problem. It's taken a lot of hard work, and worse yet, it takes a lot of money. So I will be supporting this motion, and thank everyone that worked so hard, and the reward is, you get to continue to work really hard. Thank you.

>> Mayor Reed: Congratulations. You just won a prize. Get to work even harder! I have no cards on this. We have a motion to approve. Councilmember Oliverio.

>> Councilmember Oliverio: I'd at this point I'd, let's get this out there. I was not going to be supporting the redevelopment agency budget. I think I should vote no on this item because I'm not supportive of the financing methodology we've put together. I understand there's a lot of work and a lot of resources to balance to make everyone happy but I felt at this time the number one priority of redevelopment agency dollars should be economic development and we're making some different tradeoffs there to keep other things going and that's fine I respect the view of the councilmembers but I voted in a minority view last time this came to council. And I want to stay with that consistently so I don't want to participate in this vote here today with a positive vote so I'll be voting no.

>> Mayor Reed: I believe there was a motion, I said there was a motion, was I right? Yes I was right that's what I remembered. Further discussion all in favor? Opposed, Oliverio opposed, constant is absent, he's gone to the doctor so that motion carries on a 9-1 vote. That is approved. That completes the joint financing authority agenda. We'll now turn to the redevelopment agency agenda, item 8.1 we'll take up first. That's the 2009-10 revised capital operating budgets and the FY 20-15 capital improvement program and related actions.

>> Harry Mavrogenes: Mr. Mayor, members of the board. We are now presenting you the actual proposed budget. I want to again reiterate our thanks to not only our staff but to Deb Figone but the entire city staff who helped get us to the point where we can have a budget today. This was basically the document that you were presented with in December. There have been some changes that are tracked in a chart that isn't up yet, but our source in use budget, we have that -- it isn't up. But at any rate, this budget closely tracks the request made by the mayor and the agency board in December to add some funding of projects. And it carries through basically a budget that's very heavily weighted on economic development. Within this document a large portion of the funding this year is targeted to economic development including of course the convention center project, the civic auditorium, various other projects that try get industry to locate in San José. Even with the limited funds we really focused on that. We appreciate, we have worked with our SNI neighborhood leadership groups. They understand the postponement of many of the projects that we've had to. But there is funding also in the outer years for those. At this point, Mr. Mayor, members of the board, I'm available for any questions. Our staff's available. And we recommend that you proceed and approve this budget.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: I would like to put a motion on the floor for discussion. I understand Councilmember Oliverio's comments. I think this is a challenging budget year. As -- and also, the discussion we're having with the county. But I think with the memo that the mayor has put forward, the February 23rd one, which directs the executive director not to spend any unrestricted funds until contractually obligated, is a key option to this budget. We have very high demands on limited resources. So in an imperfect world, I can't say that this is a budget that gets anyone excited. But I think it is important that we approve this, so we can begin the work that the state has caused us to engage in. The economy itself created a problem and the state has made it worse. So I'd like to thank the redevelopment staff and the city for all the work they've done to create a budget. And now, as difficult as this may sound, the hard work begins.

>> Councilmember Herrera: Second.

>> Mayor Reed: Okay, we have a motion on the floor to begin the hard work. Anything else Vice Mayor?

>> Councilmember Chirco: No. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just thought the Vice Mayor put it really well so I'll just say thank you to city management and Deb Figone and City Manager and her staff and then of course to Harry, I know who has worked tremendously hard to try to bring this far. And as the Vice Mayor indicated, there's still a lot of work to do but of all the difficult decisions we have to make this is certainly one of them but I think the work that Harry and the rest of the staff has done has made it at least easier to get to this point so I appreciate it so thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. First of all I want to thank Harry and his staff for the work they have done over the past few months to prepare this revised budget and to save funding for affordable housing needed, affordable housing needs for the next several years. Harry, you have worked tirelessly and I know your staff has too so I really appreciate that. As we have seen over the last few years, 90% of our valley's CEOs responded that the lack of affordable housing for their employees is the number one issue they are facing by protecting these funds and continuing our City's investment in affordable housing we are telling these CEOs that we hear them, and we are responding to their immediate needs. As I've looked through the revised budget I saw that there remains some significant funding for infrastructure projects described as economic development projects. I want to highlight two of those projects. One of them is the autumn street extension and the civic auditorium. And that I believe should not be included in the immediate priorities. We know, by design, the redevelopment agency has largely been there to fund and develop projects we hope will be followed by a large private sector investment. We spend a large amount of our money believing, if we build it, they will come. I don't find fault with this strategy. I can say from my experience on the city council in the past nine years, it has proven to be a good long term strategy. I need to look no further than Story Road and King Road to see that you can

generate economic development and jobs creation through that belief. However, given the current economic crisis we face, we should not be investing in projects that carry the long term optimism of private sector investment on the back end, rather, we should be actively identifying opportunities that currently exist that will create long-lasting jobs, and a foundation for our future clean tech economy. The mayor did a wonderful job in highlighting the city's support of numerous emerging technology companies at the state of the city. So mayor, thank you for that address. These are exact opportunities that he highlighted that need to be funding -- they need to be funded and generate private sector investments and create immediate jobs. The autumn street extension promises to facilitate the future development of the area around the arena which is an important goal. But it does little for the more immediate need to generate jobs and convince companies to invest in San José. I would hate to forgo an opportunity to present incentives to a company to relocate its headquarters to San José because we spent money building a street extension so that five years from now we can attract private investment and development. So I'm sad to say that I cannot support the budget with this current allocation for the autumn street extension. Instead, I would prefer to see a proposal that the money largely be set aside in a reserve that can be accessed at any time a shovel-ready project comes before this board that meets or expectations for creating jobs and private capital investment in the City of San José. This is my last redevelopment budget that I will be voting on, and like I said, I'm sad to say that I will not be able to support it this year. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Councilmember Campos, just so I understand, to be clear, you're saying, the autumn parkway extension, you do not want to fund, and instead you want to put that money in reserves to fund corporate location headquarters, is that it?

>> Councilmember Campos: What I'm saying is I would prefer to see that money go into anything that would encourage companies to locate here, or use towards companies that can create jobs for emerging technology in the City of San José.

>> Councilmember Oliverio: Would you see the autumn parkway extension as economic development for the whole Diridon station area for the high speed rail proposed baseball stadium future commercial and part of the EIR that we needed to expand downtown?

>> Councilmember Campos: As I stated I see it as an economic opportunity but not in the immediate time frame. So it's something that would create economic development. But probably five, ten years down the line. And as we look at this current budget and where we're spending our money for redevelopment, we need to look at opportunities that will create jobs now, in this time, where we really need to put people back to work.

>> Councilmember Oliverio: Thank you. I just wanted to clarify the statement, it wasn't clear. So now I get it 100% so I think that's very important that we look towards what we can do for job growth but I would say then that we should spend every penny of the redevelopment agency budget on economic development. Affordable housing is great and it's so great we've built 18,000 units to become the number one provider of the State of California. With that said the RDA dollars should be concentrated on capital dollars, I mean for business recruitment and economic development. But having been part of the good neighbor committees and what's going on in the council I'd have to say that the autumn expressway is very important to the city as part of the environmental impact report to increase the downtown which is both residential and commercial, it helps to develop the Diridon station area both for transit commercial and a proposed baseball stadium. You none of these are easy, they are all tradeoffs but I think it's important to have dialogue on what's important and I've often asked on this RDA we should rank, because I really think we're getting to the time where RDA, based on our obligations and the current funding and all the things we're trying to do and taking it out of more economic development and putting it into neighborhoods takes away from its focus and allows us to maybe have a short wish list versus a long expansive list because I'd rather do a few things really well than try do a bunch of things not so well. I think that's you know something we're having to deal with as a council and redevelopment agency board.

>> Mayor Reed: I think executive director is got a comment on this.

>> Harry Mavrogenes: Yes, Mr. Mayor, members of the board part of the autumn parkway budget and the initial budget is agency funds to get it started but we also have successfully gotten grant funds and we're applying for

another \$10 million in grant funds in the future phases. So it is leveraging our dollars as well as providing a necessary access not only to occupy this Diridon area, but also, it is a very necessary piece of the infrastructure for the future of downtown. So it is laying groundwork. It is leveraging funds. I think you've mentioned the civic auditorium project. That one, I think, is, we feel, economic development because according to Team San José, it's already leveraged significant economic development. It's had an impact of over \$4 million according to Team San José to date with the work that they've done with the 22 concerts that have happened, and with a potential of over 100 concerts and special events a year it should generate significant economic development for the downtown so we believe strongly in both those projects and I appreciate your concerns.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I think that Harry and Pierluigi conveyed pretty well the points I wanted to make. The fact that we are leveraging so much money and the fact that the ballpark may be quite imminent, we may find ourselves on the ballot as soon as November. And that's half a billion worth of vex, private investment I think we certainly can't ignore and the civic center as I understand it although will be going dark during construction will be up and running the first of January in 2011, that's about as immediate as it gets. With a lot of events that's going to be bringing a lot of activities to the downtown and that's worth the investment.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. I just wanted to thank the executive director and his team for bringing this budget forward. I know it's not an easy task but it's the right direction. I want to thank the mayor for making it more clear in his memo dated February 19th. You know I have a different viewpoint in regards to the RDA taking on economic development projects. It's crucial but I see the RDA as a venue to create cohesive neighborhoods, through the SNI projects and programs. And it's really disheartening to see a reduction of funding allocations that goes to these programs. So time is bad right now but I hope when the economy improves that we can really consider bringing back some of the SNI projects and programs in the SNI areas, not all districts in the city have SNI areas, and we are all very aware of that. But the ones that have these SNI areas and projects they have benefited greatly, greatly from the programs and the services that the RDA provides. And so we shouldn't forget that, we shouldn't forget these neighborhoods, either. And so we don't want to pin economic development versus the lower economic neighborhoods, because it does have an impact on those neighborhoods, especially the district that I represent. So I just wanted to put that out there, and I fully appreciate the comments made by my colleagues. But this is my belief and I think that it should be taken into consideration as we move forward. Thanks.

>> Mayor Reed: Executive director has another comment.

>> Harry Mavrogenes: Yes. I just wanted to make a minor clarification on the mayor's recommendation on the unrestricted funds. Regarding the services and projects that are eligible to be paid with these taxable bond proceeds the agency may expend funds on services related to ongoing discussions with the county, services related to financing, services related to real estate negotiations, and services related to environmental studies or services related to ongoing discussions the county financing real property and negotiations and environmental studies. These are relatively minor, but I want to make sure that legally we don't get tangled up. Those are things that will help move ahead some of the things to resolve our issues with the county.

>> Mayor Reed: How minor is relatively minor? We have a few million dollars of unrestricted funds that are subject to this holding onto them for a while. What would it take to do those things that you've just outlined?

>> John Weis: Mr. Mayor, the items that executive director has listed is probably in the vicinity of 250 to \$300,000.

>> Mayor Reed: My caution about spending any money, is until May 10th is here and we are able to pay the state of California, we have to hang on to those kinds of funds. We can't pay the state with tax exempt bond funds. We can't pay the county with tax exempt bond funds so these unrestricted funds we may need them by May 10th but we also have to move ahead working with the county to solve the county's issues and some of the

of these other issues as well so some work needs to go on. That can only be funded with these unrestricted funds as I understand what staff is saying.

>> John Weis: That's correct.

>> Mayor Reed: I think it's reasonable to carve out those exceptions at the \$300,000 level. If that would be okay with the maker of the motion I think that would be all right.

>> Councilmember Chirco: That would be fine.

>> Mayor Reed: The seconder? Okay, that was Councilmember Liccardo. Okay with the seconder? Then we'll have those receptions to that motion. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just wanted to add my thanks to Harry and his team for working hard and putting this together. Despite the deplorable state of California grabbing RDA dollars and force us to borrow from the housing fund, I think, I think we're going to obviously deal with tough times ahead but this is important that we go ahead and move forward and just reflect on the fact that I think this is an incredible tool for economic development and at the same time, I also support Councilmember Nguyen's comments about the SNIs. It's done a great deal of good in our neighborhoods, and I commend Harry for balancing those two things, in the work that he does at the RDA. Thank you.

>> Mayor Reed: We have some requests from the public to speak. We'll take that testimony at this time. Dan Fenton, Melissa Morris and Terry Deosino.

>> Dan Fenton: Thank you, Mr. Mayor and council, Dan Fenton with Team San José. I just want to thank the mayor as well as Harry Mavrogenes, Bill Ekern, Dolores Montenegro and our partners at Niederlander concerts about what's gone on so far at the Civic and certainly urge approval of this budget and really talk about the fact that even in the first six months of us working together on what we call phase 1 of the civic auditorium, as Harry mentioned, we have already seen new jobs created both from people working inside the theater. We've talked to local restaurateurs who would certainly be here themselves if they could to testify directly about what happens every time there is a concert in downtown. How many new wait staff, how many new bus boys, how many new kitchen staff are able to work because of new volume. We're bullish on where the Civic is going to go, and I'll leave you with one thought. And I said this in the other council meeting but it's important to talk about other uses of the civic besides concerts. Recently, apple announced the launch of the ipad, it was at the Yerba Buena center in San Francisco. They looked at two locations, one was the civic, and one was Yerba Buena center in San Francisco. They know the vision for the new civic, and I assure you, the next time they're thinking about launching a product and they see the new civic when phase II is completed, they will be here where they should be, announcing new things and doing new things so this is not just about the wonderful concerts but it's about opportunities to support our local corporation with where we're going so I urge support here and thank everybody for their help here.

>> Mayor Reed: Melissa Morris and then Terry Deosino and that's the last cart I have on this.

>> Good evening, I'm Melissa Morris with the law foundation of Silicon Valley. I actually came this evening to speak about the CRAF payment to the state from the redevelopment budget, and we along with some other community members and organizations have been advocating for a take from the housing fund which was 20% and though our position that that would be an equitable way to do this hasn't changed, we recognize that the state has put the redevelopment agency in a very difficult position with this take and we acknowledge the proposal that was accepted by the council tonight does a much better job than away was discussed previously to protect our ability to produce affordable housing in San José for the future. I do want to encourage the redevelopment agency to stick to prioritizing repayment of those funds to the housing fund. Not just tonight as you consider the budget, but throughout the next six years, as you are considering how to allocate redevelopment funds in the future, since those loans will accrue interest over time and that money could be put back into the housing fund. Thank you.

>> Mayor Reed: Terry Diosino, not here, okay, that concludes the public testimony on this item. Do you want to speak? (inaudible).

>> Mayor Reed: Come on down.

>> I gave a card to the clerk's office.

>> Mayor Reed: That's okay. Sometimes we lose track of some of the cards in the shuffle among all of the events. So just go ahead and speak.

>> Okay. Dear marry and esteemed councilmembers, I'm grateful for this opportunity to address the city council and the citizenry. I would like to propose these three answers to the matters that need your cooperation and assistance. First is regarding animal welfare. My friends --

>> Mayor Reed: Sir, let me stop you. I think maybe you put in a card for the open forum. We're not here yet. We're still on the redevelopment agency budget. That's why I didn't have your card. We'll be there in a minute though, very quickly. That concludes the public testimony then on the budget. We have a motion to approve, as made by Vice Mayor Chirco, with a modification, further discussion on it? All in favor? Opposed, Oliverio opposed, Campos opposed, so that passes on an 8-2 vote, that concludes our item, thank you for your work, staff. Now we're back to the agency consent calendar. Take that up. There are anything anybody wants to pull off that consent calendar for discussion? Motion is to approve the consent calendar. All in favor opposed, none opposed, that's approved. Item 6.1, approval of a contract with David Powers and associates for preparation of a national environmental policy act environmental assessment. Motion is to approve. Councilmember Campos.

>> Councilmember Campos: So Harry I wanted to ask you a question. I know I did not support the funding for the autumn street extension but what I understand from this, this is just to approve you to have the ability to be able to leverage more funding from the federal government, for the project, is that what that's --

>> Harry Mavrogenes: Yes, it is.

>> Councilmember Campos: I'll support this since it's to basically approve the redevelopment agency the ability to complete the environmental study.

>> Mayor Reed: I have no cards on this item. That concludes the council discussion, it looks like, we have a motion to approve. All in favor? Opposed, none opposed, that's approved. Item 6.2 is construction contract Garden City construction for the civic auditorium phase 2 project. We have a motion to approve. I do have some requests from the public to speak to this. Go ahead and take those now, Michael Mulcahy and Richard Martin. Michael's gone, all right, Richard Martin.

>> I'm Richard Martin. I'm with Garden City construction. The senior project manager. I just wanted to introduce myself and introduce our company. Tell you all that we intend to partner on this project in every way we can and share all the benefits of it and all the opportunities as a team with the entire city. And the one thing I think that wasn't mentioned during the budget discussion when maybe I should have spoken up was how much pride this project will give to the city and how much enthusiasm and how much everybody will like it and will enjoy it and will love it, as we have in the past, and I -- thanks for this opportunity to speak.

>> Mayor Reed: Thank you. A couple of questions for the staff. First is, not for you, sir, I'm sorry.

>> Not for me?

>> Mayor Reed: Unless you have some money you want to help us with. [Laughter]

>> Mayor Reed: What's the source of funding for this particular project?

>> Mr. Mayor, again this is from tax exempt bond proceeds, it's restricted money.

>> Mayor Reed: So this is not money we could give to the state, and it's not money we could give to the county.

>> That is correct.

>> Mayor Reed: Okay. One question about the staff memo. It's not clear what happens with the seating. It looks like there might not possibly be enough money for the fixed seating which would be the last 3% of the project. And if we don't finish the seating I think we've wasted a lot of money. So if there isn't enough in the budget what will you do? Are you going to bring it back to us? I don't want to walk in there a year from now and see the same old seating in there and say well it's done?

>> Mr. Mayor what happened was we did have a bid for the seating which was \$386,000 and when we put the bids out for the remainder of the civic for phase 2 of the civic, it turned out that it was determined that the most important thing was to do the restaurant concession area because that's where there was more money that could come back to the civic. And so we didn't have the money in there to complete that work. So instead of using that, the money for the seating it was decided the most important thing to do would be to use that money for the concession area. However, working with Team San José another source of potential source of funding has been identified through theater production funding and we believe that we might be able to use that to do the seating. But at this point in time we are recommending to going ahead for the concession area because that is a revenue generator for the city.

>> Mayor Reed: I understand that's a revenue generator but if you go out and buy a new car and it doesn't have new seats --

>> Harry Mavrogenes: Mr. Mayor, I happened to be on the board that will be considering that funding also.

>> Dan Fenton: Dan Fenton with San José theater preservation Inc. The nice thing that the council everybody remembers the thing about a year ago or two approved the concept which the arts partners are very supportive of, of making sure there's one dollar per ticket that is sold that goes into a fund that the redevelopment agency and the City Manager's office are part of a board that looks at managing those funds, we have preliminarily had discussions with that board and we think there is interest in using those funds, Mr. Mayor, it's an opportunity to make sure those seats do in fact get installed.

>> Mayor Reed: My question for staff is if that doesn't work are you going to bring this back to us or are you going to leave the crappy seats in there, that's the simple question.

>> Bill Ekern: Mr. Mayor, Bill Ekern. We are continuing to look for ways to save money. We would know hopefully by the end of this summer where we stood in the overall budget, so we could return to you and give you an update and let you know what our recommendations would be to go forward with seating.

>> Mayor Reed: Okay, thank you, that answers my question. Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, I was just going to add if worse comes to worse I think we just tear all the seats out and let people stand. Because I mean they can dance more that way and frankly, it would improve the appearance.

>> Mayor Reed: We'll have a party to do that, I'm sure. Councilmember Oliverio.

>> Councilmember Oliverio: Redevelopment director, I believe this one does this contain the elevator for the --

>> Harry Mavrogenes: Yes, it does.

>> Councilmember Oliverio: I would suggestion you know if you're short dump the theater. Because the theater is already the ADA compliant for the first floor and that was going to be a major issue for the theater group to not have that seating available. If the theatre is not accessible, let's do phase 2 and get the seating done.

>> Bill Ekern: Mr. Mayor, the reason for this phase 2 is to bring both of the theaters in compliance with ADA and the elevator is required to do that.

>> Councilmember Oliverio: Sure but the seats are very important. The theater is already ADA compliant on the first floor.

>> Bill Ekern: Again it is our directive that the entire space needs to be compliant with ADA which is the reason this project is moving forward. To put in the seats you would have to put the elevator to get to the seats.

>> Councilmember Oliverio: I just want to be clear here. This is -- I'm talking about the elevator that has to do with where the children's musical theater performance.

>> Bill Ekern: It is the same elevator. Elevator serves both buildings.

>> Councilmember Oliverio: So currently the CMT is ADA compliant on the first floor and then the Civic is ADA compliant on the first floor, but not the second floor.

>> Bill Ekern: Mr. Mayor, members of the board, I don't want to parse this too finely, but the Montgomery theater does have ADA issues on the ground floor that are being rectified as part of this phase II work in the Civic in order for us to put the elevator in that then makes the entire Montgomery theater and the entire civic ought tomorrow ADA compliant.

>> Councilmember Oliverio: Then just the level of detail how this works out are you in accordance and agreement with the children's theater on how this should work or is there agreement at this point?

>> Bill Ekern: As far as I know we have resolved all issues and concerns of the Children's Music Theater.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I do notice responsibly so it is a pretty significant contingency of 15% which I think makes sense as noted given the age of the building and that you may not know what you'll anticipate once you start work on the building but I think that if we're fortunate enough that we don't need to use the entire contingency and the Garden City is able to put this under budget that hopefully you can say we have the money left over and it looks like it's an appropriate amount for the most part in taking care of the seating as well.

>> Mayor Reed: Thank you, I think that concludes the discussion unless we have a motion. All in favor? Opposed, Councilmember Campos, other opposed? That passes on a 9-1 vote with Councilmember Constant absent. That concludes item 6.2 taking us to the open forum. Now, time, Mr. Johnson, sorry. Come on down.

>> Am I the only one here?

>> Mayor Reed: You're the only one for open forum so you can go first.

>> Let me try this again. Dear mayor and esteemed councilmembers, I'm grateful for this second opportunity to address the city council and the citizenry. I'd like to propose three answers to matters that need your cooperation, and assistance. The first is regarding animal welfare. My friends would like to see an enclosure for birds to nest upon light fixtures in parking lots. Specifically in places like Target at king and story and pet smart at the plant ant Monterey and Curtner and places like Safeway in Cupertino and local schools like prospect high school in Saratoga. Second is an aid commute with the VTA, I believe better color coding for bus schedules would be helpful. I recommend a distinctive stripe on the front of each schedule along the fold. Like this. So that children can see them and identify the route they're on. Each route should be given its own color stripe. And the third is a matter of public safety. I believe that a crosswalk at Hyde avenue across Bolinger Road is a necessity, should span the street from Hyde Middle School to the Orchard Market shopping center. This should be a community effort between San José and Cupertino. Thank you, your work is welcome.

>> Mayor Reed: Thank you. That concludes to open forum. That concludes our agenda for this afternoon. We'll reconvene at 7:00 p.m. so we're going to take a little recess.

City of San José council meeting 7:00 p.m.

>> Mayor Reed: Good evening. I'd like to call the city council back into session for the evening part of our agenda today. We have some councilmembers who are in the back room, who will be out in a moment. We do have a quorum present here in the chambers. I want to note that we will adjourn this meeting in memory of Frank Schiavo, a long time resident of Council District 7 and a long time leader in environmental matters. Councilmember Nguyen has some additional comments.

>> Councilmember Nguyen: Thank you Mayor. Tonight's meeting will be adjourned in memory of Frank Schiavo who passed away on January 26th. As many of you know, Frank was dubbed the messiah of the environment, for his efforts to go green before it was even cool. Frank lived in his solar-powered home in District 7 where he composed everything from vegetable, fruit peelings, egg shells et cetera in his garden, he washed dishes by hand, took shorter showers and prided himself in not creating anything garbage. Mr. Schiavo was a retired environmental studies lecturer from San José State University. He also served as president of citizens against airport pollution and was the recipient of numerous awards and honors for his environmental advocacy. His efforts has help co-author various legislation and policy regarding environmental issues including many ordinances within the City of San José environmental issues. I am honored to have 0 if privilege of knowing frank and touring his really cool house. I hope that his teaching will live in all of us forever. He is survived by his step mother sister and nephew Glen Schiavo who is with us in the audience today. On behalf of the City of San José and my colleagues we would like to extend our deepest sympathies and condolences to the Schiavo family as well as to his San José State university family. And I believe Councilmember Liccardo also has a few words.

>> Councilmember Liccardo: Thank you, Councilmember Nguyen. Councilmember Nguyen put it very eloquently. I just wanted to add I've known Frank for several years and what became apparent to me although we started working together on various airport issues over time I would run into various students who regarded him with incredible reverence. And he had this remarkable following of students who were so devoted and he had the power to captivate people in this wonderful mission that ultimately so many of us came to adopt. I had the pleasure this weekend of going to the memorial service where students just streamed in and out and students by that I mean former students in their 50s and 60s who came in to say something about Frank and how he had touched their lives. This man had a really remarkable influence on people and we'll all miss him.

>> Mayor Reed: Thank you. First item to take up this evening is the ceremonial item. I'd like to invite Councilmember Oliverio and members of the Alameda business association to join me at the podium.

>> Councilmember Oliverio: Come on up. Good evening everyone I'll start introducing people as they come up. We're here to honor the Alameda business association. Which is Larry Clark and just kind of acknowledge Michael Barnabus, Andy Batchelder, Abi Magamfar from the Redevelopment Agency, Susan Dwyer, and Betty Slater and I think I got everyone -- Reuben Rousseau. So there are many business associations in San José and they all do a great job and I'm blessed with having four of them in my district but tonight we're here honoring the Alameda business association which is a bit different. They're dedicated to the revitalization of the business district but highlighting the district's rich history. They first started off by commissioning the beautiful way, I'm sure you have it here, well it's in the audience. I thought you would be bringing one up. They they continue the ABC and bringing back a festival tall way from 1896, the rose white and blue fourth of July parade. It's been a partnership with the city, our redevelopment agency, it is one of the neighborhood business districts we supported we've supported it with \$11 million since its inception, providing parking and street landscaping and other things that provide economic development. The ABA was awarded the CalTrans community based planning grant. This helped the community come together with we've had four meetings so far of 100 people attending each deciding what should the future of this great grand boulevard be and it's been a great thing and it wouldn't have happened without the ABA finding the grant of course partnered with our redevelopment agency. And finally we were the Alameda business district was honored by receiving the governor's historic preservation award, we drove to Sacramento about a month ago to do that. But at this point I would like the mayor to present the commendation to the Alameda business association and invite Larry Clark to say a few words. [applause]

>> This is a little bit funny. This is an award for getting an award. It just stop. The Alameda business association was honored in its rather unique, there were 40 groups that applied for this award and we were one of them that won it. But we were the only in the history of the award, the only business association that has ever would be the

governor's historic preservation award, so I think that's a means of distinction. We have really tried on the Alameda to recapture the history, use the history for marketing advantage in improving the area that we both work and some of us live in. I want to make a little plug for our upcoming parade in July. It's growing, the first year we had it was two years ago. We only had 3,000 people come out. Last year we had 10,000 people and we hope to have 20,000 people come out to see the rose, white and blue fourth of July parade on the Alameda. So if you hear about it, see advertisements for it please come out and join the parade and the festival that follows. Maybe just as the last thing to say thank you for all the people that have helped in every way, Abi and all the people from the redevelopment agency and including Harry Mavrogenes and the mayor. Thank you for helping the Alameda business association. One more final thing is I had Frank Schiavo as an eighth grade science teacher at Edwin Markham junior high school and everything you said was absolutely true. Thank you.

>> Mayor Reed: Okay, thank you. For our next item I would like to invite Councilmember Constant and semi finalists and finalists from the 2010 Intel science talent search to join us at the podium. Today we are going to commend the students from Harker and Lynbrook High School for their success in the 2010 Intel science talent search which Councilmember Constant will describe as soon as we get everybody formed up down here.

>> Councilmember Constant: Thank you, mayor. Well, this afternoon we had the opportunity to hear about some great students in Evergreen district and I'm glad we get to continue it this evening and talk about some great students in District 1. First I'd like to introduce some of the people behind me. I think we're going to start probably at this end but I probably won't have the correct order. But at my far left, your right is Gail Davidson. She's the principal from Lynbrook high school. The students we have are David Lew, Raman Nalakantia, Tony Ho, Akshay Mahawari, Ratik Malhotra and Tehush Navarata, and I'm sorry to the parents I'm trying my best. Those are the students from Lynbrook. Then to this side to my far right, we have from Harker Schol Chris nickelpff and then students Namrata Ananed and Kevin Zang, I know I got Kevin's name right on this side. And we have Vahesh Jane with us as well. My about apologizes for the names. But I know we've got them spelled right which is the important thing. We're here today to honor these wonderful students from District 1. The Intel science talent search is America's most prestigious precollege science competition. There have been wonderful alumni of this talent search that have made extraordinary contributions to science and hold over 100 of the world's most coveted science and math honors, including seven Nobel Prize winners and three national medals of science. The Intel science talent search recognizes 300 students and their schools as semi finalists each year from over 1700 applications that compete for about \$1.2 million in awards. Only 40 student finalists are invited to Washington, D.C. in March to participate in the final judging display their work to the public meet with notable scientists and most importantly compete for the top award of \$100,000. So we don't too often on the West Coast see the type of talent that you're seeing right behind me all in one year. This is incredible. Three of the eight finalists from California were from San José schools and that's incredible. Lynbrook High -- let's give them a round of applause for had a. Lynbrook High School is only the second school in California to ever have six students advance to the semifinals and three go on to the finals, that's incredible. But last year the only other school that was able to do that was Harker, and they're with us as well. And they had six semi finalists last year. So I wanted to tell you just real quickly about some of these projects. And I'm only going to tell you about the finalists that we have with us, there's three finalists. The first one by David is the semantic image retrieval in interactive exploration of large image collections. What that basically says is he figured out a computer algorithm that can look at digital files and tell you what's in the pictures without even having to look at it. That's incredible, and that's going to really change how we use the Internet and how people search for images throughout the Internet and in their own private collections. And as a professional photographer I'm excited about that one. For Raman his project is inducing anaerobic conditions using sulfur deprivation for hydrogen projection and Tala -- some long word. And what that basically is, in a nutshell, is he figured out a way to grow algae as a potential source of hydrogen as a renewable biofuel. Remember these guys are only high school students. And then Namrata, her project was a spectral analysis of the chemical enrichment history of red giants in the andromedia galaxy field M31 versus its dwarf spheroidal or something like that satellites. So she used spectral analysis in nearly decades worth of data to expose key information about the chemical enrichment history of the Andromeda galaxy. So I can't tell you how proud we are, of course in District 1, but throughout the entire city of San José to have such brilliant minds going to work for us not only today but tomorrow. So we have commendations for everybody.

>> Mayor Reed: Before we do that before I give the commendations to the students I know they didn't do it by themselves. I know there's some parents here so I'm sure the city council wants to thank the parents and the

students want to thank the parents. Let's have the parents stand up, please. [applause] The parents are obviously doing great work. So I have commendations for the students.

>> Councilmember Constant: So we're going to have one of the young men say a few words here.

>> Hi everyone. My name is Radik Mahotra I was one of the semi finalists from Lynbrook. Thank you everyone for inviting us. Apart from the parents that also helped us I want to give a thanks to all the teachers, principals and all the school administration and Intel of course I think without them, I don't think this would have been possible so just a round of plays for both parties. [applause]

>> With that I think everything else was pretty much summed up. This competition was really fun. I think I can say on behalf of everyone we put lots of hours into the work and I think we got, you know, substantial result out of it so we're really happy with what happened and the ceremony itself. So thank you.

>> Councilmember Constant: We're going to hear from one other from Harker.

>> Hi everyone, my name is Namata Allins, and I was the Intel finalist from Harker school. We would really like you guys for having us here for inviting us over for this excellent commendation service and really I think our achievements wouldn't have been as great as they are right now if it weren't for the communities we were raised in here in the Bay Area so thank you so much. [applause]

>> Mayor Reed: Let me say for the parents, it's okay to leave. You don't have to stay for the rest of the meeting. We don't punish you for getting awards. Our first item of business is item 11.2, that's a rezoning of property on the west side of north sixth street. I have one card to speak on this from the public. I'll take that first. I don't know if there's an applicant here or not. Okay, why don't we hear from the applicant first and then we have one card.

>> Thank you and good evening members of the council, Jeff Oberdorfer, first community housing. The project before you tonight is a 75-unit senior housing project across the street from the city's corporation yard and next to Fuji towers, another affordable housing project. 35% of our tenants will be special needs tenants. This will be a green building. We have actually been invited to be on the first mid rise LEED team to evaluate mid rise housing and at this point we are scoring in the high gold low platinum level so we're hoping to bring a platinum LEED project to you here in San José. The building will be a green building, will have a green roof, accessible green roof, we provide ecopasses to all our tenants and otherwise I'll be available for any questions you may have. The staff report I think sums it up pretty well. Thank you.

>> Mayor Reed: All right, let's see if there are any questions. We'll come back to that I think after we've taken the public testimony. Timon norimoto.

>> Good evening, councilmembers, my name is Timon Norimoto, and I represent the Japantown community Congress of San José. The Japantown community congress is made up of representatives from the neighborhood, businesses, religious organizations, nonprofit organizations, and property owners of Japantown. Together we work to preserve and to develop San José's Japantown one of only three remaining Japantowns in the United States. I'm here today with fellow members of the Japantown community, Kathy Sakamoto, Victoria Taketa, Susun Fukuba, Jerry Ferria, Wes Mukuyama, and Vionishi and Roy Hirobayashi, to express our support for the planned development rezoning to develop up to 75 affordable senior housing in Japantown. The Japantown community has wanted mixed use development on the corporation yard site for more than 20 years. Five years ago this dream started to become a reality when the city made a decision to move the maintenance yard from Japantown to district seven allowing for real conversations to begin on the potential development on this site. Unfortunately weakening market conditions and change real estate environments led to the collapse of two separate exclusive negotiations with two separate developers however over the course of the hundreds of community meetings we've had over the last five years to understand what the community needs there is one constant, the need for more affordable senior housing in Japan town and for that affordable senior housing to be built by community housing. In great location such as Japantown where they can access great senior services like UYKai, have access to great retail, restaurants and places of worship, all within walking distance. We see first community housing as a partner in helping us ensure that Japantown will be a great place

not only as a recognized leader in green building but they have also worked hard to get to know and work with the community to ensure our needs are met. Thank you very much for your time, and we ask for your support to allow this much anticipated project to move forward. Thank you.

>> Mayor Reed: Leon Kimura.

>> Thank you, Mr. Mayor, members of the council. My name is Leon Kimura, I'm the president of the San José chapter of the Japanese American citizens league and I was a previous member of the Japantown community Congress which held many hearings and meetings in regards to the property that we're talking about tonight. On behalf of the San José GACL I just would just like to say that our organization supports the project our membership is predominantly elderly in nature and we feel that this project will be a great benefit to our both our membership and to the community. And on a personal note, I know that first community housing with Mr. Jeff Oberdorfer is a very good developer, a good project manager and also the architect for the project, is going to do great things for this project the site and for the community. Look forward to working with them in the future on both the project and their continuing rezoning and thank you very much.

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

>> Councilmember Liccardo: Thank you, mayor I'd like to put a motion on the floor first and then make a comment. I move for approval of this rezoning together with approval of the EIR resolution for this item including the statement of overriding considerations because the benefits of this project outweigh the significant unavoidable environmental impacts that were identified in the final EIR of this project, and I'd like to move paragraphs 1 and 2 of my February 22nd memorandum.

>> Councilmember Herrera: Second.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: All right we have a motion on the floor. Councilmember Liccardo do you want to speak tot motion?

>> Councilmember Liccardo: Thank you. I just wanted to thank all the members of the JCL, and JCC, for coming out. We really appreciate your ongoing engagement with this process, particularly since we have certainly hit a roadblock with the economy, and certainly great as operations for what might happen across the street in particular have been stalled and we look forward to continuing to work with the community to make something happen there that I think will be a real asset for the whole community. But in the meantime I think we have a real asset here and I want to thank Jeff Oberdorfer, innovation is being brought to housing development in really incredible ways. Jeff has been a trail blazer and I think we're very lucky to have him in San José. And just regarding the second paragraph of the recommendation we recognize certainly this safety issue is one that preexists this particular development. I'm concerned about exacerbating a problem there for the safety of senior residents by putting more seniors in an intersection where we know we may have some challenges. I'm hopeful we'll be able to find a workable solution I know Jeff is willing to work with us to do that.

>> Mayor Reed: Thank you. I'd like to disclose that my staff and I have talked to Jeff Oberdorfer and many, many people in groups from Japantown groups and organizations and community members prior to this meeting. It's been a long time trying to get something moving on the corp yard, this is a positive step that will be good for Japantown. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Certainly going to be supporting this project and want to thank the number of community members that are here, Japantown has so many stewards that really take care of it and continue to advocate for Japantown and I think this will be a wonderful addition and one more piece of the puzzle of the long term vision of Japantown. Just wanted to mention or add to what Councilmember Liccardo said on his memo that I think that although as councilmember has correctly stated that one project isn't necessarily the tipping point the reality is that it's hard enough to drive across Taylor street Taylor and 6th let alope walk across it. It is absolutely appropriate in making some strategies as we can really make it more pedestrian friendly as we start to fill in the pieces of Japantown.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I wanted to compliment Jeff Oberdorfer on his striving for green platinum and his great architectural skills, I mean, some of the projects we have done have been very good, I would even say excellent, especially on first street. But I would say it's a green project but it's not a green project when it comes to parks because it's exempted from park fees. It's a green project but it's not a green project when it comes to city revenues because it doesn't pay any property tax or road-paving fees. So I'd like to support these projects in the future but I think we have to find a way to manage where housing isn't such a net loss. Otherwise we're going to continue to have a structural budget deficit among many of the reasons so I can't support this as many of my council colleagues know from past votes.

>> Mayor Reed: I believe that concludes the council discussion on this. We do have a motion on the floor by Councilmember Liccardo. All in favor? Opposed, one opposed, Councilmember Oliverio, so that passes on a 10-1 vote, the matter is approved. Our next item 11.4 administrative hearing on consideration of an appeal on the planning commission's decision to deny a conditional use permit and determination of public convenience at 2247 Alum Rock avenue.

>> Joe Horwedel: Mr. Mayor, the staff received today a request from the applicant's representative to defer the item due to an illness of the other than. Staff would ask that the council open the hearing on this in case there are members of the public that would like to speak on this item, and then at the close of that testimony staff would be amenable to a deferral to allow the applicant to be able to speak to the issue.

>> Mayor Reed: We could do that. I have three or four people that wish to speak on this. Councilmember Campos.

>> Councilmember Campos: First of all I just wanted to say, Joe, thank you for bringing that information forward. But I appreciate the fact that we are going to take public comment because community members did come out. And time is very precious. And we want to make sure that we hear their comments. I also want my colleagues to note that I did attach a memo, so in case this -- your information does not completely get transferred to the next time that we hear this item I wanted you to note that there is a memo of my position on this particular item. Thank you.

>> Mayor Reed: We'll take the public testimony at this time. Felipe Juarez.

>> Good evening, honorable mayor and councilmembers. My name is Alma Redondo, and I'm a homeowner in Los Mariposas which is an affordable housing development built in 2005 by MACSA and City of San José redevelopment. The complex is located on Alum Rock between José Figuersa and Jackson. It is a development built not only to provide housing to low and moderate income families but also to improve the appearance and climate of the neighborhood. I support the Planning Department's recommendation which is to deny the appeal. Our community has encountered numerous crimes and property issues. We live next to the business strip that houses this convenience store. It also has a nuisance pool hall with a nearby nuisance bar and a recycling center that attracts loitering. Our complex has had to deal with car thefts, home break-ins, vandalism, homeless and intoxicated individuals living under our stairwells, graffiti on our property as well as prostitution activities in our elevators. We are in a constant fight to keep our community members and our property safe. The Planning Department report identifies many businesses currently selling alcohol in the area. We also have sufficient alcohol licenses within that half block and within the surrounding blocks. Even the hardware store which just closed its business sold alcohol. Approving the modification of the alcohol license for this business will not be a benefit to our community. We should be looking toward allowing businesses that change and improve our neighborhood environment and not add to our neighborhood's problems. Thank you.

>> Mayor Reed: Felipe Juarez.

>> Good evening, honorable mayor and councilmembers. I am part of the K.O.N.A. SNI which is the make SNI group from this area here but I also work in the Alum Rock area. And I just wanted to allow my support for the denial of this permit. If you've been following history through the ten or 15 years that we in the Tropicana area

have fought to limit the amount of negative implications that several liquor stores have implied on our kids, we have been successful on that and we will continue to be here to provide a positive role model for our children. Thank you.

>> Mayor Reed: Katherine Vincent, Alofa Talivaa.

>> Good evening my name is Katherine Benson and I'm a member of the Los Mariposas on Alum Rock Avenue. I'm here to protest the liquor license at the Quick Stop. I am very concerned about the number of establishments that already sell hard liquor, the half block from Los Mariposas complex to Jackson street currently have a bar a billiards place and a grocery store that sell or serve alcohol. And that's on one side of the street and it's about 500 feet. I have had to call 911 because drunk people have passed out in our walkway, the police are frequently dealing with drunk people in and around the bar and billiards place and even though they are not allowed to I see groups of people congregating outside the billiards place. I believe that another establishment selling alcohol will only add to these problems. When I bought my condo there was talk of transforming the area by adding landscape and creating walkable safe neighborhoods. I know this is not as likely in these economic times in fact San José has proposed removing landscaping existing landscaping to save money but I would like to prevent things from getting worse. Things have already gotten worse in the three or so years since I've lived there. The grocery store is planning to closed, the bakery has closed and become a quick stop and a check cashing place, one half block on one side of the street. Please don't add to the deterioration by allowing more hard alcohol to be sold. On a side note I would also like there to be some thought as to who moves into the hardware store space. I don't know if that's within your power or not. But what about something like an ice cream shop or a pizza parlor or a shoe repair but not another establishment that will add to the problems we already have. Thank you for your time.

>> Mayor Reed: Alofa Talivaa and that's the last speaker on this item.

>> Good evening mayor, councilmembers, Alofa Talivaa, representing Sierra Neighborhood Association, East Valley 680 SNI NAC and I'm here to support my neighbors. They're not too far from where I live, and this is the ongoing issues here in district 5. And we are so saturated with alcohol, I mean, everywhere, as you can see the map up there, you know, the distance, they're so close by. And I can see you know if they can accommodate, you know, by selling some other product in their store, but another liquor store, you know, it's just too much, you know. And I'm here to urge you, mayor and councilmembers, I'm supporting the planning commissioners' decision for denial and for you guys to do the same. Thank you so much for listening.

>> Mayor Reed: That concludes the public testimony. Bring it back for some council discussion. Councilmember Oliverio.

>> Councilmember Oliverio: Just wanted to compliment Councilmember Campos, I read the memo and I just want to thank you on your consistency on this issue on liquor in your district at all times. Thank you, Councilmember Campos.

>> Mayor Reed: I have a question for staff as to whether or not we have to continue this item because the applicant is not here. I see no prospect this will ever be approved by the city council.

>> Joe Horwedel: It is not a requirement that the applicant attend the meeting, that's correct.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: If it's not a requirement, I didn't realize that. My memo speaks to this issue, and I want to thank the speakers for coming out, and taking the time that you have for this most important issue. I have been on the council for nine years and this has been one of my number one issues that I've had to work on in my community and removing blight and a lot of outlets that sell alcohol is considered blight within our community. So with that since we can take up the item I'd like to be able to put a motion and hopefully can I get a second. Is to accept my memo, and to deny the conditional use permit for this establishment and that would be consistent with the planning director and the Planning Commission's recommendation for denying the conditional use permit for this establishment.

>> Mayor Reed: I think we have a second by Councilmember Oliverio. Yes we do. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I intend to support the motion. I had a suggestion for the staff. The applicant could be contacted and notify if they want to persuade one of us to, assuming that this motion prevails as I suspect if they want to contact one of us to reconsider the item they can come back but I understand that may not be likely. I think it's fair to at least let them know that they have a remedy.

>> Mayor Reed: Any further discussion on it? We have a motion to deny. All in favor? Opposed? None opposed, the motion is carried so the application is denied. [applause]

>> Mayor Reed: We'll now move to 11.5 a rezoning of property on north side of Auzerais between bird and royal avenue. Councilmember Oliverio.

>> Councilmember Oliverio: If there's any cards to speak or any staff comments?

>> Mayor Reed: No, we have no requests from the public to speak on this item.

>> Councilmember Oliverio: And nothing from staff so I'll just say okay this is a planned development proposal for a gas station and I certainly support a planned development to allow them to have, you know, to I think in this case is put a car wash in and have a mini mart but I certainly would not support them having offsale of liquor. It seems recently it's groundhog's day because it's always the same thing. But I guess it was Councilmember Liccardo's district Ethiopian market that wanted to have liquor, and we denied that because of the numerous liquor outlets in the area, and just across the way we have an affordable housing complex that caters to folks with substance abuse. So I would certainly support the planned development but I would make it as a condition of that planned development that it does not allow the offsite sale of liquor. And that's one of the things I think we might have to fix here on the council because normally these things would come to us and we would approve it and then the liquor would come back but now it just goes to a director's hearing so it's important that as part of the planned development that the offsale liquor is not allowed as condition of the planned develop.

>> Councilmember Liccardo: I'll second if that's legal.

>> City Attorney Doyle: And that's an issue given state law and the council for years had a policy or had a policy, had an ordinance that was grandfathered that allowed prohibition of alcohol, and they changed that a few years ago. We don't regulate alcohol, that's an ABC function. To the extent that we have issues of overconcentration and other reasons to deny it we certainly can. I don't know the answer to that so I think I'd like to work with staff, I think we can take direction that that would be the council's desire but it's to the extent that we legally can.

>> Councilmember Oliverio: I'll make an alternative motion, to support the project and just deny the planned development. If it can't be guaranteed there's no need. I as much as anyone else go to my home, two to orchard supply, typically have people drinking 40 ounces, not even --

>> City Attorney Doyle: I can't guarantee tonight it would have to come back. The concern is if it's denied there's no second chance here for some time. So it may be better to defer if you want an answer, a clear answer, we'd have to come back.

>> Joe Horwedel: That would be my recommendation is that we would defer this to next month and come back with is there a means for us to ensure your desire about the alcohol and if not, then we could move forward with.

>> Councilmember Oliverio: And this would come up for other items that the council would come under so it would be good for the council to understand that. So fine, motion to defer.

>> Mayor Reed: Motion to defer. Do we have another date or do we renotece?

>> Joe Horwedel: For the evening meeting for March.

>> Mayor Reed: Okay, there is one?

>> Joe Horwedel: 16th it sounds like.

>> Mayor Reed: I have no cards I assume the applicant is not here, would you like to speak? Come down.

>> My name is Mohammed Rahim, I'm the architect on behalf of the applicant sonny Goyle. We don't have sale of alcohol on the application, we don't request to sell alcohol, it is just scrape and rebuild the building. So we're not applying for alcohol at this time.

>> Mayor Reed: Okay. The motion is to defer it for a month so that we can figure out if that can be made a condition of the approval.

>> Okay.

>> Mayor Reed: Anything else you want to add?

>> That's it, thank you.

>> Mayor Reed: Okay, we have a motion on the floor. Councilmember Oliverio.

>> Councilmember Oliverio: Yeah just want to state it might not be part of it today but it could be tomorrow. That's what we have to clarify so that's the reason for the deferral.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: I'm sure that was going to be my question, if not part of it today could it be part of it tomorrow so I'm glad we're going to come back with that answer, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: They would still have to go through the formal C.U.P. process.

>> Joe Horwedel: No, it would stop with that --

>> Councilmember Kalra: That's what happened with the last project?

>> Joe Horwedel: There's one we're working on in Councilmember Campos' district right now.

>> Councilmember Kalra: My question if you bring it back in a month if the applicant is steadfast in the fact that they're not interested in in any alcohol, they want the car wash and mini mart but no alcohol, is there any way had he can voluntarily as part of the council approval if they can voluntarily give up that right or make some kind of agreement contractual or -- just as a way that if there's no way for us to legally do it if there's a way for them to abdicate that right?

>> City Attorney Doyle: We'll have to respond because the permit goes with the land and you could sell it to somebody else and they may not be bound by that kind of commitment. So we'll have to get back to you with clarity but the ABC is the one that regulates alcohol and we have limitations under state law what we can do.

>> Councilmember Kalra: If we can add that to the analysis if there's a voluntary that that could be included, thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor, Ash did ask one question I wanted to ask so thank you for that. Joe, the alternative process or the process that the applicant would have to follow if they wanted a C.U.P.

they would go to you. I don't know if you are permitted to comment on this in advance of an application but I believe on the other side of the street, this area is still within an SNI area, am I mistaken there, Councilmember Oliverio?

>> Joe Horwedel: It is in an SNI area so the restrictions about through the PCN process in offsale alcohol staff would be utilizing in the decision. I guess the other piece of it that maybe to share the philosophy of staff how we're looking at these from staff's standpoint if it's a full service market we're supportive of the offsale alcohol licenses like 94% of the cases.. If it's purely a convenience store or drugstore or a liquor store we start with the answer of no.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: Then we work toward is there a reason it should be yes, just because of the number of licenses around the city, and our goal to encourage full service market in terms of produce and meats.

>> Councilmember Liccardo: If there's an opportunity for them to waive the ability to go forward with the C.U.P. and somehow attach that to the land that's probably something the applicant would want to hear which is a routine, my understanding in the city has been in SNI areas they're over concentrated we have been denying these applications, thank you.

>> Mayor Reed: I think that concludes the discussion. We have a motion to defer this until the evening meeting of the month of March. All in favor opposed, none opposed, that's approved. We'll now move to 11.6, missing hearing and consideration of an appeal of the Planning Commission's decision to deny a conditional use permit and determination of public convenience. 1711 Branham lane.

>> Joe Horwedel: Mr. Mayor, this is an offsale alcohol proposal, and as I just stated staff is not supporting the request, that we are really wanting to make sure that where offsale of alcohol is being considered for approval it should be in the context of a full service market that helps meet the needs of the community in this case we did not believe there was an absence of alcohol in this community that there were other places in the community had already available to purchase alcohol and so we were not supporting the request. And the map just went up on the screen of the other offsale licenses in the area including full service grocery store and wine and liquor immediately adjacent.

>> Mayor Reed: Thank you, I have no cards on this. Is there an applicant? Do you wish to speak?

>> My name is Josephine Oh and I'm working with the owners, Andrew and Jason Kim on this proposal. Thank you for your time. Just really quick, I feel frankly, very big disadvantage after finishing the last two circumstances. I'd just like to say that the offsale of alcohol doesn't necessarily have to mean that it's going to have a detrimental effect on the community. Mr. and Jason and Andrew Kim are father and son, this has been their business, they had actually a very successful business in Morgan Hill. Due to unfortunate circumstance the new other than did not choose to renew leases and they were forced to look for another location. When they originally went to look for location they did their extensive homework and when we contacted the city about this location we're given the green light or else we would never have submitted an application to begin with. We were not aware based on the state's regulation that a few items had been we were denied at the public hearing based on two items which was it was within 150 feet of a residential unit, and an overconcentration based on the census map which you can't see on this map here but what I've included in the packet shows that number 1 within 150 feet radius it's the development behind the site which is barred by Ross Creek. So technically it is within 150 feet but the only way that would work is if they jumped over the fence, crossed over the creek to get to the back of the building. So in light of those technicalities we had hoped that on the appeal the council and the city members would see that this family is not here just to bring a liquor store but actually to bring a higher level of wine and alcohol sales. And again, they have done their business in Morgan hill at a higher end establishment. That's what they hope to bring to this site. Currently the location is empty and the Kims have done as much as they can to really show the city that they are not trying to bring anything detrimental but actually a positive, bringing a business in it's a family owned business, just to mention they filed this in September and due to the paperwork and everything it's now come to March. They actually went to Sacramento to meet with the ABC to get an extension on their alcohol license which they currently have. And the ABC license was accommodating enough to

give them an extension and the landlord of the location has also begin them an extension to find out what the outcome will be from the city. So we hope that the councilmembers and members of the community who live in the area will see that it doesn't necessarily have to be a detrimental effect on the community, that it could bring business to the community and bring revenue and support the community in other ways. And again, the ownership wants to echo what they had done before in Morgan hill which is a more upscale place where they can have another venue for people. There is a Safeway and there is obviously another place to sell alcohol but we feel that based on not just a focus on the offsale, but to focus on helping a spall business, actually try to make it, this is a family owned business, again I'm stressing that because as of the summer, they have put everything on hold. They have no income coming into their family. Because they're really committed to seeing this through. You know, we went to the city first to do the homework and we were given the initial green light and unfortunately after we submitted the application on the discovery we had been snagged on these technicalities so we just hope that the city council members take that into consideration not just the negative parts of offsale alcohol but the positive aspects of helping a family run a business in the City of San José, thank you.

>> Mayor Reed: I have no other cards from the public on this matter. That concludes the public testimony. The applicant's presentation. Vice Mayor Chirco.

>> Councilmember Chirco: I'm sure that the applicant is a responsible business owner, that's not an area I'm concerned about. But I don't believe we can make a finding of overriding public benefit in this case. I certainly sympathize with the other than of this particular business and his son. But our requirements are that we would need to make a public convenience and necessity finding because the site is in an overconcentrated area. So I'm going to make a motion to deny. There's already a liquor store and a full serve grocery store right across the street. So I would ask, I got the second and I would ask the council to support the motion.

>> Mayor Reed: Okay, we have a motion on the floor to deny, I think Councilmember Liccardo got the second. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Joe, I don't know if you have any feedback on the comments that Ms. Oh made regarding giving an indication that there was a green light. I mean do you have any information on that or any background to add to that?

>> Joe Horwedel: I do not on that part of it because coming is a the counter we would go through and tell them what the zoning on the property is and what the process would be. We wouldn't know at that point whether a PCN was required because we don't have the information on the licenses in the area available at our counter, that's something we have to work with the police department and ABC to obtain. I can tell that you this application was filed on September 30th. And we had it at the Planning Commission on December 9th. So that's 70 days that we fast-tracked this application because we knew that they were concerned about the speed. So we did take that Planning Commission heard it that evening and so tonight is the appeal of the mandatory denial by the Planning Commission. So we tried to be very diligent in our processing this application to go there and so they would have essentially their day of the hearing as soon as possible.

>> Councilmember Kalra: And for the applicant's information, in terms of kind of how these applications are looked by the planning staff and the Planning Department and ultimately the council, if this is the kind of the store that had meats and produce and full serving style of store as opposed to strictly an alcohol based store would that increase their likelihood that there would be findings for a public necessity?

>> Joe Horwedel: That is correct, is that if this was a small market, we don't care if it's a name grocery store, but we have a number of smaller markets that operate in San José that had full produce and full meat service available, and that that was a condition of the C.U.P., that that remain, we have supported those applications. And even in cases where the community hasn't been supportive of it, we've kind of stretched a bit to say we think that is, does meet the public convenience and necessity requirements. That's how we tried to finesse that.

>> Councilmember Kalra: And I don't bring that up with the suggestion that they should change their business plan but I just bring that up in the terms of what it takes to even get to a point where we may consider a public -- the necessity for public convenience, and kind of these exceptions based on the census track numbers and based upon how close residences are. And as the Vice Mayor correctly stated it has nothing to do with the applicants

and their ability to run a good business and it looks like they want to do a nice wine outlet that has some other alcohol as well. The problem is once the permit is there if you are not there two years from now anyone can go in there. The issue is is it appropriate to have that kind of permit that is strictly alcohol and doesn't have the full range of services with the limited shelves for alcohol, looking at the report kind of goes against what you're going for here but as the Vice Mayor said, it is a high hurdle for us to cross legally to allow for this as the earlier application you saw we discussed it as well and frankly more impact on neighborhood, neighborhoods become more impacted when we neglect these kinds of rules that are set forth for us. I just mention that because I feel really bad for the applicant and I feel you know we really are very limited in what we can do but I just wanted to ask those questions give a little more depth to the reasoning behind what the council's decision process is and earlier what the Planning Department had to go through in terms of their process of analyzing this case.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Joe I just want to say I appreciate staff's stance. I think when we approve a liquor license there should be some value that comes with it and it's either a grocery store or restaurant. We already have 1,288 places can you buy liquor in San José. I do feel bad for the applicant but the stance is up front and everyone can read the council where we're at we don't want that we prefer to have a grocery store and if we continue to approve liquor offsale of alcohol at every gassization you're going to cut the margin to where a grocery store can't make it and we need that to happen for our residents for the fresh, healthy food and other things that at value to it so thank you Vice Mayor for the motion.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just a quick question for the applicant, Ms. Oh if you could articulate for us I wanted to explore a little further the question that Councilmember Kalra asked. What exactly were you told that led you to believe there was a green light just so we understand?

>> Yes, we actually the Kims actually hired a real estate agent to help secure the locations because they wanted to make sure it was going to be appropriate usage. They understood from previous usage that was going to be a hurdle that finding a location that number one the landlord would approve of the usage because there were several instances that the landlord would just deny it from the get go. When we called the city we asked number one some questions, I personally did not make the phone call so I can't say verbatim but she did ask questions about is there any city regulations for, again like zoning or alcohol use, like for example is it in a high crime neighborhood which would bring the strong neighborhood initiative into play in this neighborhood and these were all factors that you know that were okayed by the city that they went through the city and actually when we submitted the application with the planner, everything to the point where we made the submission went fine. And what happened was, and she let me know that the city won't know until the application is submitted that we had to face the new state laws which took effect in 2006. If it hadn't been for the state laws we wouldn't have violated any of the city laws and the city maps and things like that. It was basically based on the 2006 state laws where they did the census maps and the regulations based on those. So even -- and I understand the city cannot really dictate at the very moment all of the issues that might come up in the process. However, up until we even submitted the application, we weren't aware that this was a hurdle that we were going to face. And you know again yes, we know --

>> Mayor Reed: I think you've answered the question. I don't need to have you repeat your testimony. Councilmember Liccardo did you get your answer?

>> Councilmember Liccardo: Thank you. Thank you Ms. Oh I appreciate it. I understand you're at a disadvantage because you weren't actually part of the conversation but clearly somebody had the impression they got a green light. And I think to not know exactly what happened the Planning Department's credit this thing moved quickly and hopefully, before people -- before too much delay had created expectations and costs. Now, I understand there's always enormous cost whenever you make an investment like this but I think the best we can do is move quickly and get an answer and I think in this case the Vice Mayor stated it correctly, the answer is that we can't make a finding.

>> Mayor Reed: I think that concludes our discussion. We have a motion to deny for lack of being able to make the appropriate finding, as outlined in the motion by the Vice Mayor. All in favor? Opposed, none opposed, so the application is denied. Our next item is 11.3, general plan amendment request to change the land use transportation diagram dissention. Joe Horwedel has a brief staff presentation I believe.

>> Joe Horwedel: Thank you, Mr. Mayor. This is an early consideration of general plan amendment. Staff is bringing this forward because it is an issue that we staff has reviewed the proposal and is not one that staff would be able to support this fall during the general plan hearings and we thought out of fairness to the applicant that early consideration of the request was an appropriate action. The Planning Commission did consider this at their meeting recently and also concurred with the staff recommendation for early consideration of denial of the request. The issue that staff has with this area, it is a heavy industrial general plan area meaning that it's areas of heavy manufacturing recycle or the types of uses that occur in this area and the proposal would be to promote more commercial, high occupancy type uses. The building is currently developed as a banquet hall or an assembly type use which is one of the restrictive type occupancies under the building code and staff does have a concern that with ultimately approval of this land use change it would have, as staff has talked with council previously the domino effect that would cause other properties in this other surrounding area to want to do the same thing to increase their land values dramatically from what the heavy industrial land is worth and continue to put pressure on this very valuable resource. Through the general plan update process this land use has been identified as the most challenging that we do need to find more land in our future for heavy industrial light industrial and that's why staff is bringing this forward today.

>> Mayor Reed: Thank you, I have some cards from the public to speak on this. Anybody wants to speak please submit a card. I'll take the public testimony at this time. Walter Karbaugh and George Delgado. Please come down.

>> City council, Mr. Mayor, I come down here because I'm somewhat involved in this issue because it was a source of employment for me. I took care of security, as well as providing employment to a few other individuals that worked for me to do security. And it's primarily on Saturday evenings that they had Quinsineras and wedding receptions that were held there. There was nothing involved there only families getting together and having a good time to celebrate a birthday or their family members' weddings. Not only did it involve me and a source of income for me to help me sustain my family but it helped other members of the community to make money for their families. But it didn't also include just my security staff that worked at this facility. It also included a lot of your catering businesses. People that got to work as waiters and waitresses there and made money doing this. And this is one night a week that when these activities go on. And now, I hear they're talking about trying to promote further development of our heavy industrialized areas. Well, right now the heavy industrialized areas aren't moving. Small businesses are trying to come in and that's one thing the city has been promoting, small business development and developing it into a community where it puts resources back into your community areas. Well this has been doing that because not only has this facility been used to make money but it's also been used to help further along the community because the gentleman that owns this property has allowed different community groups to come in there and hold church services at no charge to them. He's allowed other community groups to come in and do things there at no charge to them to promote community awareness, and to give back to the community, as well as making money from the community. Now, because of I'm not privy to all the ins and outs as to why this come out --

>> Mayor Reed: Sorry your time is up.

>> All right sir.

>> Mayor Reed: George Delgado.

>> Mr. Mayor, council, I'm here because I'm a business, I'm trying to actually do a small business at this location, and it's been a bit of a struggle for us to actually develop this business to raise money to actually you know just somehow accommodate some of the necessities of the landlord he has been very, very -- very good with us, trying to just take whatever we can produce out of this business. I mean it's been a struggle and I just want to say that if you take away the main source of this income which is U.C. probably the banquet haul the business I'm

trying to raise we do a lot of development for the kids in this place that we do. And small business owner so I'm just trying to you know, to see if you can help us, you know, go further with this thing.

>> Mayor Reed: Okay, thank you. That's the last card I had, that concludes the public testimony. Bring it back for council discussion. I had a couple of questions for the staff. This Monterey corridor area has always been one of the lowest vacancy rates in the city. In the times that I've been down there the businesses there are very concerned about incompatible uses moving into the area next to them or close to them, that will interfere with their own business operations and even during the recession they've had a very low vacancy rate down here. And there are lots and lots of heavy users in the area. And so I can't support this application. I don't see any reason why it shouldn't be denied now, rather than continue to process it. So I would support the staff's recommendation for the early denial because it doesn't conform with the economic development strategy, doesn't conform with the general plan, it doesn't meet the framework for preservation of employment lands, I don't think those are going to change. There's nothing going on at the general plan task force that would lead me to believe that we're going to go in a different direction in the future. And I've talked to a lot of small businesses down in the Monterey corridor that are in the heavier industrial stuff and they're very much concerned about getting incompatible uses established as neighbors because it will tend to drive them out. And some of them had bad experiences with that. So I think it ought to be denied, and I would support the early denial so that we don't have to continue processing it. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, Mayor Reed, I really appreciate your comment. The site we are discussing here is zoned for heavy industrial uses only as indicated in staff memo and is therefore under the purview of the San José 2020 general plan and the preservation of employment lands framework, which the mayor alluded to earlier. Both of these policies encourage the development of industrial land to provide sufficient opportunities for jobs growth and for expansion of the city's industrial tax base. The proposed addition of the mixed industrial overlay zoning and the resulting nonindustrial use of the site will weaken the city's employment land resources in the area. It would also very likely eliminate future industrial employment opportunities on this site and replace the area with lower paying service related jobs or overall fewer jobs. Difficult economic times also indicate that we maximize the economic potential of the City's land resources while providing employment opportunities for San José residents. Having said that, we always pride ourself in giving residents the opportunity and option to pursue their actions and participate in the process. This opportunity however would in no way indicate how the council might ultimately vote upon any proposed amendment. If the applicant would like to pursue the general plan amendment process, I would like to make a motion to support the applicant's request and would like to direct staff to continue processing the application and complete the environmental review for consideration of the amendment at the next general plan hearing. Thank you.

>> Mayor Reed: All right we have a motion on the floor. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Joe I just had a couple quick questions. When I'm driving by this area I'm often not paying a lot of attention to the surrounding uses and the applicant stated that at a Planning Commission hearing that there were no really heavy industrial uses on south 10th street in that area, that true?

>> Joe Horwedel: That is absolutely incorrect. Immediately to the north is a welding shop that there's a counter top fabrication company and then Viking door and window is in I think the last tenant in there. We have a bus yard that operates to the south which is a heavy industrial use. We have Burke rubber that is across the street that is a heavy manufacturing use. We have numerous concrete crushing, recycle, auto dismantling, auto repair type businesses in here. There are some scattering of uses that came into the area in the '80s when we had more flexible land use rules that did allow some office uses to come in but they are really the anomaly in this area. This really is a pretty intact heavy industrial area.

>> Councilmember Liccardo: Got it, thank you. And I know we're talking a little bit about this internally in my office about whether or not there's ever an ability to create a condition on a land use change that essentially would force the applicant never to complain in any way in the future about surrounding industrial uses. My understanding is, that's not something legally we can do is that right?

>> Joe Horwedel: It's not something that's legally possible and the reality of it is, having a welding shop next door you have -- you know it's are just literally across the curb stop. So you have heavy metal fabrication that's

going on in their parking lot and building. You have no ability to control children that are now being introduced into this area with assembly uses, you have late night activity that's going on that puts additional risk to the businesses that do exist in that area of -- that today, it's very clear when someone doesn't belong that, when you provide extended hours it's much more difficult to provide surveillance of who belongs and doesn't belong into the areas. And then lastly the pressures that happen to these businesses there are the direct operational things that happen to them or concerns they have, they now have to fence their site more but there's also the economic consequences that happen is that the land costs do get affected by these types of changes that other property owners see what's possible and they start pricing their land that way. Whether it's still escalating the rent for still industrial uses but to go for higher quality industrial uses and so we essentially price ourselves out of the market marketplace. That's why with the general plan standpoint, we just talked Tuesday night for all the employment lands that we need in the city for industrial lands we don't need as much industrial park lands, we seriously need more industrial because of the inability to go for those types of uses they need space rather than height.

>> Councilmember Liccardo: Thank you, Joe.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, Mayor. And Councilmember Liccardo, I'd like the no complaint clause, you can throw those into more of we approve here, right, make our jobs easier but not as fun and I don't disagree with anything that the mayor or the mayor said in regards to this particular site and this part of San José and the importance of preserving our industrial lands, I think we all at one time or another showed fortitude in how important that is to all of us. But consistent to how I've voted on these items before, I think that due process is really important. I think that the value of having an early denial hearing is there. I think the value is there, if it gets an applicant to a point to really understand that okay, it's tremendously -- it's an uphill battle, it's going to be an extreme, extreme long shot if not impossible. That gives them kind of the opportunity to withdraw out of the process at an earlier stage but if an applicant opts to continue continue to go forward, I think that they're paying for the permitting, they have to pay at EIR, whatever process they have to pay for, I'm comfortable with allowing the process to go through. Even with the warning to the applicant and the clear message that's being sent, that it's a very challenging application to say the least if it were to go forward. So I'll support the motion because I think that we should still allow, that we just had a couple of hearings, where folks were appealing on -- the C.U.P.es that were being denied and they were appealing to us and it was pretty clear cut that they've seen how we operated on those applications in the past, they were denied and they went through it anyway. They had their right to do that and they had their right to have their day in council chambers so to speak. For that reason I'll support the motion to allow the applicant if they so choose to pursue this item, even given the challenges that it poses for them.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: With all due respect to my fellow councilmember, Councilmember Madison Nguyen, having been on the council as long as I have and having watched all the conversion of industrial lands I think it would be a disservice to support this motion because there's no way I could support this with or without additional research. I know we had one some time ago and I don't even remember how long ago it was and the ultimate winner was the underlying property owner. It wasn't the business that was trying -- actually it was a church that was trying hard to go into a heavy industrial area because it was the least expensive area they could find. Well eventually they moved out shortly thereafter which left the change in zoning in the hands of the property owner. So the business didn't benefit or the church didn't benefit, it was ultimately the property owner. And I think for all the right reasons and for all the right compassionate reasons we as councilmembers and members of the community want to do the right thing for small businesses that are trying to get a foot up in this world. But I think we need to be very thoughtful. I know being on the general plan task force and looking at the pressures that are going to be put on our lands, I can't support this. And I would like to be honest and forthright with the business, why should you pay additional money to come back and get a no from me. Respect your motion Councilmember Nguyen but I will not be supporting it.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: I'll just ditto Vice Mayor's thoughtful comments and say I can't support it because I won't be supporting it when it comes back I'm a hawk when it comes to heavy industrial, bye.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor. For disclosure, my staff and I had conversation with Michael Lew. Thank you for the speakers for coming out tonight and acknowledge the word from the Joe Horwedel's department, I know it's been a long process. In my work with the Vietnamese community I have seen firsthand the importance of the assembly space at that particular location for the Vietnamese community. While it has saddened me to see the Vietnamese community without a place for assembly we cannot ignore that the property has received many citations for code violations. However, I believe that every applicant has the right to the full application process, especially if there's -- they are outstanding external issues that may or may not affect the outcome of our vote here tonight. So I will be supporting the motion to continue with the general plan amendment process. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I'm not going to repeat what Councilmember Nguyen set. But I think she outlined it very clear, on what the early denial is. But I think the one thing that stands out the most is that she truly believes that the applicant should have the opportunity to due process, knowing that whatever action we take today doesn't guarantee that we will approve it when it comes back. But there is always an opportunity to maybe convince us in a different light. And I think that we should give the applicant the opportunity to do that. He or she is aware that the cost is on them. And that if we decide not to move forward, when it comes back. They understand that fully. So I will be supporting the motion.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I will be supporting the motion, and I think Councilmember Nguyen covered all the points. Although I very much am against conversion of industrial land especially heavy industrial land I do think the applicant has a right to due process so I'll support the motion.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I've spoken with Michael Lew, I racked my brain for any reason why I might support this if it were to come back to us in a couple of months, and I can't imagine any changed circumstance that would alter my position. And for that reason I vote no. I think -- in other words I won't be supporting the motion. It seems to me that due process is making sure that everybody has notice and ensuring that we have a process where a fair decision can be rendered. I don't think that means drawing out a decision beyond its useful life. And given the prevalence of heavy industrial activity in that area I just can't find an economic rationale to allow this to continue.

>> Mayor Reed: I need to disclose that several months ago members of my staff talked to Michael Lew about this project and I'd just like to comment on the due process. We are way way way beyond the minimum legal requirements for a due process. That's not any issue at all unless if it was the lawyer would be letting us know but notice and opportunity be heard, and processing public hearings, participation, that's all part of due process and so we're well within what the law requires and what any of our owners require. Councilmember Campos.

>> Councilmember Campos: Mayor I just wanted to disclose that my chief of staff spoke to Michael Lew.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just wanted to say that, you know, almost three decades of teaching has taught me that safety has got to be number one. And it's not as though this hasn't been brought up. I understand the need for the particular type of establishment that's there. But once we start making exceptions, the exceptions become the rule. And so I cannot support it either. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I just wanted to disclose that I met with Michael Lew but we didn't speak too much about this project.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor I just wanted to agree, that the -- it's not up to the city, has not provided legal due process, but the opportunity for the applicant to exhaust the process that's made available, if they so choose and so in that sense the due process that will allow access to the process that's made available and I'm not in any way implying that there's a legal lack of due process that's been given to the applicant.

>> Mayor Reed: I think that concludes the council discussion. We have a motion on the floor made by Councilmember Nguyen to allow the application to continue to be processed through the rest of the process, whatever that maybe. I'm not sure when the hearing might be. That's the motion. All in favor? Opposed, one opposed, Oliverio, two, Reed, 3 Chirco, four Pyle, five Liccardo. That passes a 6-five vote, the motion passes on a 6-5 vote. Open forum I have one card on open forum. If you are going to speak on open forum please come on down. Treni Escovez and Felipe Juarez.

>> Good evening, mayor, councilmembers, my name is Treni Escovez, I am the chair for the King Ocala neighborhood association, and I am back again I have come before you a couple of months ago when I had looked for the budget with the RDA and noticed that there are three SNIs that totally their money was frozen. We are one of the SNIs and I'm back to keep saying, that we need some money, you know, for our area, which is the Tully, towards -- Tully towards Story Road and we're also West of district 8 also and I believe that I have talked to you before and I keep on insisting and I'll keep coming back and I have people up there but sometimes people don't feel comfortable speaking but we will continue to start even though it rained a little bit today we were walk house to house. Passing out registration but also letting them know about the budget and how we were frozen for we were one of the three SNIs that were frozen. I think we were able to use it in three years so I keep saying, the RDA please allow us to have some money before I got cut off, I think I got cut off last time because I couldn't pronounce Larry's last name so I'll make it short so please take a look at that it would be district 7 West district 8. Thank you. Not Larry, Harry. Thank you.

>> Mayor Reed: Felipe Juarez is our last speaker.

>> Thank you for giving knee opportunity to speak again, twice in one night, that's a big achievement for me. I am also here speaking on behalf of the K.O.N.A. SNI neighborhood. As you heard from Treni, we were one of the two or three neighborhoods that were pulled off the list for any consideration. Our \$537,000 was postponed for 2012, and the money that was supposed to be going to Hubbard and Slonaker schools for improvements, badly needed improvements, in fact I was a fourth grader in Hubbard school when we had that existing field, we still have that field today about 46 years ago. That money was supposed to go to improve the field and it's very important for our children. We've seen generations go in and out of that area, without any moneys. And for some reason, we have not been heard. We've gone to the RDA meetings, we've expressed this over and over again. We're in need of that money. I don't know how else we -- how other way we can say it. Please consider at least if you don't, you know -- if there's no possible way to do the entire dedicated promised money, that at least we keep some money involved into that project to improve the schools. It's not for my benefit, it's for the kids, that whole area is over 10,000 households and we will continue to speak for them. Thank you.

>> Mayor Reed: Thank you. That concludes the open forum, that concludes our meeting, we're adjourned.