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>> Mayor Reed: Good morning, we now have a quorum so we'll get started with the session today. We'll do the labor update in open session here. And then we will adjourn into closed session and spend the morning doing that, be back here at 1:30. I anticipate that we will not get finished with all the closed session items this morning. The afternoon agenda is relatively short. So I expect we will go back into the closed session when we get done with the rest of the afternoon agenda and finish up what we need in closed session later this afternoon. So while the agenda is short, I don't know what time we'll get done. No promises, but I know what time we'll start, which is 9:07. Alex. Take it away.

>> Gina Donnelly: Good morning, mayor, members of the city council, Gina Donnelly, deputy director of employee relations. We'll start as a reminder to everyone that all of the documents we will be discussing this morning are available on the employee Website and may be accessed online. Since our last update the city has met with ALP, the attorneys union, for retirement reform negotiations. That meeting occured August 11th and the city provided four related proposals, and that next meeting is to be scheduled in the future. And that concludes our update this morning.

>> Mayor Reed: Okay, I have no requests to speak, nor is there anybody that looks like they're interested in speaking, except Ed Shikada. I doubt that. So we'll adjourn into closed session.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for August 24th, 2011. We'll start with the invocation. Vice Mayor Nguyen will introduce the invocator.

>> Councilmember Nguyen: Good afternoon. I'm delighted to welcome Reverend Dominic Dinh Do form St. Maria Goretti parish to provide today's invocation. Reverend Do has been tending to the serious needs of the people of San José for the last 31 years. For the last nine years he has served at St. Maria Goretti parish in district 7, working closely with the elderly Vietnamese population as well as members of other communities that the parish serves. I want to thank reverend do for his efforts in helping to build a strong sense of community spirit among the residents of San José regardless of the ethnic and cultural background. Welcome reverend.

>> Good afternoon, I'm very happy to be here with you. This is a great honor to be invited to your meeting and list the invocation before we start today's meeting. On behalf of the Catholic church in the city, I greet all of you with my respect and I hope that this meeting is very fruitful because of God's grace. Listen together a few words of God. Reading from the holy God's book according to Martin. When he saw the crowd, Jesus went up the mountain. And after he sat down his disciples came to him, he began to teach them saying, bless are the meek, they will inherit the land. Blessed are they who hunger and thirst for righteousness because they will be satisfied. Blessed are the merciful, they will be shown mercy. Blessed are you when they enthrown you and persecute you and utter every kind and evil potentially because of me, joy and be glad for your reward will be great in heaven. We just heard a few words of God. I pray that these words will come to our mind, and our hearts, for we can work for God's people we love in justice. Now, invite you to pray. Father, in heaven, bless us, as we gather today, for this meeting, bind our minds and hearts so that we will work for the good of our community. And help own your people, they ask to be generous in our work, curiously. Father we pray you for you are God forever and ever. And I ask mercy, when God bless you the law may almighty God bless you. The father and the son and the holy spirit, thank you, and good-bye.

>> Mayor Reed: Thank you for joining us today, reverend, we appreciate that. We will now do the pledge of allegiance. Please all stand for the pledge. [pledge of allegiance]

>> Mayor Reed: Orders of the day. First item of business I have one item to change from the printed agenda, and that's to defer item 11.3, a rezoning of property at the Northwest corner of Jackson and 19th street, to the September 27th evening session. Request of Councilmember Liccardo. Any other changes to the printed agenda? Motion is to approve the orders of the day. All in favor, opposed, none opposed, that's approved. Closed session report, City Attorney.

>> Ed Moran: Council met in closed session this morning, there is no report, and the council will be adjourning into closed session after the end of the open session meeting.

>> Mayor Reed: I might add we will adjourn into closed session but we do not anticipate coming back into open session. So we are going to do the open session agenda, get it done, and then go into closed session for the remainder of the time. Ceremonial items would be next. I'd like to invite Councilmember Herrera and the people from the County of Santa Clara's commission on the status of women to join me at the podium. Today we're recognizing August 26th as women's equality day in the City of San José. Councilmember Herrera has some of the details.

>> Councilmember Herrera: Thank you, mayor and I want to welcome Vice Mayor Nguyen and Councilmember Pyle, who have joined with me here. Along with my colleagues I want to introduce representatives from the county of Santa Clara's commission on the status of women. Vice-Chair of the commission, Linda Ramirez Jones, and commissioners Marissa Mellow and Ann Gribowsky. Today we're recognizing August 26th, coming up, as women's equality day. Women's equality day is an opportunity to celebrateh the 91st anniversary of the passage of the 19th amendment to the U.S. constitution, giving women the right to vote. After a long struggle for women's rights and suffrage in our country beginning in the first women's rights convention in Seneca Falls, New York, in 1848. August 26th, 1920 marked the day the suffrage battle was won and women had the right to vote. I'm honored to proclaim August 26th as women's equality day to celebrate the anniversary of the first women's

equality day proclaimed in 1971 by Congress and championed by Bella Abzug. A leader and pioneer of the women's rights movement. And I'm old enough to remember her with her hats. Today we celebrate the courageous women who fought to uphold a fundamental principle within our constitution, the right to vote. As we recognize the sacrifices that women have made to allow the basic rights and choices which we freely exercise today, we must also recognize that there is still much work to be done. Work working equal pay, work to fight domestic violence, work for families and children, work to be done here and around the world for women's rights. Our efforts for full equality must continue by working together, helping each other have equal rights for all. And today I'm proud that we're joined by the county of Santa Clara commission on the status of women to recognize their efforts for the equal participation and treatment of women in Santa Clara County. The commission was founded in 1973 to advise the county on issues that affect the lives of women and work to keep the issues of women in the forefront of the public's attention. Equal pay and opportunity access to education and workplace flexibility policies. This commission also helped the county of Santa Clara establish the formation of the county office of women's policy which serves as a catalyst for change and providing a focal point for the programs and initiatives that 74th the progress of women and girls in Santa Clara County. This Friday the commission will host the annual women's equality day breakfast, at the India community center in Milpitas. The theme is: Women making it work better. And one of San José's own, the honorable La Doris Cordell, will moderate a panel discussion with many women leaders in the valley including Elmie Bermijo, Department of Labor, Kim Warren from Intel, and Phyllis Stewart Pires from SAP Labs in North America. To attend the event you can contact the office of women's policy, Carla Collins. Today I'm very proud and honored to proclaim women's equality day in San José together with Mayor Reed and my colleagues, and if Mayor Reed would please hand out the proclamation.

>> Good afternoon, my name is Linda Ramirez Jones and I'm vice chair on the commission of the status of women. Good afternoon to our honorable mayor and our honorable council. The commission on the status of women was formed over 40 years ago. And for the past 20 years or more, we have been celebrating the women's equality day event every August 26th. This year, our focus, the commission's focus, is on workplace flexibility policies, so that our economy can prosper and so that women are part of that economy, economic prosperity. Access to workplace flexibility has shown to increase business effectiveness and improve the bottom

line. To increase parental involvement in children's lives, to improve health and wellness for workers of all ages, professional and income levels and increase the ability for older workers to remain engaged in the workplace as well as support gender equity by allowing men and women to participate in care giving and more. As Councilmember Herrera noted, we will be celebrating women's equality day on Friday, August the 26th, 7:00 a.m. at the India community center in Milpitas and we will be presenting a panel of women from the public sector as well as the private sector discussing workplace flexibility policies. I invite you all to attend. And on behalf of the commission, I would like to thank the Councilmember Herrera and the City of San José for the proclamation. Thank you so much! And would I also like to introduce the other two women that are working with me on this event. Marissa medical low Ann Gribosky who you've already met, in between the two of us, we have all been working very hard on this event. Thank you very much. [applause]

>> Mayor Reed: Our next item is the consent calendar. Are there any requests from the public to speak on the consent calendar? We have none. Items councilmembers would like to pull for comment, item 2.8 on the healthy communities project. Item 2.13. 2-- what? 2.7 any others, Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to thank Eileen and all the folks over at downtown streets team --

>> Mayor Reed: I'm sorry I got ahead sir.

>> Councilmember Liccardo: Sorry I thought you were on 2.8. My apologies.

>> Mayor Reed: Sorry, request to speak Councilmember Rocha please.

>> Councilmember Rocha: 214.

>> Mayor Reed: I understand on 2.13 we have some abstentions.

>> Councilmember Pyle: Move to approve the balance.

>> Mayor Reed: Motion to approve the balance of the calendar. All in favor, opposed, none opposed, those are approved. Item 2.7, councilmember Chu.

>> Councilmember Chu: Thank you, Mayor, I just wanted to find out if there is any measurable outcome for this contract that we awarded to this company in 2004 and 2008. And as we look forward going forward to the next four years, what can we expect the measurable outcome of this contract?

>> Bill Sherry: Yes, councilmember, Bill Sherry, director of aviation City of San José. The contract is a four year contract with an allocation of $250,000 per year. Of that $250,000, 75 is directed at the concessions in the airport. So the marketing and customer support and public information component is $175,000 per year. The first task to take that we will do under this contract is develop an airport marketing program. That will develop very specific measurable performance measurements and that's the first task, the $15,000 task and we expect to have that completed by September. Then as a check and a balance is before we exercise the options we will come back to council, tell you what those performance measurements were, and how we -- and how we performed against them.

>> Councilmember Chu: Well, thank you. That's really nice to know. Do we have a performance measure for the previous four years? Because we awarded this contract to with this company for the past eight years, hmm?

>> Bill Sherry: The focus for at least the last six years of the barn storming contract has been customer service and customer impacts from the renovation, and development program of the new airport. I think that met with rave reviews from the traveling public as well as the airlines, in terms of how we were able to mitigate those impacts. So the customer service side of that was really the bulk of those contracts and those dollars were allocated to that. Now, we're shifting gears to try to focus more on the marketing and filling the new airport as opposed to building it.

>> Mayor Reed: Any other questions on 2.7? Motion is to approve. All in favor, opposed, none opposed, that's approved. 2.8, arguments with the United States EPA for clean creeks healthy communities project. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I know we ran into quite an obstacle with the EPA and some of the attorneys over there about how we could use the federal funds. And I just wanted to thank Kerrie Romanow and her team over at ESD for coming up with a very creative solution so we can move forward with this very important project and very innovative project I think that will greatly benefit the city and one that I hope will be able to scale to get homeless residents who are in creeks engaged in cleaning up those creeks and benefit both the peole that are there as well as the environment. I also wanted to thank Eileen Richardson over at EST downtown streets team they really took it on the chin and absorbed $35,000 worth of costs just to go forward with this, a very small amount of profit and really demonstrates their commitment to going forward and I think we owe them a great debt of gratitude. Thank you. I'd like to make a motion to approve.

>> Mayor Reed: We have a motion to approve. Councilmember Rocha you wanted another item, right? Not on this one? Councilmember Herrera on this one.

>> Councilmember Herrera: I just wanted to add that I'd like to congratulate Councilmember Liccardo on his leadership on this item. I think I remember when he brought it up as a concept and now it's happening, and I appreciate it.

>> Mayor Reed: Proof of concept to action in less than a lifetime, great work. All in favor? Opposed, none opposed, that's approved. 2.13, is the disability act access ramps that, if they're in close to your home that creates some conflicts for some people, so want to vote separately. Want to gives people a chance to abstain if they're in the wrong geography.

>> I believe Councilmember Liccardo is the only councilmember who has a conflict on this matter.

>> Mayor Reed: Okay can I get a motion? Motion is to approve the access ramps project with CDBG funding. All in favor opposed none opposed one abstention Councilmember Liccardo. That conclusion -- no it doesn't, item 2.14 of the consent calendar is one more that we pulled off and that has to do with our city forest operating a matching grant. Councilmember Rocha.

>> Councilmember Rocha: Is there anybody from D.O.T?

>> Mayor Reed: I think Hans Larsen is here.

>> Councilmember Rocha: It's a real basic question in terms of past funding amount, and I'm trying to get a sense of what the past year's levels were.

>> Hans Larsen: Mr. Mayor, members of council, I'm Hans Larsen director of transportation. The recommended funding amount for our city forest is consistent with level of funding that we've had in past years.

>> Councilmember Rocha: So our funding for our city forest, at this point, is only a matching for the Americorps, or do we provide funding outside the matching for the Americorps?

>> Hans Larsen: There is two actions that we're recommending. The first is an annual operating grant that the city has provided traditionally to Our City Forest. Might note that the amount of money the city provides is less than 10% of the overall operating budget that our city forest has some, so they're very good at getting money from state federal and private sources for their operations. Second part of the recommendation supports a three year grant with Americorps and we are providing $120,000 and it leverages a $1.5 million Americorps grant which helps provide 35 staff members to carry on the work of our city forest.

>> Councilmember Rocha: I'm sorry, I wasn't clear. The grant agreement, is that a new grant, or has that been one that is a past grant that's just continuing? Is this the first time the Americorps?

>> Hans Larsen: The Americorps grant has a three year term. This is the second year of the grant.

>> Councilmember Rocha: Is this a new one?

>> Hans Larsen: New last year. So we funded it last year, and we have a commitment to supporting the grant for the three year term.

>> Councilmember Rocha: In past years then our only agreement was just the operating funds that we provided, there was no matching?

>> Hans Larsen: That's correct.

>> Councilmember Rocha: Okay, thank you. I'll move approval.

>> Mayor Reed: Motion to approve item 2.13. All in favor, opposed, none opposed, that's approved. Completing the work on the consent calendar, item 3.1 is a report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of council. I do have one report. With so much focus on the City's currently fiscal concerns it can be a good reminder when others recognize San José's reputation in responsibly managing our financial affairs. With that in mind I want to let you know that next we we will be hosting an international delegation from Kabul, Afghanistan. The visit is part of an effort called the Kabul City Initiative, a U.S. AID effort to provide technical and material support to the municipality of Kabul. On Monday, Tuesday and Wednesday of next week, Kabul's deputy mayor, finance director and assist chief of party, for the Kabul city initiative project will be meeting with and learning from a number of city staff. The visited, which is a part of a three year long project is designed to build the capacity of Kabul's administrative and management functions. They will be meeting with managers from finance, budget, economic development, human resources, information technology, and Public Works to learn from our experienced managers. The goal is to improve their services and enhance their citizens' perception of municipal government while strengthening Kabul's capacity to improve

overall financial management and control. San José is one of two U.S. cities that have been picked to host the Kabul delegation and we are honored to be able to share our professional knowledge and technical expertise with them. And that concludes my report.

>> Mayor Reed: Next item is 3.3, public hearing on the sewer service and use charges and storm sewer services charges. This is a follow up on a previous action, taking all this to the county. Any further questions or discussions? Any cards from the public? There are none to speak on this. Motion is to approve. Anything further that we need to do administratively with this? I know that we have multiple actions. Today is it, right, City Clerk? All we need is the approval. On the motion to approval, Councilmember Oliverio.

>> Councilmember Oliverio: This is a question I'd posed two or three weeks ago and that was with the additional revenue that would be -- or additional fees that would be garnered by charging condominiums and town house test same price as single family homes. And I'm curious if from the Public Works standpoint, would that additional amount of money be able to provide you know frankly a better sewer system for the long term?

>> Scott Johnson: Mr. Mayor, members of the council, Scott Johnson director of finance. Councilmember, we are working with ESD and Public Works on the calculation of those fees and we'll be issuing an informational memo to the council.

>> Councilmember Oliverio: Fine enough, you said it was a very simple calculation I said hey I don't want to cause a lot of workload you said no problem it's really easy.

>> Scott Johnson: I apologize for the delay.

>> Councilmember Oliverio: So is there anyone from Public Works here? I'm just curious, it's a substantial amount of money and I think one of the most basic things we can provide is a sewer system. To my main question if it's some X amount of dollars could I therefore build out the system for the future that I don't have any

issues because I think as much as we may have incidents and issues in the city there's going to be nothing worse than a sewer system failure.

>> Peter Jensen acting assistant director of Public Works. Additional money in that sewer service and use fund is used for a number of different things including the water pollution control plant as well as the sewer system. So if there were additional revenue to be spent, it would be a council decision as to how to spend it.

>> Councilmember Oliverio: Well, I was sort of hoping for that answer today since I had asked for it I think three weeks ago. So I mean if we want to vote we can vote but I feel like I was sort of told that I would get at least a dollar point figure to ask what would be the value because we constantly get this question of you know based on the amount of flow. And you know frankly we have a lot of single people that live in houses. And sometimes we can have a multiunit complex that's filled with more than one person. So I think there's this choice we've made where we have two tiers of cost. The question I had was if we are all treated equal since we're all humans, what would be the value to the city in the long term of a better sewer system?

>> Mayor Reed: Well let me suggest that we need to vote on this today in order to get it into the collection system. Missile we've got a time period. But the question you're asking is one I think ought to be answered in a dollar amount and certainly is relevant as we sit feeds and charges next time around and I think we could just ask the staff to get bam with an info memo answering the question directly.

>> Councilmember Oliverio: Fair enough mayor, thank you.

>> Mayor Reed: Did we get a motion on that? On the motion including the request for the info memo in the motion, all in favor, opposed, none opposed, so that's approved. Item 3.5 is the statement of policy and city council questions related to selection of new director of Department of Public Works. We have a motion to approve. All in favor, opposed, none opposed, that's approved. Item 3.6, waiver of revolving door restrictions for two former employees.

>> Motion to approve.

>> Mayor Reed: I've got a motion to approve. Councilmember Oliverio.

>> Councilmember Oliverio: Hi. Why not just do this as a blanket for everybody, if you were unfortunately laid off by the city, then anyone can go seeking employment versus these individual ones? My concern is eventually a person's name comes up that might not have the best relationship with the council and whatever, and I'd hate to see that person kind of pinned against the wall. That's for the City Attorney.

>> Under the Muni code, Muni code specifically provides for three types of exceptions. That is not one of the exceptions so you could refer this to the city administration for them to come back with a proposal. What we're doing today is -- falls under the waiver provision that's a catch all provision to the extent it's not captured by the extensions, basis so we couldn't odo do that now but it could be referred to the staff, for staff to come back with a proposal for modification of the Muni code.

>> Councilmember Oliverio: Okay I want to share my concern on that topic because again I don't want it to be personal for someone getting laid off by the city and something comes that up we can't get past. If you get laid off you have to have the opportunity to provide work for yourself.

>> Mayor Reed: All depends what that work is.

>> Councilmember Oliverio: But again, if you are laid off I think you should have that opportunity to go seek work.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I agree with Councilmember Oliverio supporting the motion on the floor I think in terms of streamlining, if we can anticipate because of the layoffs that have occurred or likely to occur in the future that

there's going to be a higher number of these employees there will be no choice to have left city receives to have as a come back to the city but I think it mass also there may be more work in order to put that in place rather than just doing this too. So just to get some sense from the city attorney's office and from the City Manager going forward it is a what the best way to do this amount if this is the best way then so be it but I think that certainly in terms of what we're likely to expect going forward I think that it's worth just thinking about.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yes I -- Ed would I suggest maybe double backing with Rick on this because I actually raised this very issue a year or year and a half ago. I agree with the sentiment we should streamline this for folks who are laid off. I know Rick came up with a set of long list of reasons why we can't do it this way so eventually I cried uncle so I'm sure he has that somewhere in his file. If you could reproduce that, we could figure out whether or not it is worth taking on. Thank you.

>> Mayor Reed: On the motion we have a motion to approve, all in favor, opposed, none opposed, that's approved. Item 4.1, is an annexation, reorganization of downer number 11. We have a motion to approve, anything particular we got to read into the record on this annexation reorganization? We've done all we needed to do? I understand on this one the property owners have signed the annexation petition. So not like some of our previous annexation issues. On the motion, all in favor? Opposed, none opposed, that's approved. Item 4.2, Netflix participation agreement. We have a motion to approve. We do have some comments from our staff and perhaps from Andy rendich of Netflix whom I've met and spoken to i'm going to turn this over to Kim Walesh.

>> Kim Walesh: Good afternoon, Mayor i'm very pleased to introduce Netflix to San José and know you will give Net fliex very warm welcome. We are joined by three representatives of Netflix. They will speak in a moment but let me recognize Andy rendich he is the one who will be leading Netflix's new DVD division gnars San José. We also have John Boris who is vice president of operations engineering and Reg Thompson Sr. counsel. This is the building bill Sherry at the airport offices will know this building so Netflix will be on the fifth and sixth floors what we know as our former airport offices. I want to point out that our interactions with the Netflix team confirm the

very real advantages of locating in San José. San José offers a central location in Silicon Valley. San José offers access to a great talent pool. This San José location is already helping Netflix more effectively recruit software and engineering talent in the heart of Silicon Valley. San José offers an availability of quality buildings, at affordable prices. We have access to transportation options of many kinds, including public transit, and last, San José encourages and values, the kind of higher density buildings that enable collaboration. So the recommendation before you today is for a participation agreement with Netflix. Under this agreement, in the first three years of a five-year lease, the city will provide Netflix with a payment, a grant payment, equivalent to 50%, 40% and then 30%, of the new sales tax revenue that we have confirmed we have received from Netflix. In years 4 and 5 we keep 100%. And the agreement is capped at $5 million. So as city council you have the opportunity to create these kind of customized agreements and it is an important tool for us to use on a selective basis when it ask make a difference in landing a different in a company that job. Before I introduce and welcome Andy to speak I want to recognize the staff team that made this project happen. Nancy Kline as our project lead was the driver of this, and her business development team, especially John Lang and Chris Burton. I want to recognize Joe Horwedel and our amazing special tenant improvement team. Especially Lee Butler and Joyce Lew who are tremendous assets to our city. And Mayor Reed, I am pleased to report that we are moving at the speed of business, Netflix obtained their permits through our STI program in one hour. One hour! I just want to repeat that. And timing on this was absolutely critical because they are moving in on October 1st. I also want to thank Vijay Sammeta about his comments and i'm here to answer any questions so I know you want to hear from Netflix so let me welcome Andy rendich.

>> Good afternoon, Mayor Reed, councilmembers, San José city officials. On behalf of the entire Netflix DVD division I got to tell you how genuinely excited we are about moving our new DVD headquarters to the City of San José. San José turned out to be the right choice for us because we could get great corporate office space at a reasonable price. It's in the heart of Silicon Valley. It gets us access to the incredible talent that will help move our company ahead. And of course, the public transportation is a big factor. We believe that that's very important for our employees to have access to that. As was previously stated but I would like to reiterate, I would really want to thank the city system for helping make this a smooth transition for us. And of course I would like to thank the city

council for consideration of the grant agreement that's in front of you. I'm happy to answer any questions, anyone might have. Except for can I have a free account?

>> Mayor Reed: Okay, let's see if there are some questions, specifically for Netflix. I don't think so. I think we all have some comments that we want to make. But I do have a question? Okay, Councilmember Campos.

>> Councilmember Campos: Thank you. It's just a sump question. Will you be displaying your logo on the building prominently to show your presence?

>> We haven't fully decided that but we have the right to go ahead and put the logo up on side of the building.

>> Mayor Reed: We'd like a really big logo. It's up to you. Just a hint. Any other questions, specifically for Mr. Rendich, Councilmember Oliverio.

>> Councilmember Oliverio: We like to see the sign so that would be nice as part of our business climate next to the airport certainly North San José. Question though on obviously we're going to be entering this sales tax grant rebate and you're sort of in this unique position where you have generated an extreme amount of sales tax on the dbd division and sort of over time we would like to go more in the streaming division. Where do you see the DVD portion of your business as far as a percentage of your gross sales overtime?

>> I'm not going to get into the exact percentage of the gross sales. But what we've decided is look, we would lied fully dedicated management team that is sheep harding this business because we have a strong belief that there is a long life in the DVD business and there is many customers that will enjoy getting the service. So you know while I can't see into the future forever I can tell you that we absolutely enhanced the chances of the DVD business having a much longer life by having a separate DVD division and of course ultimately relocating it and separating the streaming from the DVD services.

>> Councilmember Oliverio: Okay and out of curiosity, transportation?

>> Access to the airport was certainly a big plus .

>> Councilmember Oliverio: Thank you.

>> Anything else?

>> Mayor Reed: Questions before we have public comments. Councilmember Herrera.

>> Councilmember Herrera: Anti, we're welcome to having Netflix there. How many gross amount?

>> Ultimately we believe we will have over 200 employees in the first street location. Of course we have over 56 distribution points that we hit each and every day, we have lots of employees that are scheduled across the continent so to speak.

>> Mayor Reed: All right, I'm going to take some public testimony. Thank you Mr. Rendich. Ross Signorino. Councilmember Rocha, did you have a question?

>> Councilmember Rocha: I have a question, it can go to staff as well, it's a couple of technical questions if you don't mind. How much square footage again?

>> Kim Walesh: 55,000 square feet.

>> Councilmember Rocha: And the 200 employees that I saw on the report, how many of those are new employees and are they existing employees that are moving?

>> Kim Walesh: Andy has jobs available for San José residents so he's doing some hiring.

>> Councilmember Rocha: Okay. Now as far as the agreement that's set up here would it be possible and within your ability to provide a report at the conclusion of those three years to give us a sense of the amount of money that was spent -- I'm sorry that was provided to Netflix in the amount of return that the city may have received or is that not part of what your intention was?

>> Kim Walesh: This is -- that is a very appropriate question. This is a really interesting kind of incentive. Because we -- unless we get the revenue, we don't provide the incentive. So it works really well on a quarterly basis. The state board of equalization will confirm the sales tax dollars generated from Netflix which we'll compare notes with Netflix about that, our budget office will confirm that and we'll provides per this agreement. So clearly the jobs are of benefit and we're leasing space that otherwise might be vacant. But the main benefit of this is really quite unanticipated revenue to our General Fund.

>> Councilmember Rocha: Thank you. So if I may, when there is a motion I might like to ask for an amendment or a request to add to that, that we have a report, at the conclusion of the three years. Because if we are moving in the direction of this type of incentive, because traditionally in the North San José we would be able to provide agency funding as you well know. Given the fact that that opportunity is no longer there, thank you for the work you're doing on this I'd like to continue on this or if we're going to look at the future to get a sense of how successful that was.

>> Councilmember Liccardo: I'd be happy to incorporate that as a friendly amendment and suggest perhaps as an annual report --

>> Kim Walesh: I would suggest at the end of the three years which is the participation part of it, it would be a pretty straightforward exercise to document the revenue that was shared.

>> Councilmember Rocha: Okay thank you very much.

>> Mayor Reed: Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor, members of council. I was wondering is Netflix broke that we need to give them help with taxpayers money? Back in the good old days, in the '90s and '80s, when the southwestern states were trying to lure companies from all over the country and they gave them tax breaks, they found out after studying that it cost the taxpayers over 200 to $250,000 per job. I'm wondering what this costs us per job. We're talking about five years' projection. We don't even know whether Netflix is going to be around in that period of time, with this electronics stuff, it moves pretty fast as you know. I don't think it's right to give taxpayer incentive and emptying our coffers as well with why don't everybody coming to the City of San José, be given an equal break, equal incentive, that we give everybody tax breaks. You wonder what's happening to the economy and the budget that we have to maintain in this city so we can provide services. But nonetheless I think it's something you should study and see how much these jobs that Netflix is going to bring there, how much are actually costing in taxpayers' money. Thank you.

>> Mayor Reed: That concludes the be public testimony. I just would like to thank Netflix from coming to San José. One is we appreciate the sales tax revenues that will be coming to us, that's a big plus. The other is, is these are jobs that could go to another state. This is not something that has to be done in California or has to be done in San José. We appreciate that work at the speed of business to make sure they got in their building. But fundamentally it was a business decision of theirs to stay, and we appreciate that. We have about 60,000 people in San José looking for work. I hope you hire some of them and that will be good for all much us. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. I really echo that praise and thanks to Netflix for their willingness to continue to do business here in California and particularly in San José. We're thrilled to have 225 highly educated highly skilled software engineers right here in San José to add considerably to our base as we continue to build out, I think what is a very vibrant North San José corridor. I really want to thank in particular Nancy Kline for her hard work and and Vijay Sammeta. I want to thank on the Netflix team, and appreciate the openness to what Netflix had to some creative options. I want you all to know that I renewed my Netflix membership. People are always concerned any time tax dollars are involved. But I think it's really important we think about here there

is zero down side for the taxpayers in San José. We only provide any incentive if in fact there is first revenue generated for the General Fund and that is clearly a win win. I know that's an overused expression but clearly applicable here. I think it's important for us to find that he 10% or 15% of zero is still zero. What we have here is great. We'll take whatever percentage of something great comes our way. So thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, and I agree with the sentiments of Councilmember Liccardo and you mayor, as well. I think this is a great partnership, I really want to thank Kim and Nancy. I think that was a very creative way, as we have to find new creative ways to bring jobs to our city and revenue to our city. In a perfect world we would hope yes, that companies come into our city, but other countries. So the fact is that we do have to be much more creative in how we incentivize companies to come to San José and as mentioned in the memo with C-8 and with maxim, I really want to commend you know commend our staff for coming up with creative ways that fit the needs of each of the companies. Not every company wants or needs the same thing. And I hope that people are starting to recognize the kinds of things that San José and innovative ways that San José is really allowing ourselves to kind of go down this innovative path to attract companies into San José and I really want to thank Andy, of you and your team from Netflix, I think that one-minute intro you gave is a better statement as to why people should consider San José is better than anything that any of us up here can say. The reason translated to a number of others companies that I'm sure are looking to move or to expand their businesses. And so I hope you don't mind if we repeat some of the things you said and use you, have the quotes so we can attribute it to a great company that is moving into our city and we really appreciate it. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you very much. I'm going to add a little frosting to the scabbing. I think it's a brilliant idea. We as a poor city have very few tools to come up with. I think wonderful some great that both parties ease into a situation. One is going up the ladder one is coming down. I commend you for your good work and

Nancy Kline thanks so much of continuing in your already established tradition of bringing new people into the vibrant city of San José. Welcome to Netflix.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: It's been said clearly, everybody has a choice so we've covered that topic. This is net new revenue. This could easily have been just a simple extraordinary software company that doesn't generate any sales tax. We'd be happy for the jobs and generating utility tax but in this case the DVD model for Netflix generates sales tax so we've entered into a joint agreement. bloomberg where the state of Connecticut is giving a $20 million forgivable loan just to retain jobs. So this is not the same thing. So again, thank you for all the hard work. Bye.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Everything's been said but I just want to again say how wonderful this is. I chair economic development and this is what -- this is what we're trying to do keep companies here bring companies in create jobs this is all good news and very exciting.

>> Mayor Reed: We have a motion to approve. All in favor, opposed, none opposed, thank you, Netflix. Look forward to moving day coming up soon. We'll now move to items 4.3, 4 and 5 all have to do with property on Montague parkway. We'll get a staff presentation and whatever people want to talk about all in one package.

>> Thank you, Mr. Mayor, members of the council, my name is Nancy Kline economic development. I have introductory comments that refer to all three of the agenda items. These actions are needed to acquire land and widen Montague expressway and using the eminent domain tool. I'm providing comments because use of eminent domain is not something that we have done recently or in fact do frequently at all. As you well know, the North San José area development policy was approved by council in June of 2005. The policy allows 27 million square feet of office R&D and 32,000 housing units over a 30-year period. The plan contemplates approximately

$575 million for necessary transportation improvements, and the Monterey widening has long been seen as a key improvement within that plan. It's also notable that the widening of Montague expressway was included in the settlement agreement with the county and neighboring jurisdictions. The city will make the improvements required and then convey the property to the county. This is the first phase of the widening of Montague expressway and involves three properties. Basically, what we'll be doing here is adding traffic capacity, as well as the purchase of the right-of-way will ensure sidewalk sidewalk replacement. The total amount of land required. The amount of land is 12,000 feet. The costs associated for purchase of the land in total of alt three properties we estimate to be about $196,000 and the overall cost of the phase of the work will be approximately $1.4 million. Staff from D.O.T. and Public Works have strived to take the least amount of land needed to create the highest quality impact. Eminent domain is required in this instance because of the complexity of obtaining the required property. There are multiple covenants, conditions and restrictions, in addition to leases, deeds of trust and loans, imposed upon the slivers of property. Staff has been in constant conversation with each of the property owners. No property owner has disagreed that there is a need and necessity to take the land. If it is possible to reach settlements with the owners, staff will do so. Once we have completed the work, it will go to the county and the county has specified that they will accept only clear title. So that is why, in a time frame that meets with the settlement agreements, that is why eminent domain is proposed in this instance. Staff is available from economic development and D.O.T. and Public Works if you have any other further questions.

>> Mayor Reed: All right, I would like to take the public testimony on any of the three items. We'll take testimony on any of the three whichever the people want to talk about. At this time I have one card to speak, Greg Golosso on item 4.4.

>> Thank you, mayor Reed, city council, city staff. I'm here on behalf of Heinick semiconductor, at the corner of first and Montague. They are of the agreement they will allow the property to be taken. The only thing they want to say today is that they're not in agreement with the price that was proposed. And wanted to have further discussion with that at the appropriate time with the city agencies. But they want it on the record today that they are not in agreement with the proposal. That's it.

>> Mayor Reed: Okay, thank you. Any other public testimony any of these three items, 4.3, 4.4, 4.5 all having to do with Montague expressway in different locations. No further public testimony in any of these items. We'll have councilmember discussion at this time, Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. Nancy could you describe again the concerns around timing? Because my impression was that the county was going to rely on RDA money to expand Montague, that is money we were going to shift to them, and if I'm not mistaken, unless they've got some other source. And since the RDA money may be going the way of the DODO.

>> Manuel pineda will answer that for D.O.T.

>> Councilmember Liccardo: Thanks, Manuel.

>> Mr. Mayor, members of the council, Manuel pineda assistant director of transportation. Phase one implementation for North San José and it was part of the initial mitigation package that we have. So that project is actually being funded by traffic impact fee is not being funded by redevelopment funds.

>> Councilmember Liccardo: That is being paid by individual developers who are fund housing?

>> That's a priority to us once we had enough funds to start a project .

>> Councilmember Liccardo: At this point does the county have enough money to start to build?

>> The enough funding for construction as well and I will also add that one of the reasons we have kind of a need for timing on this is because we have contributions from other jurisdictions for this improvement. And if the timing extends too long beyond the five year period, those contributions would go back to the jurisdictions. It wouldn't be able to use them as part of the mitigation package.

>> Councilmember Liccardo: Understood. Spend it quick Manuel.

>> Trying to.

>> Mayor Reed: I'd just like to add that I understand the complexity of this, no matter how much the land owner wants to give you or sell you a piece of property it's like trying to get something out of the railroads. And lots of other people have interests. And they all got to release their interests and there's nothing in it for them and getting them to do it is practically impossible without the eminent domain here. So at least we're not dealing with the railroads but it's that level of complexity I think in terms of trying to get it done just by agreement agreement. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. What my colleague just asked was really where I was going with this. Hi a question about the phase 1 improvements an where is this in the popular term now the water fall, is this one of the first once that we are doing?

>> That's correct. This is actually the first improvement out of the improvement package of North San José.

>> Councilmember Rocha: And how much in fees have we collected?

>> Would I have to go back to get you the exact number but we have approximately $7 million in fees.

>> Councilmember Rocha: And primarily from industrial or any residential in there?

>> Primarily industrial. We had a lot of projects that came forward and approved last December.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor. I don't have much to add after Nancy's presentation. I want to take the opportunity to thank Nancy and staff of D.O.T. At this time I would like to move item 4..3 and 4 and 5 forward.

>> Mayor Reed: I think the City Attorney would prefer us to take individual votes because of each resolution and findings.

>> You're approving a resolution of need and nets. Each is unique and it would be appropriate to do each individually.

>> Councilmember Chu: Change my motion to approve 4.3.

>> Mayor Reed: Right we have a motion to approve staff's recommendation with categories involved with 4.3. On the motion, all in favor, opposed, none opposed, that's approved. Councilmember Chu.

>> Councilmember Chu: Motion to approve 4.4.

>> Mayor Reed: We have a motion to approve the resolutions and findings, et cetera on 4.4. All in favor? Opposed? None opposed, that's approved. Councilmember Chu.

>> Councilmember Chu: Move to approve fop 5.

>> Mayor Reed: Motion to approve the resolutions and finding on 4.5. All in favor, opposed, none opposed, that's approved. Including all the items including the Montague expressway in front of us today. Good to see some projects moving forward. Thank the people who paid the fees to make it possible. We'll move to item 4.6, bond issues, loan of bond proceeds and related documents for Taylor oaks apartment. Comping.

>> Councilmember Campos: Thank you mayor. I want to mover representation of staff.

>> Mayor Reed: Motion to approve staff recommendations.

>> Councilmember Campos: I wanted to make a few comments. That this is a great opportunity to improve an area of town that has been neglected unfortunately by absentee landlords and a nonprofit developer stepped up. Saw an opportunity to bring equity back into this neighborhood, so that people can have a safe place to live and a health place to live. I actually went on a tour with code enforcement, housing, captain Esquivel from San José PD, and we walked some of the apartments and I mean if some you remember back when Poco way was first getting redeveloped and then the early stages of project crack down back in Santee, what some of those apartments were like, this would have been a candidate. So it's happening, and I -- you know, it couldn't have happened sooner. So thank you, and I hope my colleagues will support this.

>> Mayor Reed: We have a motion to approve. I have no requests from the public to speak. None. On the motion, all in favor, opposed? None opposed, that's approved. We have one item that's a joint city council-Redevelopment Agency board meeting item that is item 9.1, the enforceable obligation schedule which we are putting up in response to the state's requirement to do so. There will be a staff report on this before we take up the matter.

>> Leslye Corsiglia: Thank you, mayor, members of council. Leslye Corsiglia director of housing and I have with me Scott Johnson director of finance and paight Degnan with the city attorney's office and general counsel. Hopefully be joined by the redevelopment, Richard Keith as well. Wanted to go over with you the enforceable obligations schedule, which I'll call EOPS for lack of a better word during the presentation. It was a really big effort. I want to give thanks to Rachel Vanderven Avil and paight Degnan for their work in pulling this together. It was really a group effort a lot of other people but they were really key. So what is this? As you know, the legislature approved if I can get it to move, here's Richard, to bills in late June, that impacted the future of redevelopment. One of those bills was a bill that eliminated redevelopment and another bill was a bill that allowed state agencies to stay alive if they made a payment. In AB 26 which is the bill that eliminated redevelopment, there were a lot of different requirements. One of which was that the city and agency pull together an EOPS

document. The Supreme Court did issue a partial stay of the legislation on August 11th. However there were some parts of the legislation that was not stayed, and one of those was the requirement that this schedule be prepared. We have challenged the constitutionity of the laws but in the meantime we are coming forward with this there is question of when exactly it needs to be submitted. It is a little unclear in the bills. The bill said 60 days from the bill's effective date so it is anywhere between the 27th and the 29th so we are within that time frame. So what is precisely the EOPS? It is a document that captures all the obligations of the Redevelopment Agency and the housing department as it relates to the 20% low and mod fund that are due between July 1st and December 31st of this year. It's been really important that we capture every possible obligation on this document, because according to the law we're not allowed to make any expenditures expect for those on the list. The law was very clear as to what an enforceable obligation was. It's on the slide, it's loans, payments required by government or other law, judgments and settlements, legally binding and enforceable agreements, administration, and amounts borrowed from the 20% fund. We do need to make a change to the document itself. We would like to include a footnote related to the agency's variable rate subordinate bonds secured by 80% fund as shown in section A of the document. These bonds which you are supported by letters of credit agreements and reimbursement agreements with J.P. Morgan chase bank. The letters of credit expire on November 25th, 2011. As an extension of the letter of credit is not granted, presidential $96 million would be due in full on November 25th, 2011. Staff is currently into discussions with J.P. Morgan on options to avoid this result. But we want to show that in a footnote as that payment being a possibility. We also want to reflect this reimbursement agreement separately under section E of the EOPS as a valid and binding contract. So what is not included in the EOPS? So one of the things that is not included or it's unclear if it's included is, some city agency agreements. Attachment B of the memo does list the various agreements that are city agency obligations. And it totals almost to $100 million so it's pretty significant. And just want to point out that some of these may not be allowable, but we have included them in the EOPS document. Secondly there are some other commitments that may not meet the definition of enforceable and they are not included on this document. And those may include situations where we entered into term sheets, or where we have agreements where not all the documents were signed prior to the June 29th date. So those, we could not include on the EOPS based on the requirements of the law. So the next steps are that we need to formally adopt this at a meeting which we are asking for the action to be today and effective upon approval we will post the EOPS to the Website both the city and the agency Website and submit it to the county and the state as

required by the legislation. We will designated an official contact person and continue to maintain contact with the state. The state has designated their official contact person as well. And then we'll be back again. Because in a month we're supposed to come back, well at least we will be developing a recognized obligation payment schedule which is the next schedule for the next six-month period. So that's -- we've just finished this, which was a lot of work, we've got to start another one coming up. Oops. With that, I want to see if anyone else here wants to say something. We did file an appeal, and maybe Richard, you would want to speak to that. It is mentioned in the memo.

>> Yeah, just an update on that as Leslye just said, ripped Keith, director of development. We filed an appeal yesterday in accordance with the state procedures. If accepted, it would bring the payment obligation under the pay-to-play scenario down to a little over $35 million from $47 million. That's significant, of course. We don't know if the state controller or Department of Finance will challenge those numbers but we wanted to make sure that the city council is aware that we did file. And it could be significant under a scenario that we lose the court case, and we still have an option, the pay to play. And that we will determine as time goes on.

>> Councilmember Nguyen: Thank you very much staff for the presentation. Mayor Reed stepped out. If council could signal for questions. Councilmember Herrera.

>> Councilmember Herrera: The list of obligations that are not included on that list, is that a list that we're going to see? How many are there on there? If that could potentially come back to us in any way?

>> Leslye Corsiglia: That is something we could bring back to you. We are collecting that list so we know what those items are so there are several housing related projects that are caught up.

>> Councilmember Herrera: So we'll be getting, we'll have some sort of list so we will understand the size and scope and significance of those items?

>> Leslye Corsiglia: Yes, we can do that for you.

>> Councilmember Herrera: Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. On the J.P. Morgan if they decided they wanted all their money all at once for whatever reason, we failed to negotiate, or emergency in the banking system whatever, where does that money come from? Who is ultimately responsible?

>> Scott Johnson: Councilmember, Scott Johnson directors of finance. The ultimate responsible party would be the Redevelopment Agency and the tax increment revenues. So to the extent the tax increment revenues flow into the agency, first the agency pays the senior bonds, which are senior to the J.P. Morgan and related bonds. To the extent that there are not sufficient tax increment annually, to fund the J.P. Morgan related debt, then that then would -- you know, the agency would have to work on a reimbursement agreement with J.P. Morgan, in regards to a payment structure. But currently, the way that the agreement says, those would come demand bonds due and payable on November 25th.

>> Councilmember Oliverio: So being that there's not enough money to pay them and that you know we're barely have enough to pay the bond payments would it then force us to sell any of those properties the agency still quasiowns or that were transferred that the county has a lien on?

>> Scott Johnson: Unfortunately, it is really unfortunate about the timing in regards to the agreement with J.P. Morgan. Because right now we are kind of in flux because of the stay and the legislation kind of prohibits what we can and cannot do with regards to agreements. We're currently prohibited in selling assets. So it really depends on how the lawsuit plays out, on what we can and cannot do moving forward.

>> Councilmember Oliverio: Okay. And then this you know the attachment A, the very large Excel spreadsheet listing all the obligations you have here, are these, by council adopting these are we adopting a ranking saying which is more important than another?

>> Leslye Corsiglia: No, this list is just a list of all the enforceable obligations that we need to pay and that we're allowed to pay.

>> Councilmember Oliverio: Understood.

>> Scott Johnson: And councilmember I just wanted to reiterate that the categories, the rank -- the categories as listed are consistent with the format that's in the legislation.

>> Councilmember Oliverio: Okay.

>> Scott Johnson: That's how their categorized.

>> Councilmember Oliverio: I'm sorry was there.

>> Leslye Corsiglia: Just to say we have it is consistent.

>> Councilmember Oliverio: I understand you have all the bonds listed kinds of together and that type of thing again so it's certainly my priority on the pay back is what we have to do, right, bonds, J.P. Morgan but then when it comes to any available dollar whether it's $1 or a hundred or a thousand or a million, I somehow want the priority or at least I would prefer this priority to be anything that takes care of the General Fund over anything else. So to the City Attorney, is there any -- by adopting anything or making a recommendation does that have any legal clarity with the agency that will replace RDA should the lawsuit not be successful?

>> My understanding is that this is simply a listing of obligations not by any priority, not by any ranking of which you would prefer to pay before another. It's simply a listing of obligations without setting any priority or policy as to which ones you like or which ones you don't want.

>> Councilmember Oliverio: Great wx, with that said, this board has that ultimate responsibility or choice of who to pay back the first dollar, whether it's general policy or anything else ?

>> Scott Johnson: Could I respond to that? We are currently working with our financial advisor related to the water fall on the priority of the debt, we will be submitting that to the council so it's very clear of the ranking of the priority of the obligations of the agency. p.m. when will that be coming to council approximately?

>> Scott Johnson: We are planning to have it by the September date that we're having the other schedule submitted to the council.

>> Councilmember Oliverio: And then that will be your suggestion and then the council can adopt or modify?

>> Leslye Corsiglia: I think it's port to -- if the litigation goes through and redevelopment goes away and we are successor agency we will be reporting what we want to the oversight board. So unfortunately, it will not -- the council can recommend. But it will be the oversight board that will make the determination as expenditures. So we'll be following in the water fall that Scott mentioned, what we believe the order of debts according to the legislation and then we will have to defend that.

>> Councilmember Oliverio: And then if you can help me who's -- we always talk about bonds and J.P. Morgan being first. Who is really at the end? Who really doesn't -- they're at the end of the line for payment?

>> Councilmember, the county is.

>> Councilmember Oliverio: Thank you.

>> Okay. [Laughter]

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. As we look at attachment B, and we look at the last page on the enforceable obligation payment schedule, under H, which is the city RDA agreements, just so I'm clear, that $37.7 million worth of agreement is that what the state is telling us is not enforceable?

>> Leslye Corsiglia: Those are obligations we've included on the EOPS that do not appear to fit within the guidelines of the legislation.

>> Councilmember Liccardo: But we sure wish they did?

>> Leslye Corsiglia: We want to acknowledge that they exist and so they are here.

>> Councilmember Liccardo: Okay. I appreciate us doing all we can to keep the ghost alive here of these obligations. I know it could be a long long time before tax increment ever got to that point where we were able to pay all this. But could I suggest, if given the fact that this list is probably going to be used repeatedly for reference and some basis of authority, would it make sense for us to list out the park land fee exemptions by the location, particularly as we're looking to make, for instance, applications for prop 1C grants or other kinds of grants where we could point to particular locations where we're looking for funding and say to the granting agency hey we would have had this money but for the fact that big, bad Sacramento killed our agency, if -- if we were actually able to identify with those locations, could that be of some use to us since this document's probably going to live well beyond this council's tenure?

>> Leslye Corsiglia: I'm -- I can't speak to whether or not we know where those funds would be going right now. If we did, and we put them out here, I don't know if our attorney has any -- any thoughts about it. We will

have more opportunities. I did mention we'll be coming back with a recognized obligation payment schedule, and we can amend this at some point if we need to do that.

>> Councilmember Liccardo: Could I suggest that -- I know PRNS knows where all this money ought to go. I know some of the developments are that are supposed to have paid those fees or actually they weren't supposed to pay those fees, I know they were exempted but RDA was on the hook to pay those fees there. And it would be really nice if we were able to track that as one more basis when we're trying to chase state funds.

>> Leslye Corsiglia: We can coordinate with PRNS on that and get that list.

>> Councilmember Liccardo: Okay great, thank you very much.

>> Can I though -- I'm not sure how long it's going to take to do that, and we do have to get this list posted by early next week.

>> Councilmember Liccardo: Okay.

>> Or the end of this week.

>> Councilmember Liccardo: I'm pretty confident there's no more than a half dozen projects here that we're talking about. I mean I -- all the projects contribute about seven figures. But if it's a problem I'm happy to back off.

>> Leslye Corsiglia: Okay, we'll see what we can do.

>> Councilmember Liccardo: Okay, thanks.

>> Mayor Reed: We have a strict time line for getting this posted. What do you mean by posted? Is this nail it to the wall of the capital?

>> Leslye Corsiglia: It needs to be posted on the Website.

>> Mayor Reed: Old fashioned posting is no longer used, right?

>> Leslye Corsiglia: Yes.

>> Mayor Reed: Any other questions of the staff? I have no cards from the public requesting to speak on this. And I don't know if we have a motion. Nope, don't have a motion yet. We have a motion to approve the enforceable obligation payment schedule. Just in front of us. All in favor? Opposed? None opposed, so that's approved. That's most of the business on this part of the agenda. We will be adjourning into closed session to finish up the closed session work. We have some people requesting to speak under open forum. We'll take that now. Richard MLK Coy Barbara Santos George and Mark Trout.

>> Good afternoon, mayor and council. My name is Barbara Santos George and I'm a resident of the city and I'm addressing all of you today regarding the City's fees and charges for this fiscal year that in there, the city senior center boutique's rental for spaces that are housed at various community centers and senior centers. For complete transparency, and you did make a comment on it, is I served the city as an employee for 30 years and mainly as a manager in the Department of Parks, Recreation, and Neighborhood Services. While the decision to rent out unused space of city buildings including the community centers is certainly needed in this crucial fiscal crisis, what I believe has gotten lost is a bit of an historical perspective due to the retirement of senior PRNS staff. The programming with the staff coordinating activities including all the fiscal responsibilities for the boutiques. As staff were reduced over time due to budget constraints each senior center boutique was directed 50 department staff to take over duties originally done by the staff. this was done to keep a well loved program that was meeting the needs of the seniors to sell their crafts and receive a nominal amount of money to cover the materials. No one was or is making any significant profit from selling their wears at the boutiques. Charging $2,000 a month for these little spaces as if they were thriving commercial spaces does not stand when using the voice of reason. No commercial business would ever even consider using these spaces that are in the nooks and

crannies within the centers themselves. They will simply be empty or present programming or present programming will be moved in just to fill the space. Therefore, not assisting the city with its revenue stream in any way. I'm requesting that the city council consider the following: Immediately --

>> Mayor Reed: Sorry your time is up.

>> Oh, sorry.

>> Mayor Reed: We'll now hear from Richard McCoy and then Mark Trout.

>> Good afternoon, mayor and councilmembers. I'm here today representing the United veterans council of Santa Clara County. The UVC was formed in October, 1922, and is exposed of delegates from veterans organizations throughout the county of Santa Clara. Their auxiliaries, their chapters and as recognized by the Congress of the United States and the state of California. The UVC is a nonpolitical nonsectarian organization established to promote the goals of all veterans organizations for the common good of all veterans, their dependents, widows, orphans and citizens of the United States. Since 1919, a public ceremony or parade has been held every year for the Veterans Day in Downtown San José. Now sponsored by the UVC and supported by the City of San José and the county of Santa Clara, along with contributions from individuals and private organizations this Veterans Day parade is one of the largest in Northern California. It honors all who have served and are currently serving their country. The open ceremony of the ceremony begins on the 11th hour of the 11th day of the 11th month with a ceremony at plaza did he La Cesar Chavez on Market Street in honor of 1918 armistice of the war to end all wars. The parade steps off at 12:00 noon the parade then proceeds South past the reviewing stand on Market Street opposite the plaza. Near the tech center and ends at San Carlos. Most of this annual par add it has raised the cost of this annual parade has risen to $43,000. Much of the cost is for police firemen and city permits. The mayor's office has again made a very generous contribution to the parade along with many other service organizations Santa Clara County that cover a large portion of the cost. However the parade cost is still short this year by approximately $13,000. And we're asking the city council and the councilmembers to dig in their pockets and present a grant or any other moneys that may have available to help support this parade. So --

>> Mayor Reed: Sorry your time is up.

>> Thank you very much for your time.

>> Mayor Reed: Mark Trout.

>> I'd like to talk about an issue I brought up as a candidate for district 9 city council when I was -- I was invited to two of the debates and in one of them I talked about forced vaccinations. And many of our kids are being told that it's mandatory that they take these vaccinations. Now one of my customers, I clean carpets for a living, she's now in in a wheelchair. She's slowly recovering but she attributes it quite possibly to soon after she got her flu shot. I see these signs that say, get your flu shot. I saw you yesterday, Councilmember Rocha, and I used that as a springboard to tell both the mergt and the customers at Walgreen's there that you know our councilman here just left your store and I had just mentioned at the debate about these vaccinations. Everyone was interested. I think the city council ought to definitely be warning the people that there's a connection with a lot of the vaccinations and diseases, weird diseases, okay? We have over 200,000 of our gulf war veterans coming down with what's called gulf war syndrome. It's related to the Squalene in the vaccinations. What we have mercury. We now have one out of 66 kids, boys that is, because girls can eliminate mercury from they're system easier than boys. Dr. Stan Monteith mentioned in you can obtain that DVD from him, doctors from the CBC, he said like this is like ten years ago, that you know the Pertussis B vaccination, the hepatitis vaccination, explosion that's what he said okay they've since taken out the mercury from them. But they've reinserted into the whooping cough vaccination and the.

>> Mayor Reed: Sorry your time is up. That is the end of the open session, the council will be adjourning into closed session. I'm sorry, unfortunately there's more, 7:00 o'clock tonight we'll be back into open session.

>> Mayor Reed: Good evening. Like to call the San José city council meeting back to order after the dinner break from our meeting this afternoon. We have a few items on our agenda tonight. Before we take up the business we'll do one ceremonial item. I'd like to invite Councilmember Constant and Ishaan Singh to join me at the podium. Tonight we're commending Ishaan Singh for his heroism for saving a three-year-old girl from drowning earlier this month. Councilmember Constant will have some of the details.

>> Councilmember Constant: Thank you mayor. We're very proud to have you here today so we can tell everyone the wonderful thing that you did. Because we really know you made a difference in a family's life. So we have had a rash of near drownings in the City of San José. In fact, since July 1st just a couple of months ago there have been eight near drowning incidents in the City of San José and six of them happened in District 1. Fortunately, nobody passed away. All but two are doing very well and two remain in critical condition. And most of the people involved were children. Six children but also two adults were victims of these near-drownings. We had children as young as 11 months old to seven years and almost all of these have happened in multifamily dwellings in pools that don't have lifeguards on a regular basis. So we are here today to highlight this young man's efforts but we're also here today to remind people that it is very, very, very, very important to take seriously the safety precautions in and around swimming pools. Whether it be in your home, at a public pool, at a party, wherever you may be. And that means that you have to have adult supervision, 100% of the time. If you have a pool with a cover, the cover has to be completely on. Or completely off. No partially covered pools. Because those are recipes for disaster. We have to remember that pool toys attract young children to enter the water. So use toys only when you have adults in the pool with supervision, and of course, advocating for swimming lessons, getting the kids at a young age to be good strong swimmers just like this young man and of course, having fences and gates around all pools. But today we're here about Ishaan Singh and with him are his mom and dad and sister right here in the front and remember, can you come down to take pictures. You don't have to hang out, feel free to come down here. Ishaan is in 8th grade, he lives with his parents and his sister out in district 1. On August 1st Ishaan was swimming in the apartment complex pool and he was pretty much done with his activity. He saw a young girl and her grandfather drowning in the pool. The young lady was three months old. He immediately

jumped in the pool in the deep end, swam over to the two victims, was able to help the young girl by pushing her to the side of the pool getting her to safety other people outside who were able to pull her out of the pool. And begin resuscitation. And the older gentleman was also able to be pulled out of the pool. Ishaan was able to do this on his own. With his strong swimming skills. And quite frankly, you did something that many adults wouldn't have the courage to do. And we're very, very proud of you. Fortunately, both patients survived and have a full recovery, they'll have no residual effects from this at all. Ishaan's bravery and heroism showcased his maturity far beyond his years and his size quite frankly when he saved these two individuals. He exemplifies the strength of youth when they take the initiative to do the right thing and of course to his parents for ensuring that he got his swimming lessons at a young age and knew what to do when the time needed him. So on behalf of the entire council Mayor Reed is going to present you with a commendation for your heroism. [applause]

>> Thank you for this.

>> Mayor Reed: We want to get mom and dad and sister down here for another picture. Come on down. [applause]

>> Mayor Reed: We'll now take up item 3.4, 2011 redistricting advisory commission report. Several members of the commission are here, including the chair. I assume our chair is going to kick this off. If not he'll tell me who is.

>> Thank you, Mr. Mayor and city council members. I will be kicking it off. With me to my left is the commission vice chair, former Vice Mayor Judy Chirco. The redistricting commission met probably about 16 or 17 times in public settings, throughout the whole city and of course our job was to redraw boundaries for the city council districts based on the population changes from the 2010 census. Which then would hopefully provide us the opportunity to present fair and equal representation for San José residents. The variance of the population between districts was to be no more than 10%. Possible results of redistricting, the neighborhood or part of a neighborhood may move to a different council district, city facilities such as parks, libraries may move to a different council district and new boundaries may influence future city council representatives. What redistricting does not change is city boundaries. It does not change other legislative districts such as stay, assembly, senate

and congressional boundaries or supervisors. Does not change school district boundaries, school attendance area or school trustee areas and does not change zip codes. The members of our commission and I would ask them to stand if they're here in the audience, from District 1 was Cynthia Cobb. From District 2 was Forrest Williams. From district 3 was Eric Shanehauer. From District 4, Mike Flaher. From district 5, Andrea Flora Shelton. From District 6 Christopher Shum. From District 7, Dustin Derolo. From district 8 Bonnie Mace, from district 9 Judy Chirco and district 10 David fadness. These folks were instrumental and extremely diligent in providing one themselves and two their time to the commission and as well as being very thoughtful to the commissioners. And I'm going to turn the next part over to Judy.

>> The redistricting commission for the City of San José is governed, first, by the city charter section 403. It requires that the commission be appointed by February 1st. It sets commission recommendations that -- to be due to the council within 120 days of appointment. Which is May 31st. The city charter also requires that the council shall enact the redistricting ordinance by October 31st. The city charter also requires that the ten districts shall be as nearly equal in population as is practical. Nearly equal is the goal. In the city charter there are two mandatory guidelines. One of which is to make the districts as nearly equal in population as is practical, and the other is to comply with the federal voting rights act. In the city charter, there are guidelines. The first two I mentioned were mandatory. But these are guidelines called out within the city charter. That the redistricting commission consider natural boundaries, street lines, and/or city boundaries. The geography of the city, which would be your hillsides, creeks, rivers, streams, cohesiveness, and a word I can't say, integrity and compactness of territory. Actually rich and I argued over who was going to say that word. And the final one being communities of interest within each district. Other commission guidelines that we were to be guided by are the two propositions that were passed within the state. One of which is proposition 11, and the other which is proposition 20. These were to be guidelines, not mandatory, but if this were to go to court, these could be reasons which our redistricting would fail. Council adopted guidelines from Mayor Reed's January 7th, 2011 memo. In the memo it calls out for maintaining the continuity of existing council districts to the extent possible and to use the 2001 redistricting commission guidelines.

>> Up on the screen you'll see the current council districts as they exist today. And then, the recommended map for 2011, by the commission, is shown. The changes that occurred in this recommended map is approximately -- affects about half the people that did ten years ago. And if you look at this chart right here, you can see that these transfer areas, where you see the 2-10BA, the 2 being the district that is moving into, if I remember correctly, into a district. In fact, if I can talk to Michael bills, Michael, is it the other way around? Okay. So that means that 2 was moving into the district 10. So we affected 3500 people approximately in that district. And the next example was 4-3B, that means that district 4 was giving to district 3 a population of about 3100 people and so on right on down the line. So that we affected a total amount of people of 22,067. Back ten years ago it was approximately 38,000 or so that were previously affected. One of the concerns on the commission was that because we were making so few changes that we might be making it more difficult for the next commission ten years from now. With the projected growth in certain districts, there's no question that more than likely, some major changes will be made ten years from now. Which we were able to avoid simply because we didn't have the expected growth numbers that originally were expected, and we were able to also counter with some numbers that included then annexed properties in particular in district 5. The commission recommends that the city council adopt redistricting plan B as recommended, that the city council or the City of San José maintain audio recordings for at least ten years to assist future commissions, and to seek voter approval of a charter change to begin redistricting 30 days after receipt of census data. What we mean by that is, we were commissioned on February 1st. But we're not receiving data until about the middle of March. Which means that we're not really able to really get into our work until we receive that data. Now staff did a remarkable job in getting that to us as quickly as possible. But it means that we have basically anywhere from 30 to 45 days of almost down time. And it would be a lot better use of time if in fact the commission -- the commission was not started until at least the middle of March or so. Even moving at 30 days, to March 1st, would be a far improvement to what currently is happening. And this was the problem that they had ten years ago, as well. And they made also that recommendation. So this is something that really does need to be considered. The commission certainly wants to thank and acknowledge city staff, the City Manager's office, Deanna Santana and Nadine Nader, Planning, Building, and Code Enforcement, Laurel Prevetti, Susan Walton, Michael Bills, who did a magnificent job with the mapping. City Attorney Lisa Herrick, City Clerk Dennis Hawkins, and from his office Nora Pimentel, Rebecca Hall and Mike Gearhart. We truly, and myself personally, really thank them very much for their hard work. The commission also wants to thank and acknowledge all the

residents who took the time to come out and give their input to the changes. It certainly did have an effect on how the lines were drawn and I thought the process went very well. So at this point, the commission members and city staff are available for any questions.

>> Mayor Reed: I think we'll have some questions. I have one request from the public, actually a commissioner to speak. We'll take that in a minute. We'll see if councilmembers have any questions for members of the commission, the staff on the presentation, Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, mayor Reed. I don't have any questions. The memo is very straightforward, very comprehensive. I just wanted to take this opportunity to thank all the commission members for all the wonderful work, all the extensive outreach. I know the charter only requires the commission to have three public hearings, you've had more than 15. At least one in each council district, and really give the residents the opportunity to come and voice their opinion. The access that the community had to the commission's plan through the internet was unprecedented. We saw maps, reports, audio recordings. It just really makes the entire process a model for governmental transparency and that's what we always advocate for. I think that the impact, the minimal impact of this whole process on the -- having on the residents is something that you should be commended for, as well. As the memo stated only 2.3% or approximately 22,000 residents are affected by this, which really shows to come to show the thoughtful work that had gone into the process. So I just wanted to thank the commission for the wonderful work and Vice Mayor Chirco it's really good to have you back in the chamber. Thank you.

>> Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. The one thing that I didn't see in the staff report, or in the presentation tonight, is a summary of the variance of each council district from the mean in percentages. You know we have some population numbers, but it's very difficult to see the actual deviation as a percentage. And we

know that the court cases and the precedence we have there talked about percentages being within X%. We were within 9.7 was the number we were given. Do we have a chart of those? I know it was presented to the commission at various points.

>> Well, just to be clear, councilmember, the map that's showing right now on the screen does have the individual population numbers for each district as recommended. But I think Michael Bills can give us actually some percentages.

>> So Michael Bills, planning staff. The 9.7% is accurate and that's calculated by taking the highest and the lowest population numbers of the districts, the highest being district 4 at 4.9% of the mean and District 9 at minus 4.8% of the mean. So the sum of those being 9.7.

>> Councilmember Constant: What about the other districts, do we have those?

>> The other districts, we do have some tables of information that are available on the Website. And I'll just quickly go down through a list of those. District 1, 0.6%. District 2, negative 4.1%. District 3, 1.8%. As I said, District 4, 4.9%. District 5, 2.4%. District 6, negative 3.6%. District 7, 4.4%. District 8, 2.2%. District 9, again, negative 4.8% and District 10, negative 3.3%.

>> Councilmember Constant: Thank you. My concern is and Rich de la Rosa alluded to this, is that I get the feeling we're kind of kicking the can down the road a little bit. In the fact that I know we had options that were presented that brought us much closer to the mean on many of the districts. And my concern is that in a very short time, we're going to have some districts that are out of balance, like maybe within a year, two years, at the most which will be, you know, relatively quickly. I mean just in district 4, for example, which is the furthest away from the mean at 4.9%, we know that that district has a lot of potential for fairly rapid growth, in fact there are a lot of units actually under construction right now. And it just seems to me that when we deviate so far from the mean that if we were going to do that, it seems like it would have made more sense to deviate from the mean where there is no growth available, have those the bigger districts and those where growth opportunities either currently

are or potentially could be that they would lean to be the more leaner districts, not that you would count them in the overall count but just assume that the district that has one of the most highest potentials for growth is already the biggest district. I could see it very shortly to be out of balance. So I guess my question is, can you tell us, on the maps that were presented by staff to the commission, where were they in relation to the overall disparity between highest to lowest?

>> So there were a total of four plans that were prepared by staff at the request of the commission. And those were identified by various names having to do with a starting point. And so SP-1 had a 1% variation, SP 5 a 5% maximum variation and so on and so forth. SP-1 the total variation came in at 0.8%. SP 5 came in at 4.3%. SP 7.5 came in at 6.7% and SP 10 came in at 9.5%.

>> Councilmember Constant: I think that is really the kind of one of the highlights of my concern, is that we know we could have gotten very close in achieving equity between the districts. And the whole purpose of redistricting is to get as close to one person, one vote as possible. And if you look at the examples that have been set by other redistricting commissions, we've seen those efforts come to be very, very close to the mean, in several examples that I've seen. So that's a significant concern I have. The next concern I have is, lies around communities of interest and physical barriers. And district 1, fortunately we're right at the mean. I think we're the closest one after, if this action is taken today, within .6% of being at the mean. But ten years ago when the redistricting was done, council district 1 became the very smallest district, and remained that way, because again it had no ability for growth because it's constrained on four sides and primarily -- three sides and primarily built out. But what happened as a result of that redistricting is you now have a community that is now in the transfer area fortunately which could have and probably should have been in the transfer area the last time this was done and it created a community that was separated from the rest of its district by a very hard physical boundary, freeway 17 with no access between the neighborhoods other than one pedestrian bridge or going all the way around large commercial developments like the old town and country and Santana Row or actually leaving the city and going through the city of Campbell and coming back into that district. And it created an island of somewhat isolation from the rest of the district. Fortunately, like I say that's been changed. But when I look at the lines between district 10 and district 9 I see the exact same thing happening at, albeit a different scale, we have on the southern

part of district 9 a community that is completely cut off by the rest of the district by freeway 85, another hard physical barrier, that there are very limited opportunities to connect with the other side of the district, and conversely in district 10 we have an area of the northern part of District 10 that is completely cut off from the rest of the district by the similar freeway 85, a very hard physical barrier. In comparing the populations of those two isolated pockets, they're virtually identically. And a swap of those two areas, while it would be a more significant move of a line on a map, it would keep communities connected in the same council district. You would have everything north of highway 85 in district 9 and everything south of highway 85 in district 10. And when you look at communities of interest and physical barriers and we looked at the guidelines and what's required in the charter, what's merely guidelines, what others have done, those are some of the more heavily weighed guidelines or restrictions, requirements, however, which ones they fall into. But my observation in observing the meetings is the discussion became very much about moving people, instead of moving lines. And no matter how you look at it, no matter how you draw these lines, not one person is moved. Lines are moved. But people aren't moved. And even in the discussion we have had today, I heard a reference to moving people. And I think that that discussion caused a lot of angst in the community. We heard people worried that they were moving out of Willow Glen. They didn't want their property values to fall because they were moving out of Willow Glen. They felt their kids were going to go to a different school district because they were being moved. There was discussion that zip codes might change because they were being moved. When in reality nobody is being moved. And the change of a councilmember doesn't change your property values. Fortunately, for the district 1 residents, their property value stayed high even with me in office! You would have thought they would have plummeted, but they didn't! Because what it really is, is the number of call when you need help. And instead it became about moving people, instead of about keeping communities together, keeping communities of interest together, and not isolating people. And I fear that's what we are continuing to do in this particular proposal. Like I say I'm very happy that District 1 got fixed but in looking at all the map, and I know when we talked about this before we established the commission it was very clear to us that we can't make new rules or regulations, we can make suggestions on guidelines. I would have loved to see the lines wiped off the map and talk about communities of interest and neighborhood associations, and talked to those people about who they associate with, who do they see as being the same? And I bet you if you went to anybody, now or ten years ago, and asked them when they lived between the area of freeway 17 and Winchester who were their neighbors they would have said the people who live in eden

neighborhood association or the people who live in the Lynhaven neighborhood association, those people that they shop at the same grocery store with, the people that they share dry cleaners with, the people that share their schools with. Yet they ended up with Willow Glen and the rose garden and other areas, they have absolutely nothing in common. So I say that just to make a point, because I really think that particularly in this one case of 9 and 10, and looking at the map I'm pretty sure it wouldn't change anything for either of the sitting councilmembers, but I can tell you in ten years, we won't know if that's the case. And there could be a lot more disruption as we try to realign those district lines according to physical boundaries. So I would love to support the redistricting. But I think, because of two areas that concern me most, and that is, overall deviation, which I think we haven't achieved a tight deviation. It's 9.7% at its maximum which I think is very high in an area that's arguably pretty small, and the fact that we create these neighborhoods that are separated by physical boundaries. I don't think we really achieved the best redistricting we can. And I concur with what Rich de la Rosa said, is I really think we're making it much more difficult on the redistricting commission that's going to deal with this in ten years.

>> Mayor Reed: Councilmember -- I'm sorry, yes.

>> Mayor I was wondering if I could comment to some of Councilmember Constant's remarks.

>> Mayor Reed: Okay.

>> In all fairness to --

>> Mayor Reed: Although you don't have to be as long.

>> I promise.

>> Mayor Reed: We have a lot of work to be done. Let me remind everybody this is not the only item on the agenda tonight.

>> Just a couple of minor points and one is that in addition to the two mandatory rules that we had to follow, we did have discussion about what weight we would put on all the other guidelines. And the commission decided to put equal weight to all the other guidelines. One of the guidelines, though, that seemed to have quite an impact on the commission, was that from the city council, to not -- to minimize the deviation of current lines. And so that instruction was taken to heart by quite a few of the commission members. So that was one issue. As a part of whether we were just moving people, the biggest arguments that we had in the largest input that we had from community was about keeping their neighborhoods whole. And so there was an awful lot of discussion on that. And some of the areas where, from 9 and 10, there was very little discussion in that area. So, you know, we certainly had to take the input from those that we heard from but in fairness, the commission had too many guidelines. And I think that gave different commissioners to what they thought in their mind was more important weighting to certain items where another commissioner might think another item is more important. So I think that added to the confusion of trying to come down to the smallest deviation. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to thank rich, Judy, everybody who worked so hard on this for their great work. I think typically, redistricting, I think we anticipated frankly I know I did that this was going to be a much more difficult process. I know you spent an enormous amount of time and effort and there was a lot of community input. But frankly I would expect knowing how little we changed the boundaries ten years ago, that there would be much more drastic changes and we'd have people storming City Hall over this. And although in fact there's been concern expressed in some communities, I've been pleasantly surprised how well this has gone on. Thank you for your hard work as well as Lisa and the whole team. I just had a couple of questions. One is, are we legally bound to the determinations of population by census if we have some convincing -- if we have some conviction that there's been an undercount? And I think as we look to the city objectively, almost certainly there has been undercount in Xavier's district and mine as well, in districts with high populations of immigrant families, you would typically find an undercount. Is that something that the redistricting commission can ever take a count of when they're calculating their boundaries?

>> Probably City Attorney Lisa Herrick could probably answer that question best.

>> Lisa Herrick: Thank you. We are limited to the census population numbers that we get. I'll leave it to planning and probably Michael Bills to talk about how the city really participates in the census effort to make sure that there isn't a great deal of undercount. But we did take into consideration some annexed areas and that did actually increase the population of District 5, that added about 6500 people to District 5. But we do have those constraints of really relying on objective data that can be -- that we can really rely on. And for example, there were questions about the North San José district 4, planned or approved building but not yet built, not yet occupied, and so we really were not able to consider that or the commission couldn't consider that.

>> Councilmember Liccardo: Okay, thank you for that. And then I'm aware that the city made great efforts to try to help the census bureau reach as many people as possible. And I'm not blaming anyone. It's just when we look at the data I think we added over 5,000 units to my district and somehow added only 2,000 people which is astounding. I believe if you did not include the portion of the city that was annexed within District 5 I think Councilmember Campos lost people, am I right? Which again I think is remarkable. So I don't doubt that we tried lots of efforts, and frankly we're limited by resources. But I am concerned about that and I understand we're bound by the charter and the rules. And so we live with that. One other question I had really was about the lines themselves in one small particular area and I have no idea if you're able to do a close-up of the area 4-3. Kansen and I Kansen Chu and I were scratching our heads a little bit trying to figure out where a certain notch emerged or why, exactly. And I don't know if you have the capacity John to be able to focus in on that. You do, great. And it's that area of course in North San José, just east of 880, seems to look -- yes -- well, that seems to look a little different than it does on the larger map. I'm trying to get oriented here. I believe the red line -- red zoned area is the area that moved from district 4 into 3, is that correct? Okay. If you look just to the southeast of that red area, what you'll see is essentially a notch of sorts, of really industrial area, that it remains in District 4. And it's obvious that we're relying on the Coyote creek to determine the boundary for much of the 4-3B boundary on the East. And then suddenly we move off of that, and the line moves straight west on Berryessa. And I'm trying to understand why we didn't just stay with Coyote creek all the way down until it hits Mayberry. Because we already have lots of

confusion in that area not knowing what district they're in. You can imagine somebody in district 3 not knowing where to call for a pothole problem .

>> In comment to that. Business districts, if I remember correctly that's why that line came down. Because the representative wanted to try to maintain business districts and neighborhoods together.

>> Councilmember Liccardo: Okay. All right, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. Judy, you look a little different sitting there, but we're happy to have you with us.

>> More rested?

>> Councilmember Pyle: More rested, yes. I just wanted to congratulate everybody on a fabulous job. I can't imagine how tedious it must have been, frustrating when you couldn't get the materials and all the rest. But you've done a yeoman's job. There were some things I thought in my district, oh I wonder why the little wiggly lines and all, and then I decided it was a plus. So thank you very much for that plus and for all your hard work. Really appreciate it.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just also wanted to thank the redistricting advisory commission members, nice to see you here, Judy, again, in this chamber, and this is -- I know at the beginning it wasn't an easy task so I really appreciate additional time spent outside of the regular meeting or the informational meeting for each of the members outreaching to their district and meeting with the planning staff. I wanted to thank the district 4 Michael Flaher for his additional outreach and work for the community interest in the Berryessa union

school district and the Berryessa business association that he and I worked very hard to get started. So thank you, Mike, wherever you are.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I also wanted to thank the commission for the hard work that you did. You certainly gave up a lot of nights, from your family to do this work. I want to acknowledge my commissioner, Andrea Florez Shelton for the work she did. I think she's in the audience tonight. I think I'm the only district where the boundaries didn't change at all thank to the annexation. But I do agree with Sam that yeah, I think there was an undercount. It certainly feels like you know we've got 100,000 people in that district. I know ten years ago, the population was around 93 or 94,000. In District 5. And to lose 3,000 over ten years, I just -- I don't see it. But, you know, it is what it is. And I know that the commission did put a lot of hard work into it, to create the interest of the community, the community interest to keep those in mind, as well as school districts. And you know, nothing's going or the perfect but you all did a great job. So thank you.

>> Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'll start with thanking my appointment, former Vice Mayor Judy Chirco for your willingness to serve on this. It was a tough ask because you just had eight years of public service and as soon as you were done I asked you to take up this challenge and I was nervous asking you and you took it on and I'm in debt to you and so the District 9 community. Thank you for your time and also to all the other commissioners and staff, I'll echo what a couple of my colleagues said. The time you put in this when I looked at the meeting list and all the places you went and thank you for all that time. I -- while I may not agree with the outcome in its totality, I respect the process and all the time the people put into this. So I will be supporting this. This is a challenge that I'm glad I didn't do and hopefully when I'm done somebody doesn't ask me to do it. So thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Yeah, I just also certainly want to thank the commission. I know that it was a tremendous amount of work done and I also want to thank the staff. I know the staff especially in the map making I know how challenged that is when you have fixed numbers and targets you're supposed to hit but you have real neighborhoods that you're dealing with and trying to make those iteration of maps. And also, particularly want to thank former colleague Judy Chirco as well as former councilmember Forrest Williams. They have both I think done above and beyond in service to the city already and especially Judy. Didn't give you much of a break but we do thank you for your service and I think we were all happy to bring your expertise to the process. And I agree with the comments made both by Pete Constant as well as Sam and seconded by or followed up by Xavier. I do think on Sam's point certainly know there was some undercounting done in some communities and I think that it's -- but it's -- I know that the commission as certain rules that they have to follow. So I think that maybe the next time, because we're the suggestion of saving the discussions and all that maybe there will be an opportunity next time legally to take more of that into account based upon any fluctuations we see over the next ten years. But I do think that's a serious problem that goes far beyond what the redistricting commission was tasked to do. And as far as Pete's comments I do think in ten years it's going to be a really, really, it's going to be a tough task because I think that I think that we're going to see movement and such that they're going to be some pretty major changes that will need to be done and that's okay. You know when that time comes it will be taken care of but I don't think that in any way diminishes the effort that was put around this time around. You follow the rules that were given to you, the requirements and the guidelines given to you and I think you abided by them and I'll support -- I'll support these recommendations and thank you for your service.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Good to see you again, Vice Mayor. And thanks rich for your chairing the commission. I also want to thank Bonnie Mace who represented district 8. I think you all did a fantastic job. I didn't go to any of those meetings but I heard about them. I heard some of them were very similar

sort of like groundhog day in terms of some of the input that you heard but I think people were really interested in the process. You got a lot of people showing up and giving their input and I think you did follow the guidelines as were given to you. You had a lot of guidelines to follow so I think you did a really good job, I will be supporting your recommendations. I'm very glad I didn't have to make them and ten years from now when there's a new commission they can hunt one of us down to serve in your role. We'll get a chance to change places. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: How could I have forgotten Dave fadness? Nawng for being a stellar thank you thank you thank you.

>> Mayor Reed: I want to thank everybody that served on the task force and the staff and I think by now you're probably relieved that you only had a few months to do this work in considering you how much work you did. If you had had another year, wow. So it was a short time frame and that was the basis under which some people were willing to serve because they knew there was a limit. Unlike our general plan task force which is I think pushing four years. Some of you also served on that. It was a short sprint. Thank you for getting there and you got it unanimously before the commission which I think was a difficult tack. I remember ten years ago thinking wow, next time we're really going to make some major changes in the boundaries because we didn't make them all that big last time. So it's interesting that we don't have to. Which is I think a good thing. Because the public as you've come to find out don't like to be changed. Whatever it is, they like it the way it is, by and large. But I do take to heart the fact that you had too many guidelines. Which is interesting. In the fact that not one of those guidelines said, the districts had to be equal, or that we had to make it easier for the next task force. So I don't blame you for the fact that it might be more difficult for the next task force ten years from now. I think you did the job and got the job done within all the parameters and all the guidelines that we gave you so I appreciate that. And thank you all for your service. We have one request from the public to speak. I'll take that now. Eric Shanehauer.

>> Good evening, Mayor Reed, members of the city council, my name is Eric Shanehauer, I was a member of the commission. I thought other commissioners were going to be chiming in, so I put my card in. I want to thank you

all for the opportunity of being on the commission. Being part of the process was even more gratifying because you stuck 11 of us in a room gave us about 100 days and said do this. And we all brought our geographic allegiances, into the room, and when we have gridlock finding compromise we were able to come up with a consensus map, unanimous support of the map. I thank staff we were very demanding asking for data analysis and legal rules so they did a great job. Thank you.

>> Mayor Reed: Dave fadness wants to speak as well.

>> Thank you, Mr. Mayor, members of the council and thank you to my colleagues and staff. And I want to comment, Councilmember Constant made, really resonated with me. If I may be so bold as to suggest one thing that you or your successors do for the next commission. I've served on two now. Hopefully, I'll be around to serve again. In 2021. If you would, just simply, tell us what our guideline is in terms of the variance. We spent a lot of time has Ling over that. It was -- it was basically a waste of time . I feel bad about it because I think we could have gotten 1%. We have the technology. We have the staff. I mean, Michael Bills is a phenomenal guy, we're really lucky to have him and his knowledge of the technology. We could have done this. But it came down to politics, right? And that's unfortunate because I think that we had not served our citizens well by having this -- this uneven distribution. So if next time you could say, within 5, or better yet, within 1%, we could go to work and do that, without any problem at all. And in doing that, Mr. Liccardo, your concerns would be somewhat allayed by the fact that we'd be so close that those undercounts wouldn't matter as much. That would be a great service. And I wish that would you please consider that. I don't know how you'd do that but if you would take our recommendation for a charter change, you could build that right in, or just build into the charter the requirement that future councils have to among their directions to the commission include a target percentage. Thank you, and thank you, Councilmember Pyle for appointing me.

>> Mayor Reed: Thank you. That concludes the public testimony. Vice Mayor Nguyen.

>> Councilmember Nguyen: I make a motion to approve staff recommendation as well as the commission recommendation.

>> Second.

>> Mayor Reed: All right we have a motion to approve the recommendation which includes accepting a report, approving an ordinance and directing staff to work on implementation. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. I wanted to point out that Dave, Eric and Judy have worked on the redistricting commission and the general plan task force and if I think if you were sitting up here they'd all get chocolate stars.

>> Mayor Reed: Chocolate stars would be nice tonight. On the motion, recommendation, we only have one recommendation from the commission. On the motion, all in favor, opposed, one opposed, constant opposed, that passes on a 10-1 vote, thank you all for your service. You're free to go. Last word to the chair.

>> Mr. Mayor, I'd just like to thank you very much for the honor of serving as a chair on this commission. It really was a wonderful commission. Thank you very much.

>> Mayor Reed: That's not what you said, the whole time?

>> I said the whole experience.

>> Mayor Reed: Okay, thank you for your service. We'll now move to the land use items. We have a few. There are no items on the consent calendar. So the first item would be 11.2, administrative hearing in consideration of appeal of the Planning Commission's decision to deny a conditional use permit and determination of public convenience or necessity. Joe Horwedel.

>> Joe Horwedel: Thank you Mr. Mayor, this is an appeal of the decision of the Planning Commission to deny a perm for offsale of alcohol for Walgreen's. As you've heard the Planning Department staff did not recommend approval of the offsale of alcohol for the appeal process.

>> Mayor Reed: All right, we will start the hearing by hearing from the applicant, appellant, somebody representing Wahl grypes, David boonham. We experts lawyers et cetera. So sir, you have five minutes to distribute how you wish.

>> Hopefully we won't take that long.

>> Mayor Reed: Okay then we'll take public testimony.

>> Good evening, Mayor Reed and councilmembers, I'm David Bunham and I'd like to thank you for the opportunity of speaking with you tonight. And I will be brief. On behalf of Walgreen's I want to thank Mayor Reed and Councilmember Chu and their staffs for the efforts they've given this project over the past several months. It's been greatly appreciated. Walgreen's on Morrow and landless has been serving the citizens of San José for almost 40 years now since 1972. Since it opened the store has been a good neighbor and a responsible merchant. The store has had an impeccable track record when it sold a full range of alcoholic beverages in the past, which it did until the year 2000. Today, beer and wine is safely and responsibly sold by Walgreen's in almost 300 stores. I'd like to assure the council that Walgreen's has the necessary training and security measures in place to ensure that this track record is maintained as we go forward. Accordingly, Walgreen's respectfully requests the council's support and asks that you overturn the Planning Commission's decision. Thank you very much, appreciate your attention.

>> Mayor Reed: Thank you.

>> If you have any questions --

>> Mayor Reed: We'll see if there are any questions. I have none at the moment.

>> Good, thank you.

>> Mayor Reed: So don't go too far. I have no cards from the public on this. I have one card, that was it. Any other cards from the public? Anybody else want to speak on this? Okay, nobody else. I just like to note for the record that in preparation for this meeting members of my staff have met with Walgreen's, among others, Councilmember Chu.

>> Councilmember Chu: Thank you very much, mayor. Little quick disclosure. I met with Stan Cramer, from the Walgreen's in March 2010. So it was more than a year ago. I know they've been working on this permit for probably over two years. Again, this is another liquor store that sits on the border of the Milpitas and San José, and like the applicant mentioned, that they have been serving the community since 1971. In 2001 they voluntarily gave up their wholesale liquor permit. I guess this was a change of corporate strategy they're trying to get the conditional use permit back in place. We have held a community meeting on February, February 24th, 2011, and there was received no comment or correspondence from the residents on that proposal to oppose the resale license. And I also, my office has done a survey, a mailed-in survey. And we have more than 50 -- about 60%, all of the 105 survey that return, we have 53 yes, and no with no opinions, and 43 said no. But over the years, during the year of 1971 and 2001, this Walgreen's store did not have -- or nobody has recalled any negative impact or affected our community. So I strongly believe that the approval of this conditional use permit, to allow offsale alcohol, will permit Walgreen's to serve the public convenience and also, by putting San José in a better place to compete with some resale dollars right in the neighborhood of Milpitas and San José. So with that I would like to make a motion to approve the appeal of the Planning Commission decision to deny the offsale of alcohol as an allowable use and support a determination of public convenience and necessity.

>> Second.

>> Mayor Reed: All right, we have a motion to approve the appeal and allow the sale. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I think Kansen pretty much covered almost everything that, all the points that I would like to make so I can keep this very brief. Walgreen's is a very well-known respectable company that is operated within the bounds of the law and has a very good record. I think that given the fact that they used to operate full liquor licenses, in fact I remember as a kid going to the one near my house, they had a completely separate couple thousand square foot liquor store. And they did that very responsibly. This is a very reasonable action for us to take. It helps them be competitive in the marketplace with competitors like CVS that have alcohol sales. And like I said last week or the week before we were talking about something similar. The areas of our city that border with other jurisdictions are critically important to us and we have to do everything we can to ensure not only our residents shop in our city, but those adjoining jurisdictions residents start coming to our city to spend their money.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I as I've mentioned before I looked at these certainly on a case-by-case basis. And in my packet I have the memo from the mayor and Councilmember Chu but I don't have any additional, so I apologize if I'm asking questions that would otherwise be answered. But I did look at Google maps the map of where this is located and I see that there is a ranch market I think, market that's in that same shopping center. Joe is there any other in that shopping center offsale other than the ranch market?

>> Joe Horwedel: Councilmember Kalra, there is a target that has offsale in that center, Ernie's clears, the California ranch supermarket and then the Walgreen's. They're all in that same building.

>> Councilmember Kalra: In that Northwood shopping center?

>> Joe Horwedel: They're all in the same shopping center.

>> Councilmember Kalra: As a Google earth maps, I don't know for certain but it appears that there are neighborhoods that surround it. Are there other shopping centers that are nearby?

>> Joe Horwedel: There is a shopping center across Landis which is the city of Milpitas. We do look at licenses in other cities also just to look at the thousand foot radius and we were not -- the records we had available from ABC did not show licenses in -- across Landis. So those were the four licenses that were within 1,000 feet.

>> Councilmember Kalra: I think I would be comfortable supporting this motion. I think certainly given the fact that it is on the city border the retail aspect of it is important but more importantly it doesn't seem like there's a saturation and there's a grocery store that has offsale of liquor. i don't think there's an oversaturation so this is the only shopping center in the area that has offsale alcohol.

>> Mayor Reed: I think that concludes the council discussion. We have a motion to approve the appeal and allow the offsale on the motion I'm sorry, Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. I just wanted to be voting no and let the public know I support the sale of alcohol when it is with food. one on this side, three opposed on this side herrera, Liccardo and Rocha, I think that's a 7-4 vote to approve so that motion carries, concluding the hearing on that one. Taking us to the next one which would be 11.4. Which is rezoning of property at the Northeast corner of north capitol avenue and Sierra road.

>> Joe Horwedel: Thank you, Mr. Mayor. Staff is recommending, approval of the project. There are several setbacks that staff is concerned about. This was considered by the Planning Commission. Planning Commission recommended that the project be approved with the applicant's setbacks. The concern that staff has is that we do feel that the setbacks adjacent to existing single family homes is not adequate and that we're really trying to make sure that as we do new development we're not encouraging development that's going to be obstacles for us to be able to do the high density housing throughout the city that we are trying to do and that interface with single family

residential is a critical component of that. So staff is still recommending approval, conditionally as noted in our staff report to the Planning Commission for those larger third-story setbacks.

>> Mayor Reed: I have one request from the public to speak and that's from the applicant. Councilmember Chu do you want to take that first? Eric Shanehauer? Man of many hats tonight.

>> Good evening, msh, members of the city council, my name is Eric Shanehauer and the Shanehauer company represents truemark company on this application we hope you will support Councilmember Chu's recommendation in his memo to support the Planning Commission's recommendation of approval with the applicant's development standards. The -- as staff indicated, they predominantly support all aspects of our project, with the exception of two setbacks at the northern property line in havenwood and we have worked with the Planning Commission dialogue as well as with the council office to come up with improvements to the project, to make that setback a better fit, and so on the northern property line, you can see now that we've setback the third floor of the property to the red line, which is 28 feet back from the fence line. We've also agreed that with council direction, we would build an eight-foot fence on the property line with the single family homes, and we would work with the neighbors and staff at PE permit stage to come up with robust planting for screening along that property line. In addition with Planning Commission direction on this corner we also included units that setback that third floor a greater distance. And on all of those units that I pointed to, we've agreed to move the balconies to the back side of the units so you don't have balconies facing somebody's rear yard. And so with those changes, we're confident that we have a good interface with our neighbors. There was a community meeting held. No one at the community meeting brought up setbacks, height or density as a concern. At the Planning Commission hearing no one from the public spoke for or against the project so this has not been an issue of significant concern to the neighborhood. And lastly, we really want to take an opportunity to generate as many units here as possible. This site is ideally located near transit. The capitol light rail line is a thousand feet away, the station, there also are three VTA bus lines that come down north capitol and Sierra road so we really think we need to maximize the units here so we can promote transit ridership so we hope you will support Councilmember Chu's recommendation and the Planning Commission's recommendation to support the project as proposed by us. Thank you.

>> Mayor Reed: I have no other requests from the public to speak. So we will not have any further testimony. Councilmember Chu.

>> Councilmember Chu: Thank you very much, Eric, if I can borrow that chart for one extra mint. I just wanted to point out the improvement that this truemark has worked with my office over the years. This is quite a different plan than the one that you first showed us about more than a year ago. And I also want to know that the egress and the ingress is all from the capitol. And the Sierra road. So that you minimize the impact on havenswood. And also, the setback on both corners here and also a great addition to this project. But another thing I like most is the walkway, that it would provide for the neighbors to go through the center of the development, and also, couple, three more like the walkway, for the residents to so from wherever they live to the capitol corridor. Currently, this is just a vacant lot. It's been a pumpkin patch and Christmas tree patch for many, many years. So I'm glad to see some activities done on this vacant lot. Just probably the -- not the best infill project but with the density and everything else, I'm asking for my colleague to support this project. So I move to approve the recommendation. My memo. And plus, there is an addendum, right, there is another memo from the Planning Department just to clarify some of the errors on this development standards. During the Planning Commission meeting or just wanted to include that as the motion.

>> Mayor Reed: All right, we have a motion to approve. I'd just like to note that in preparation for this meeting that my staff met or talked with Eric Shanehauer on behalf of truemark. We have a motion to approve, all in favor? Opposed, none opposed, no, there was a second, we had a second down here, Councilmember Constant had the second. The second is available, though. The motion is approved. So that takes care of that one. Taking us to the main event of the evening. Which is 11.5, establish land use regulations for bail bond establishments. Getting a sense of dÈj‡ vu because we've been at this a while and we've had a few hearings on bail bonds so I'm assuming we'll have a staff presentation on the things that have happened since our last hearing, et cetera.

>> Laurel Prevetti: Yes, thank you, Mr. Mayor, Laurel Prevetti, assistant director for Planning, Building, and Code Enforcement. This evening we would like to review with you some proposed regulations for bail bond establishments within the City of San José. We are currently under a moratorium that the city council imposed. It expires on, actually expires tomorrow on the 24th of August. So the proposal before you seeks to plans a lot of objectives. They include finding appropriate locations for bail bond businesses, within proximity to the main jail, as well as other commercial areas throughout our city. We also wish to protect our neighborhoods. We also would like to minimize any additional concentration, because San José is finding a high level of concentration close to our jail. And then we also want to retain a business opportunities for other commercial enterprise such as rent, retail and restaurants, within close proximity to our neighborhoods, as well. We do want to just review quickly the chronology for the personal service land use. This is the land use category that bail bonds have historically been considered. This has been part of our zoning code since at least 1958. It could be that it goes even further back, but that is the most -- the oldest zoning code that we were able to find. And it's clearly enumerated within three commercial zoning districts formerly known as C-1, C-2 and C-3. In 2001 the council approved a comprehensive update of the zoning code. Those C-1, C-2 and C-3 were rear named to be more descriptive. They were changed to commercial general commercial residential and commercial pedestrian there was a identified what a personal service use consisted of and in 2004, excuse me, bail bonds were specifically identified as a personal service when we clarified our downtown zone district. So we've got quite a history of the personal service use. The orange before you proposes several elements for your consideration. Staff is recommendation maintaining the personal service use and thereby allowing bail bonds very explicitly within the commercial general, the commercial pedestrian and commercial neighborhood zoning districts throughout the City of San José. There are ample opportunities within our community. We are looking at some distance requirements. This is based on the community input that we received last May as well as earlier testimony when council considered the moratorium back in 2009. So we are suggesting a distance between bail bond businesses of 200 feet. This would essentially try to minimize the concentration I mentioned earlier. As well as a distance of 200 feet from a variety of sensitive uses as elaborated in our staff memo. These include dreangsly zoned properties, public parks as well as schools, K K-12 whether public or private . The 200 feet is a distance that we've used for other sensitive uses, in ordinances so that was a recommendation from us. We also are looking at some other requirements, again based on the benefit of the public input that we've received over these numbers of years. We are looking at not allowing

bail bonds within the ground floor of various establishments within the main jail area, and I'll have a map shortly defining what that main jail area is. And the reason for this, again, is that San José continues to grow, especially along the North first corridor. We're going to be seeing more taller buildings and so we'll have ample opportunity on floors 2 through 10 or 20 for a variety of types of businesses. But the ground floor is really golden space for restaurants and retail and that adds to the vibrancy of our city, so for that reason we are a little bit more protective of the ground floor location. In terms of after midnight activity, the City of San José has since the 1980s had requirements for conditional use permits for activities after midnight we are recommending holding with that conditional use permit recommendation within the main jail area. We thought we might create an incentive, though, for businesses outside of the main jail area. That if certain provisions are all satisfied, there would not be a conditional use permit requirement if a bail bond wished to operate after midnight. These include things that would again minimize disruption to our neighborhoods such as the late night activity would not involve any customers, deliveries, employee errands or other activity that might be disruptive in those early morning hours. If, for whatever reason, a business felt that they should want to have customer interaction, they would of course still have the opportunity to apply for a conditional use permit with a hearing before our Planning Commission. So for purposes of illustration, the map --

>> Mayor Reed: Okay, I think we have people to attend to the situation. Let's try to continue.

>> Laurel Prevetti: Thank you. The map on the screen identifies the northern portion of the proposed main jail area. It's bounded by Rosemary to the north, 6th Street to the East, you'll see within this area a lot of yellow and orange colors that represents our neighborhoods. The pinks represent our commercial districts. So you'll see that we've got it quite a consideration of residential within this area. We also, you can see the commercial pedestrian represented by the CP, as well as the other commercial zoning districts. The southern part extends down to empire and Hawthorne and the western boundary is highway 87. Again predominant residential neighborhoods illustrated by the yellow colors and the browns. But then a significant amount of commercial zoning as well, identified by the pink. All of the CO that you see is areas that would not be permitted for bail bonds. This is an area that currently does not allow bail bonds. So this map might be useful for the council as you deliberate the provisions for the ordinance. The obligations for existing businesses, I want to -- we want to spend a little bit of

time on this because we've been getting a lot of concerns from existing bail bond businesses as well as their representatives. And we want to assure our business community that if a bail bond business is currently located within the commercial pedestrian neighborhood or general zoning districts prior to the moratorium, then they would be considered legal nonconforming with this proposal. So they would not need to do anything. If they're really close together, then, you know, it's a legal nonconforming situation. We do have a fair number of them within the commercial office. Those are not currently permitted, even before the moratorium. We know there have been businesses that have chosen that location. We have not had code enforcement complaints, so that's why we did not enforce against them. And in those situations it's possible that a business could choose to rezone to one of the other commercial zoning districts if they could then meet all the other provisions of distance, et cetera. So there are avenues available to our businesses. Thirdly, our bail bond businesses could apply for a legal nonconforming determination through our permit center and then what we would do is work with that business on their case specific information to make sure -- to make that determination of whether or not they are in fact legal nonconforming. So there are paths forward for our existing businesses. Those that are illegal such as those that might have chosen to locate in a residential zone, even with this ordinance, there would not be a way for them to become legal. So they would need to relocate. So you have several decision points before you. The first is to identify the appropriate zoning districts. They are listed on the slide for you. Based on the council memoranda have been distributed there are distance requirements that you might want to consider. An option of 200 or 300 feet, that was also some discussion that we had with our Planning Commission. The appropriate distance requirement to sensitive uses, 300 feet is certainly an option or some lesser amount. Whether or not to allow the ground floor location for bail bonds within the main jail area, and then the after midnight operation, should we continue to hold with the conditional use permit requirement citywide, or should we create an incentive by not having a C.U.P. requirement outside of the main jail. And that concludes staff's comments, both Joe and I are here to answer your questions, and we welcome the testimony, as well.

>> Mayor Reed: I think we'll have a lot of questions but would I like to take the public testimony first. There are a lot of people here want to speak. I want to make sure they get a chance to speak and we have ample time for council discussion because we do have some complex issues and things that a lot of people are interested in. So I'm going to take the public testimony now, want to make sure that everybody gets a shot because everybody

sitting here now except to staff wants to give testimony. So I want to limit the testimony to one minute we will start, I will call a few names down at a time. Come own down, Steve spare seen oh Aurelia Sanchez, Michael Bluto. You're closest, go ahead I think you're first anyway.

>> Thank you council. My name is Steve spare disains requirements basis the distance separation from all four property highness not just frontage. By doing so it would nullify virtually all locations in the main jail area. Take first street for example. All the first street property share rear line property with second street residential thus eliminating all the first street location. If the intent is to spread out the bail bonds establishments larlt, unrealistic. One, most multiple story buildings in the area are zoned commercial office with automatically disqualified bail bonds companies as we are under the category of personal service. And as commissioner Kline expressed in the Planning Commission building, middle of the night. Your business is clearly retail.

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

>> Thank you kindly.

>> Mayor Reed: Aurelia Sanchez, Michael Bluto, gone gal yardi. It's.

>> Before I start, I have here an e-mail addressed to the council from one of my neighbors concerning this issue. I did have enough for everyone, but I accidentally left them in the back, and they were picked up by the public. So I don't know who I could give this to.

>> Mayor Reed: The clerk will take it.

>> My name is Aurelia Sanchez and I live in Spartan Keyes neighborhood. The reason I'm here is, when I read this in the paper I was very puzzled. I live next to a 24 hour car wash. We've had shootings numerous drug activities and the trash is unbelievable. I live down the street from the Story Road landfill where there's huge homeless encampments where neighborhoods. So either way, if this is approved, that's great. But I also would

like the city council and the mayor to consider other neighborhoods like mine. Where we have bars, liquor stores, and 7Elevens all the way down the street, and it just seems that nobody seems to care. So either way whichever you go and if you're going to push these bail bonds somewhere else this thing about they can't be near schools or sensitive areas, well neighborhoods like mine, they don't get parks, they can't get a school.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Michael Bluto, Don Gagliardi. .

>> I'm not beholden to any of the bail bond companies as a matter of fact I need to treat them at arm's length. But I heard about this and it affects my clients so this does affect my clients. My clients as a criminal defense attorney are the clients that use the bail bonds businesses. My first reaction is they are kinds of treating my clients as a second class citizens, somebody that doesn't need to be sensitive friends and family members of folks who have been detained and who have not yet been find guilty of any crimes. But then I was looking at the practical aspects also as far as it goes with my clients. Most of my clients don't have a lot of money, that's why they use bail bonds. The light rail close to first street makes it easy for my clients to go and shop to finds a competitive rate to find uncertainty. And I believe that the way the ordinance is written now it would require these folks to spread out, would make it more difficult for my clients to find a bail bond agent that they need to use. Thank you very much.

>> Mayor Reed: Don Gagliardi, Jeffrey Stanley, Greg Stanley.

>> Good afternoon, Mr. Mayor, councilmembers, my name is Don gal yardi. I know I'm going to hear a number of the residents directly affected areas near the jail. I'm speaking here in support of those residents. I was here for the moratorium and I'm gabbing here again. I support the ordinance, because of the overconcentration, it's not that we don't want bail bonds. In fact we have one in my neighborhood on 13th street. Never heard a complaint

about them. It's the overconcentration affecting a few neighborhoods right near the jail that we're concerned about and I'm again speaking in solidarity of my immediate neighbors. Thank you.

>> Mayor Reed: Jeffrey Stanley, Craig Stanley, Don Kilmer.

>> Thank you, mayor and city council members my name is Jeff Stanley, I'm the owner of bad boy's bail bonds. The state's second largest bail agency. We have over 150 employees with 100 of them living in the City of San José. Our offices have been located on first street for over 12 years. This ordinance will have a devastating effect on our company. Bail bonds is a very important part of our legal system and I believe that our industry is guaranteed certain freedoms as stated in the fifth amendment of the state constitution and the eighth mement of U.S. constitution. Our clients are mothers fathers employers and responsible family members of individuals in custody. It is essential that they are able to obtain bail in a well lit public safe place. We don't want to be forced to open up our offices outside the proposed zone and neither done impossible for our bondmen to open up his office within the jail area. It is my understanding numerous bail agencies are noncompliant. The way this ordinance reads it is no legal bail office will be affected. I think that many agencies who believe they will not be affect id will be affected.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Greg Stanley, Don kilmer, Tina Morrow.

>> My name is Greg Stanley from Bad Boys bail bonds. When we bail somebody out we have to have the cosigner, everybody that bails out needs to be to have a cosigner. These are the people who are financially responsible for the people to return to court. Our picture thumb prints fingerprints and exhibit items they have to have a job and whatnot. And if you limit the hours, that this is done, we have to do everything by fax, there's going to be huge fraud issue. Also, we have to be open for when the defendants are released from custody because we

have to get their information, we have to make sure that they know their court date, we have to make sure that we get their family information, because we have a moral and financial obligation for these deficits to return to court. And if you limit our hours, we -- you guys will be stopping us from being able to perform our action. Thank you.

>> Mayor Reed: Don Kilmer, Tina Morrill, Ernesto Fausto.

>> Good evening, I have a letter I'd like to enter into the record and hand it to your City Clerk. I'm the attorney for Bad Boys. Oftentimes I'm hired to litigate for secondary effects analysis done and whether or not the city had done its due diligence to find out if bail bond customers are actually doing the problems, the answer is no. If you haven't done the secondary effects analysis I think you might be in some trouble. Thanks.

>> Mayor Reed: Tina Morrill, Ernesto Fausto, and.

>> 11.5. Good evening, my name is Tina Morrill, I live in the Vendome neighborhood and tonight I wanted to clear up some misperceptions that I've been hearing. So I've heard things like residents don't want the bail bonds to operate, we're NIMBYs, we considering consider them a nuisance. This is not true. We know they provide a personal service to some portions of our community. There was a question why haven't there been a lot of complaints, the answer is because when we call in because of constrained city resources the concerns are no priority or low priority. Nuisance behaviors actually arounds 12 VTA shoes down and it reopen about 5:00 a.m. And there's a concern that the ordinance may make it difficult for hardworking people. The fact is there's a lot of bail bonds and they provide a number of ways to access them. Here are just a few on first street. So I think that there's a lot of access for people, and it's not like we're denying them anything. I hope you'll vote in favor of 11.5, thank you.

>> Mayor Reed: Ernesto Fausto, Petra Pino,.

>> I'm not expecting to talk so I'm a little bit nervous. I fell in love with the neighborhood. We walked me and my wife, I just got recently married. I want to raise my family there, we walked down first street to Japantown. I like to see the light rail pass by, every day every night every even when I walk by and take a coffee in Japantown. So I'm in favor of this and I think I sent Sam an e-mail regarding my neighborhood and maybe I'll piggyback on constant is that your name is it's actually a neighborhood with people in it who care about each other and I don't see the bail bonds caring about my wife or myself or my neighbors saying good morning, passing through their or anybody else. I think -- I mean coy go on and on but I think it's just my neighborhood. That's why I'm here. Thank you.

>> Mayor Reed: Petra Peno, Eric cantu, ash Parieu.

>> Good evening, everyone and dÈj‡ view. I'm asking for the -- you all to please support this recommendation the that the planning council's meeting and also to extend the zone from 200 to 300 feet. Basically, we are looking at a number of things. As Tina said we had 27 plus businesses within my neighborhood on Hyde Street on first street. There's plenty of room for competition there. We don't need anymore. We need room for family businesses that we can all use on a regular basis. We don't need any more poor role modeling for the students at the Burnett middle schools, the choch keys that are given them, besides that on a very selfish note my property values are affected by the number of bail bonds businesses that are there. There are about three or four when I moved into my neighborhood. There is 15, 16, 27 now, where is it going to ends and when am I going to see some needed resources in my own neighborhood. I love my neighborhood I love my neighbors.

>> Mayor Reed: Sorry your time is up. Eric cantu ash Pariea, I'm the owner of Pacific coast bail bonds which is located at 772 North First Street North San José which is zoned commercial office. If the proposed ordinance is adopted without giving me or my business the opportunity to submit a rezoning application I'll likely go out of business. I current employ six employees, I'm not a big company but the families will be impacted all of which are San José residents. We pride ourselves in conducting our business with great respect to all of our neighbors. It is critical that we stay in our current location due to advertising such other means. Please help us and take my consideration. Thank you.

>> Mayor Reed: Ash Parieu. Mark Garcia, Wade Hall.

>> Good evening, honorable members of the council, honorable mayor. My name is Ash parieu, I'm here on behalf of all pro bail bonds an pisk bail bonds. There are two maybe issues with the proposed ordinance. First as it relates to the ability for a legal operating business to approve or seek a C.U.P., the current council policy on evaluation of 24 hour uses contains an arguably 300 foot use separation which as you can see with the graph we submitted to the council today, would nearly make it impossible for any bail bond establishment to get a C.U.P. after 12:00. The second issue on behalf of Pacific coast is our analysis shows that there are a total of 21 bail businesses in this main jail area out of a total of 214 commercial business establishments. 11 of them are currently legal and ten like the Pacific coast are considered illegal. Even if we were to submit a rezoning application the staff has proposed with the limitation of the 300 foot separation and the residence separation as well as the other bail business separations it would be nearly impossible for any bail business to be able to get a rezoning.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Mark Garcia, Wade Hall, Maria Moore.

>> My name is Mark gars yah state Department of Justice and spent most of my career putting pem into jail. I am now retired and the director of golden state investigations. My job is to apprehend those subjects who fail to return to court as promised during bail. The information obtained directly when they are bailed out of custody and walk across the street to these companies and to confirm their locations the plates people that know law enforcement there could be a plate that will lead us to a location that will allow us to apprehend these individuals after three try to get away. Hey they try they think they're going to court six months down the road when their attorney tells them they're going to get six years seven years. That's when they leave. Without this information and you limit the time

splitting going into another state or Mexico. That's when my guys go to work and that's when I get the call and that's when I need the information not the next day because they could be gone. Thank you.

>> Mayor Reed: Wade Hall, Maria Moore, ran som field.

>> Good evening. So I'm here talking as a resident of the Vendome neighborhood. I don't think anyone has any issues with the bail bonds people or the clients of the bail bonds. I think they're great. We talk to them on our walks. On our walk we go by three separate bail bonds businesses. And it's not that it's a bad business. It's not that someone said it's like a strip club or adult entertainment. It's just the same dang business in a neighborhood and in a neighborhood we want variety. Ideally it's a bagel shop and a coffee shop and all these different businesses. Every time a retail shop opens up, if I was in the bail business I'd be after all the spots coy get to near a jail because that's where business is good. If we don't limit it as a city it's just going to be chaos, it's going to be so many. There's so dang many, I've never seen a line out of a bail bonds business. I don't see that much business, I don't see that many people in them. that much more. We have massive traffic issues and half way houses issues and --

>> Mayor Reed: Your time is up. Mary ran som.

>> My name is Marie moor and I live in the Hyde Park neighborhood. I've lived a home there for 24 years. I'm the previous secretary of the Hyde Park neighborhood association. My objection is we have aan overdensity problem of bail bonds in the neighborhood. Over the 24 years I have seen a steady increase in a densities of that type of business and I don't see other services that attract people like me to want to buy homes in the neighborhood. It has also affected our property value. I'd like to continue to live in the neighborhood and do that in a way that provides me with more services. I support the rezoning with a 300 foot barrier and I hope that you will too. Thank you for you time.

>> Mayor Reed: Ransom fields, Norm matedtione, Luna.

>> I'm ransom fields, currently the secretary for Rosemary gardens neighborhood association. But my comments are personal. My concern is, the further expansion of bail bonds companies both or along the northerly part of first afternoon, first street, excuse me. Specifically, that we have new development of mixed use including retail, at 1st and Rosemary that needs to be addressed in terms of whether bail bonds will be allowed in them. Currently they probably would be outside of the 200 or 300 foot boundary. Bad Boys has an administrative office at first and Rosemary so that may enter into the decision. The main jail area as defined by the staff should stop at 880 instead of Rosemary. Being part of the neighborhood I do not think that I'm in the main jail area. Although I can see it from my house.

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

>> Thank you.

>> Mayor Reed: Norm mationi, José Luna Josh Broyette.

>> Good evening, mayor and members of the council, Norm mationi on behalf of bail hot line. Bail hot line is at 25 East Hedding, it moved into a facility that was previously occupied by Aladdin bail bonds. And we're finding us in a questionable position in terms of staff interpretation of whether we are illegal at that location. What I want to speak to is, and I've heard this from some of the other people that are involved with facilities, that there should be a grace period for people that are in place, as my client is, as of August 1, and dates back with Aladdin to 1996. Continuous operation, except for would months. You ought to provide in the ordinance an opportunity for those people that are in existence as of today, to validate their situation, whether it be by the nonconforming determination or application for zoning. Thank you.

>> Mayor Reed: José Luna, Joyce Broyette,.

>> I'm here tonight because of my concerns that my bail bond business may have to relocate. I have a staff of approximately six people, that depend on working at my place of business. If I would have to relocate, I would not

be able to be competitive with my competitors. And not only that I would probably have to close my store location down and have to lay some people off. As far as I understand some of the public's understanding about safety worked in the area for ten years and if anything I keep an eye out for the neighborhood. So I just think that if this proposal goes through, it's going to be a horrible thing for bail bond company and basically you're going to wipe out the competition and the choices for people that are going through bad times, their choices are going to be left and they are not going to be able to go to people that are comfortable.

>> Mayor Reed: Your time is up. Josh Freyette,.

>> 15 years and have witnessed the kind of proliferation, concentration of bail bonds businesses in that neighborhood. But more importantly, the impact that it has on the neighborhoods. And I don't think any of us are interested in putting companies out of business. But we feel like it shouldn't be at the expense of neighborhoods and the families that live in those neighborhoods. Thanks.

>> Mayor Reed: David pandori, Helen McNeil, Katherine Festa.

>> Good evening, mayor, I'm David pandori, I'm a former mayor of the city council, former member of the city council, excuse me. Sorry chuck. I'm a prosecutor in the D.A.'s office, I'm here to speak personally. I just want to give you one thing that you may not know about. I was involved in city government when the new main jail was approved. That was back in the early 1980s. There was debate about where it was going to be. Of course it didn't end in the north county cities. We stood up and took the jail it was actually a proposal to put it in the Evergreen area. Obviously it didn't go there, it went in the downtown. And there was a lot of discussion about the impacts that the jail might have on the neighborhood back then it was a seven-member city council. And there were commitments stated over and over and over again. How the county would take steps to be a good neighbor, how the city would undertake steps to be a good neighbor. And by and large it's been a good neighbor. Bail bonds didn't come there immediately when the jail was built. Didn't happen when Susan hammer was mayor, it didn't happen when I was there. It happened when people took a blind eye and businesses started locating illegally. This law would fix what should have happened in the first place.

>> Mayor Reed: Sour your time is up.

>> Please please support the staff memo to restore the commitment that was made about 30 years ago. Thanks Chuck. [applause]

>> Mayor Reed: Ellen McNeil. Followed by cast rine festa and Ann Tonin.

>> I wish I could give my time to the previous speaker because I don't have anything original to say except that as neighbors our main concern is density, density, density. And if this proposal follows that, wonderful. Thank you.

>> Mayor Reed: Katherine festa, Antonini Roma Dawson.

>> Good evening, my name is Katherine Adoe festa. I'm the mother of two young children. I'm not here to put anybody out of business. However I'm here to look after my family. My family doesn't need any more bail bonds. My family needs retail stores. We need coffee shops, we need a Safeway or something of that merit, we need a pharmacy, we need to keep our neighborhood. I've seen the bail bonds multiply in the last ten years more so than any other business. We actually lost our local market to a bail bonds office. I'm here to support the staff recommendation together with the 300 foot buffer. Thank you.

>> Mayor Reed: (saying names).

>> good evening, mayor and city council members. My name is is Antonia, I support the i'm from the hived Park neighborhood near first and Hedding and I've been living in the neighborhood for over 20 years. And I wanted to show you, give you a walk down my neighborhoods. This is first street. This is Hedding. These arrows point to bail bond businesses, addresses and the number indicate how many of these businesses are at that address. Again this is Hedding Street. Continuing down, continuing down 94th first street, civic center there are five bail bond businesses there. There's two, two, one. Here is Taylor, continuing down to another block, this is Jackson, over

here. Heading towards Japantown. What I want to say is that I support this, this is not the way it was 20 to 15 -- ten to 15 years ago when I first moved in here.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Roma Dawson, Patty Phillips, Eric Shanehauer.

>> Good evening, there is the first time I've been in City Hall since I stopped working for Councilmember Liccardo. This is an issue I have watched before I started to work for him or another councilperson. David referenced the jail, I can remember some of those discussions. I have one thing to say, please please please vote on this tonight and support this community and help relieve them. They are suffering an undue burden to provide easy access to bail bonds which I believe in with all my hard. But this community, one community shouldn't bear the whole burden. Thank you. [applause]

>> Mayor Reed: Patty Phillips, Eric Shanehauer, and Angelina Valencia gable.

>> Hello, city councils, mayor. My name is Patty Phillips and I'm president of the Horace Mann neighborhood association which is right here. And I'm in support of our neighbors, because I feel that the bail bonds have really impacted the neighborhoods. I used to own a very beautiful piece of property on North first Street and it was a beautiful neighborhood then. There were neighbors and people talked and it was a beautiful place and now it's just you know, there's just bail bonds everywhere. And I really hope that you will support this proposal, and put some more restrictions on them so that they will have the same rules that the rest of the businesses have. Thank you.

>> Mayor Reed: Eric Shanehauer, Angelina Valencia gable, Ernesta Rosa.

>> Good evening, I'm Eric Shanehauer, I come to you as a concerned resident in the Vendome neighborhood. bond businesses that are legal today will continue to be legal under the new ordinance. Two, no bond business will be required to close or relocate. Three, CG districts and the new code allows them in CN CP and CG districts. The current code requires a C.U.P. for 24 hour operations of bail bonds. The new code will require a C.U.P. for 24 hour operations just like any other business in the city. Separation requirements from residential parks and schools are common in San José policies including your 24 hour use policy offsale of alcohol and drive through policy. Close proximity of the jail is not a necessity to provide bail services. For example 47 of the 80 bail bonds businesses in San José aren't located anywhere near the jail so obviously, they can function and provide bail. And lastly San José bail bonds businesses recognizely serve other jails such as Santa Cruz which is 27 miles away. Look at their winds. Bad boyain Pacific, they all provide services 27 miles away.

>> Mayor Reed: Your time is up. Angelina.

>> Good evening, my name is Angelina Valencia gable. I live on third street in the Hyde Park neighborhood. I'm here to support the reason why I'm supporting it because I've lived there for nine years and I have already seen the devastating effects that these businesses have in our neighborhood. We have lost a lot of neighbors. We have lost a lot of good businesses and these businesses, tend to proliferate every single year. it seems that these stay operating illegally because nothing happens to them. All I'm asking is for your help to keep our community safe. And please do help us, we really need your help. Thank you.

>> Mayor Reed: Rita Reynoso, Bill mains, Susan Lapsis.

>> Hi my name is Rita Reynoso and I live in the Hyde Park neighborhood. I'm here to support the 300 foot new ones that have come, there's a lot of wonderful people in our neighborhood, we have a lot of elderly, we have a lot of children, and just us folk. And we would just like not to put anybody out of business, if we can, but we'd just like to have a normal neighborhood with a Safeway as someone said earlier and please, please support this and thank you so much for your time.

>> Mayor Reed: Bill mains, Susan lapsis, Bill Cochran.

>> Good evening, I'm Bill mains, I live in the Hyde Park neighborhoods. I just am here to say thank you for your support of this regulation, thank you for your attention, I hope you'll support it. Thanks.

>> Susan lapsis, Ron Cochran.

>> Thank you very much. I believe that you've heard most of the points I would make. And I do agree, that you are suffering with a problem in an old neighborhood that was brought by a new huge jail, new in parentheses, kind of trying to fix a county problem here tonight. But I think new technology gives us a way to handle this and spread things out a bit. The 300 foot limit does make sense to me. And, you know, it does seem that each neighborhood should have bail bond services available and maybe we need to really encourage that so that people understand that they don't have to run down to the city jail to take care of their needs. Thank you very much for time and the consideration you're putting into this. I know it has been enormous.

>> Mayor Reed: Ron Cochran is the last card that I have.

>> I'm Ron Cochran. I live at second and Hedding. I'm the second house in from Hedding and I was shocked the other morning, as I walked around the corner to go get a paper in front of togo's that grand opening, the 25 -- I don't think it shows on my phone, I took a picture of it but I hope you know, I vote for that 300 limit because it's like right around the corner from my house and it's brand-new. It's like Aladdin's, right next to alads in. I have no problem with the ones on first street. Aladdin is fine. That's a commercial business district but that's right around the corner from my house. I mean it's ridiculous.

>> Mayor Reed: That concludes the public testimony. Before we get started I want to note that a member of my staff met with Bad Boys bail bonds in preparation for this meeting. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. I'd like to thank all the members of the public boat from the businesses as well as from the neighborhoods, all the folks who came to speak. Obviously there's a lot of passions on this issue and we appreciate the enormous amount of time this has taken. Certainly the entire community as well as staff in getting to this point. It's been a two-year journey at least depending on your perspective, maybe quite a bit longer. I think -- well first I'd like to make a motion, and that is, the recommendation articulated in the memorandum dated August 16th from myself and councilmembers Chu, Herrera and Pyle.

>> Councilmember Herrera: Second.

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

>> Councilmember Liccardo: Thank you. I'd like to just emphasize a couple of points if I could. Onecy think it's been emphasized that no bail bonds business that is legal at the time they moved onto their site would be asked to move, leave or shut their doors. The only potential relocation would occur where those businesses have located on a residential parcel, or another commercial parcel that's not properly designated. And nothing about the new ordinance will change the designations that are appropriate for bail bonds businesses. I do want to respond to some of the concerns were raised in individual letters. Without going to great depths, I know Norm Mationi submitted aer letter regarding bail hot lines. I just wanted to acquire of Laurel or Joe. My understanding is if they were legal previously they would be legal today or after we would pass an ordinance that's been proposed today, is that right?

>> Laurel Prevetti: If that was a legal location, we have an active code case so I don't know if this is the appropriate time to get into the details. But we do have a compliance order that is justified, based on the analysis of the existing zoning that does not recognize personal services. It acknowledges various professional offices which are not personal services.

>> Councilmember Liccardo: Understood, okay thank you. So all obviously that's to be sorted out by the Planning Department and the attorneys. What I think is important is to I think respond to some basic questions

that tend to arise when people are looking at this issue. You know one is why would residents choose to live in an area near a jail and then complain about that fact there are bail bonds businesses and that's certainly a reasonable question to ask. But I think it's important to appreciate what many residents said which is when they moved in there was just a few businesses. And the proliferation of businesses has been something that is quite extraordinary although actually throughout the state we've seen extraordinary proliferation. At one time I think I read in the L.A. business journal we had about a thousand bail bonds businesses. A decade ago, by 2005, there are 2500. The bail schedules or something which has created a a boon here the boom has occurred largely along a single corridor in the city and that's obviously had some real impacts on quality of life. Now, you know are we picking on the bail bonds businesses and I think Eric Shanehauer point it out quite well, every single commercial business in the City of San José is required to get a C.U.P. to operate 24 hours. This is nothing extraordinary that we're doing here in the case of became bonds businesses. Every 24 hour use by the way has a 300 foot restriction, that's based on a council policy that was established in the 1990s so that has been a long standing policy. If we wish to reevaluate that policy, certainly we can do so. But let's do so with all the city in mind and all the businesses in minds and not simply change the policy because of a desire to help or hinder at one particular industry. I know we've received letters from several county elected officials. And I think what's important is, the fact that we have made efforts to reach out to the county. And Laurel, I believe you made calls very early on to the county administrator's office, is that right?

>> Laurel Prevetti: That's correct. Irdid actually meet with one of the county administrators to inform them of the approach we were proposing to take, invite them to participate in community meetings, and, you know, offer to engage. And they respected the city council's role with respect to land use regulations, and we worked together to invite the supervisors of the county to participate as well. As actively as they chose. And we have not received written correspondence since then.

>> Councilmember Liccardo: Right, if I'm not mistaken it's Gary graves that you met with who did not express any objection to the direction that staff had indicated.

>> Laurel Prevetti: That's correct.

>> Councilmember Liccardo: I think it's important that we recognize who we are not hearing from who we would expect to object if we are really concerned about 8th amendment right or Public Safety. We haven't heard from Eric Greenwood who is county public defender. Has clear responsibility to protect 8th amendment rights of her clients or her jeff Rosen a couple of days ago. I haven't heard any expression of Public Safety concerns from them or not from the administration or the county. I think this is meaningful because frankly this is not about public safety or 8th amendment rights, this is really about business. It's about fundamentally market share. Businesses choose to locate near the jail because it provides letters I know from several businesses that indicated that they increased their business considerably by being near the jail. I don't blame them for wanting to be there, of course they'll want to be there but let's at least recognize the concerns for what they are. It is not the case that we're undermining their ability to serve the clients in those locations. I think you've all seen the memorandum that we authored, clearly demonstrating that many businesses do work over the phone. They interact over the Internet. Documents are submitted over the Internet. Transactions are -- occur over the phone and then there are house calls made to individual locations, and agents even go to the jail themselves at all hours. I would like to now ask if John could perhaps put up on the screen some of what we learned just by looking at Websites over the last 24 hours. And so just taking us very briefly through a couple of Websites to get an understanding of how the businesses operate and what they seem to need. Great, thanks John. Here we see the Bad Boys bail bonds Website, and there is mama on the phone, she's adorable. And if we move down the screen, we see under the header, been arrested, get out of jail with Bad Boys bail bonds. And describes the locations of five offices for Bad Boys bail bonds. As Mr. Stanley articulated this is the five offices and look underneath it of all the cities and counties that are served in those five offices, including San Francisco, Hayward, Santa Cruz, San Mateo, this is county, Hayward is city of course but several of these counties where there is no Bad Boys bail bonds office whatsoever. And so naturally, this raises the question, if it's so critical, to eighth amendment rights, and the needs of the defendants, to have a bail bonds office right outside the jail, how in the world do folks get served by companies that don't even have an office in the county where the jail is located? So I called the Santa Cruz Bad Boys bail bonds office. It's -- there's an 803 number if you google it and I learned that in fact that not only is there no office in Santa Cruz council for Bad Boys bail bonds they do the paperwork in San José. They have an agent at Santa Cruz that showings up at the jailhouse or the Courthouse to meet anybody who wants to do business. So

they do business remotely because we are of course in the remote age and it's not hard to do. People have access to telephones. And so this is not by the way unique. I'm skipping now, for instance, to San José bail bonds, which has two offices, Salinas and San José but then on the right you'll see ten different locations where they do service with phone numbers to each of those, of course it is 888 toll free number. So then as we understand thousand businesses do operate, I think it's important to understand just how big a fallacy this notion of proximity is that it's somehow necessary to protect rights or necessary for the operations of a particular county. First of all, Bad Boys bail bonds on that very first question you'll see on their FAQ page indicate where they have offices but in fact they serve, quote, a nationwide coverage. They have nationwide coverage that can assist with all bail bonds related matters. That's from the four or five offices that they seem to have. So clearly, proximity doesn't matter all that much. Because they seem to do a pretty good business without it. Now the question I think is, you know, who is it that's going to show up if you're living next to the bail bonds office? Is it going to be mama who's pictured here, some relative who simply wants to get their friend or a relative out of the poky or in fact, is a person who's charged with the w a felony possibly going to show up at 2:00 in the morning? That is also answered on the FAQ page immediately come into their local Bad Boys office after being released. Well, that raises concerns obviously. If they're required to come into Bad Boys office within 24 or 48 hours after being released and the office is open at all hours and you happen to sleep next door you might be concerned committed it but let's face it a fair number of folks who are charged do in fact commit the crimes. And so you should have some reasonable concerns living in the neighborhood. Where these businesses obviously are serving a wide variety of population. Many sectors of our community. But yes by the way people are coming in the door are people charged with felonies. That shouldn't shock anybody. Now I've moved on to Pacific coast bail bonds just to show folks what it looks like. Most of the sites have downloadable bail forms. This is nothing unique but this is one that is pretty tradition way of doing business. I think this is the Aladdin bail bonds site that just shows all the areas that can be served from the San José office, including milpitas where they don't have any offices at all. Simply to demonstrate what's at stake here here I'll get off my e-mail, thank you. What's really at stake here is, is not about rights. 8th amendment issues. Let's face it. Most of the county jails that are out there don't have services from these businesses. But they still -- I'm sorry don't have offices from these businesses but clearly are served by them. And it's not going to cause extraordinary impacts for the county. The services will continue to occur as they have, many of the businesses are going to remain, some of them may spread out to

other locations throughout the county as they should since they're serving the entire county and life will go on and I'm quite confident in the acumen of these people to be able to serve people online over the phone make house calls and do these things they need to do to continue to do a very good business.

>> Mayor Reed: Did you use to be a pros curiosity? I forgot, never mind. I'm going to support the motion. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. First I have a couple of questions. For staff, of the 21 bail bonds that are in this zone, how many have -- have been identified as legal versus illegal?

>> Laurel Prevetti: Thank you, councilmember. We have incomplete analysis on that. We have some analysis that was done a couple of years ago, some of it has been updated, but as been discussed through the testimony, there's been a lot of movement. There are additional bail bonds from some of the -- from the survey that one of the residents showed does confirm that there are multiple bondsmen located at a single address. We still have quite a bit of research to do, so we expect that those businesses that wish the legal nonconforming determination we would need to really dig into the records and understand that. So at this point I'm not comfortable giving a specific number based on the information that we have at this time.

>> Councilmember Constant: Well, I'll tell you that alone troubles me that we're taking action and we haven't done that research. It's been two years since we discussed this, and I think if we're getting ready as a body to make what is very significant change, that would be something that I would definitely want to know. Referring to this map, I think all my colleagues got it. It was projected earlier. It shows it was produced by VER consultants and it was given to me by I believe ash paraiu which I use get my disclosures out. I met with ash paraiu, I met with Jeff Stanley, I met with several different individual neighbors. My staff met with several neighbors individually and people who represented neighborhood associations in the area. So we have this map that was provided for us. And can you verify, I believe when ash was up here he said that of all of the properties within the zone, it's approximately 10% of those properties currently have bail bonds on them. Can you verify that statement?

>> Joe Horwedel: No, because unfortunately we don't have that map.

>> Councilmember Constant: This map wasn't provided to you? Okay, do you have a map that you guys produced of the zone that you must know how many businesses and parcels are affected within the zone since we laid it out.

>> Joe Horwedel: Right. So we have the map that's up on the screen that shows the zoning of the different properties and shows the relationship to residential. I think the numbers that were presented of about 10% I would say are in the ballpark.

>> Councilmember Constant: Okay. And then have you done the analysis of, within that zone, under the new regulations, how many parcels, notwithstanding the legal nonconforming, but how many parcels would be eligible to have a bail bonds going forward?

>> Laurel Prevetti: Thank you. We did look within the main jail area for the zoning districts, the CN, CG and CP. And there are some sparms in the far Northeastern corner of the main jail area. There is also opportunities for example on the city's own east E lot, county property and other properties in the western zone for the possibility of rezoning, and allowing for these uses. The residential distance requirement is a limitation because San José does have quite a number of neighborhoods. So this would essentially reinforce those legal business -- the main outcome would essentially be the legal businesses that are in the correct zone, would be able to stay and operate. And we would have then clear guidance for the enforcement work of our staff.

>> Councilmember Constant: Okay, so the map that you don't have which is projected and hopefully you'll get a copy of it directly, identifies those parcels in the northern end. And it's four parcels. And of those four parcels, one is currently a vacant lot. One is an existing hotel. One is an occupied office building with an engineering firm and only one is a vacant building that's available for rent. And I point that out because due to that constrained environment, what's going to happen for whichever number of those are determined legal, that are allowed to stay, those businesses will then basically be hostage to their landlords. They will not be able to move anywhere

within the zone. We have seen the exact same situation happen with our card clubs, when we did not allow them to move, and they had very specific areas that they could be, in fact I believe they couldn't even move to a different portion on the parcel. They had to stay in the buildings that they were in. And we saw rents that skyrocketed for those businesses because a commodity was essentially created. And it's clear to me that when you take an area that where only 10% of the eligible properties have this particular type of establishment, bail bonds, and you reconfigure it into a matter where you have just shy of 2% of the parcels eligible to have those specific types of buildings or businesses in them, you basically constrain the supply significantly without any change quite frankly in demand. Demand will be as it is or as Sam pointed out clearly increasing. And I think it's going to increase significantly as jail crowding increases, and I think that's a primary driver in demand. We're going to see not only jail increases for the reasons we've seen them in the past but we know that the state being as responsible as they are are going to shirk their duties and ship people into our local holding facilities and jails. Which will mean we will have very little space to house people, as they're pending their trials, which means the demand for bail is going to go up even more. And what concerns me is, in Sam's memo, there's a phrase and I don't have it right in front of me that it basically says something to the effect of nothing defines flight like bail bonds. And that's a pretty broad stereotyping type of comment. Especially when I haven't been presented with any evidence that there's excessive police actions at any of these locations. I haven't been presented with any evidence that there is excessive code enforcement actives this time or when we received it back I believe it ways May of 2009, I think is when we last heard this. We even had a resident tonight testify and I'll get this closest quote as I can, I just don't see that many people there at those businesses. All of that flies right in the face of the discussion of this outrageous amount of activity occurring at these locations. I think I mentioned last time, when we discussed this, I had a business that I could have basically even with my terrible aim and poor arm, I could have hit the front of the bail bonds business with a baseball. And I spent a lot of time there. I probably shouldn't admit to 24-hour use but I would seem to be there all the time, all day and all night. As a matter of fact it was right across the street from Tina's house where my office was. And I can teleyou that even with that bail bonds one that I could see out my front door and one I could see out my side window, I didn't see any of the nuisance or blight activity. And I was there virtually every day, nearly 24 hours, many times in fact my partner was there a lot at night. So we're taking an action based on blight, based on severe impacts, when there's absolutely no evidence of either one of those. None of the testimony was there tonight, from the neighbors, about blight. We heard things

about density. You could make the same argument for density and high rise housing. Yeah, density is there. So that really concerns me. Quite frankly, I think that the C.U.P. decision that is in front of us is backwards. We're saying that if you're in the zone where we know where you are and you're close to transit as is pointed out, right by the jail, you'll need a C.U.P. to operate. But that if you're not, you won't. I still wholeheartedly disagree with the fact that this is a personal service category. Quite frankly, it's much more like buying insurance, getting a loan. Those type of financial transactions that are office uses, which I believe, do you need a C.U.P. for 24-hour office use to be in your office in the middle of the night?

>> Joe Horwedel: You do not.

>> Councilmember Constant: So we're saying that you have this office activity where you're doing financial transactions, just like you would at an insurance office, I'll use that as an easy example because quite frankly what you are doing is buying insurance that this person will show up. It's no different than buying an insurance policy or insurance rider. Yet we heard testimony tonight that every 24-hour use in the City of San José requires a C.U.P. and that's misleading. And you don't if you have an office use.

>> Councilmember Liccardo: Pete, I side commercial, commercial business.

>> Councilmember Constant: You but others have said, and I did notice that nuance there. But the fact of the matter is you don't need it for all businesses in the City of San José. We heard discussions about why this is important to have not on the ground floor, because of the fact that we want our ground floor locations to have a high level of activity to activate the street, and we need to reserve those for high activity locations so we're going to leave bail bonds up to anything but the ground floor. And that's in one part of the memo. But in another part we're talking about that we need to do something about them because of the high activity. Those are not congruent with each other. We talk about the security issues that make occur in an around bail bonds offices which I don't necessarily agree with based on my personal observations but let's just say, I'll stipulate to that how do you handle security in a building where someone has to case closed floors that usually aren't accessible in a night in an office building where they're going up in an elevator? That requires changes to how the elevators

operate, retrofits in the elevator, additional security measures to be taken that you don't need when it's on a ground floor with simply a front door and a back door. Those are issues that I think we haven't really considered. So just checking all my notes here to make sure I've covered all the issue. And then the final thing is I know there was a community meeting but I found it very interesting that considering all the different things we've done in the short five years that I've been on the council, four and a half years I've been on the council that we didn't have a meeting where, or at least it's not in the staff report where staff just sat down with the bail bonds like we do with our building, builders round table and other things where we sit down and say what are your issues and how do we address them? In fact when I read the report it talks specifically about addressing business and community concerns but quite frankly the proposal only addresses community concerns, real or perceived, and doesn't address any of the concerns that I've heard expressed today, in any of the e-mails, letters I received, or in any of the personal contacts that I had with operators of the businesses. So sometimes, I think we find solutions in search of a problem and I think this is one of them. And it's easy to stereotype and say bail bonds bad, so it must be blight, because it's a bail bonds. I know I got an e-mail from somebody today, I think it was Barrysen signage then we should be addressing the signage. If there is any one of these companies that is not meeting the sign code, and they have flashing lights, that are blinding neighbors, well that's what we address. If we have a business that has a significant blight issue, that we haven't heard about, then that is what we should address. I don't believe the appropriate way to address it is to carve out this area, to constrain supply, to make an ordinance be crafted in a way that it is so tight, that in an area of over 200 -- I think it was 215 or 250 parcels, whatever the number is, four parcels are available. And one of them is a hotel that we know is not just going to go anywhere, any time soon. So for all those reasons I don't support this. And I really think that we need to think about the broader impacts of what we're doing here. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. If I may Joe and Laurel, I had submitted a memo yesterday, did you receive it?

>> Laurel Prevetti: Yes, we did, thank you.

>> Councilmember Rocha: And I know the memo was just yesterday but I've seen memos released the day of that you've responded to. So I was kind of curious why I didn't get any kind of response or you didn't speak to it in the presentation.

>> Laurel Prevetti: Well, actually that's what motivated some of the slides and the actual graphics. So I apologize that we didn't acknowledge it explicitly. I did have an opportunity to speak with a member of your staff prior to the memo being issued so we did have an opportunity to go through the comments prior to the memo being issued and I'll relate to the four points, the information requested. There was the request regarding the estimate of the number of businesses operating legally, and similar to the question, that Councilmember Constant just asked, and as we mentioned, it's a very fluid area. The work that was done a couple of years ago, produced a spreadsheet for this particular main jail area. Many of those businesses are still in place. But we also know there's quite a number of new ones. That would require us to identify the zoning, look at any permit history, et cetera, and quite honestly, we just haven't had the staff resources. As we've mentioned we're happy to do that research on a case-by-case basis for individual businesses. If they're interested in the legal nonconforming determination we have a process. It's a fee for service. So we're perfectly set up to do that. We just don't have the resources up front to do that for over 80 businesses within our city. You did request a map showing which parcels within the main jail area could legally accommodate the bondsmen. So our approach to answering that was to essentially show the actual zoning map itself. The actual parcels that we identified are different than the ones shown on the left screen. The parcels, the private parcels that we identified were actually in the far north eastern portion of the study area, not along the corridor directly. There was also the question about what are the opportunity sites within two miles of the main jail. And we did that quick look. Again, it's really just a handful of some additional parcels. So, you know, so that's part of this balancing act that is one of the considerations for the council, is really, how do we balance the legal businesses, but then should a business choose to move into this area, what should be the consideration. So there are very limited new opportunities, and we do thank you for asking the question. Because now we're able to give you that. And then in terms of the crime statistics, this is information that is actually very easy for all of us to access through the City's Website. Our police department does a fabulous job on a GIS basis of actually identifying all the crime that's happening. The request was specifically for public nuisance. And the

closest category that at least in my opinion, that qualified was really something known as quality of life. Which was drunk, disorderly, drug use and other types of quality of life. And I did a quick scan for the jail area, actually I did it first prior to the community meeting, because we had gotten a comment about well, if there's so much crime how come you're not sharing it? And back in May, when I looked at the statistics, it was actually quite low. When I looked at the last month between July 22nd to August 22nd all of a sudden there were all these hits in this main jail area. So time period really makes a significant difference. So there's a lot of variability. Sometimes it looks like recently, we do have a lot of activity. But back in the spring, it wasn't that active. So I hope with those verbal responses that it at least gives you some information to answer your questions. I apologize we didn't do so more explicitly in the presentation.

>> Councilmember Rocha: Yeah, and I didn't expect you to do everything. These were the questions that were important to me, facing a decision like this and two, I had looked through the memo looking for those issues because we just went through this experience similar with the medicinal marijuana issue and it seemed like there was more backgrounds here. Being the new guy here there was two years of work and I thought that would be valuable in making the decision. I guess summing back up my colleague who is just walking back in actually had asked the questions hi and had some of the similar comments I had. My concern is I guess you could sum it up by instituting a ban, a de facto ban in the sense of future new businesses. If I'm going to be instituting a ban of future new businesses or businesses, I think I should be making a decision with that language in the action and you spoke about the C.U.P. process and if you wouldn't mind, catching me up to speed a little bit. So the ones that are nonconforming, if they did go through C.U.P. process, they would likely be denied. Based upon the 300 foot radius or 200 foot radius.

>> Yeah, there's probably two ways to look at this. First question is, are they in the correct zoning district and for those businesses that are in the correct zoning district, they're fine to operate until midnight, you know, every day of the week. Those businesses that wish to operate after midnight, between midnight@and 6:00 a.m., they did need to apply for a conditional use permit. Our quick analysis indicates that really own eds only one business has the appropriate 24-hours approval and that was done through the correct means. So you know, again, we're open for business. Our Planning Commission is the hearing body for conditional use permits. We would look at each on

a case-by-case basis. We do have our 24 hour use policy but again we would take any additional guidance that council might have on 24 hour use into consideration. So there are certainly opportunities and we welcome those legal businesses to certainly consider the -- if they're interested in 24 hours we're happy to legalize that aspect of their business appropriately.

>> Joe Horwedel: One comment or kind of addition that I'd put on there is there are a number of bail bond businesses that have existed in this area for years. When I lived in this area in 1988, there were bail bond businesses that were here that looked like they had been established for years. Our 24 hour regulations applied, I think it was 1984, or -- 84 I think was the year that that came in. So if they were operating legally prior to 1984, 24 hour business they would have legal nonconforming status and to Councilmember Constant's question around that, we have not gone back to go through and chase every one of those businesses. It does take about a month to go through and chase that work. And then we ask the applicant to give us information and we are fortunate that the state licenses bail bond businesses and so they maintain a yearly licensing program with that, we do have the ability to go back through city business license records to see were they at that location. But it does take a while to build that chain and working with it applicant it is staff tile to do that and whether do you the math we're busy serving people or kind of running in the door with applications so we're not looking you know for projects such as this. That's why we haven't gotten the work done. It is I think the level of resources that's gone into medical marijuana has been substantial from the organization. Of all the departments to go through and support this. This is one that we're trying to go through and go forward good public policy about how to deal with issues that we've heard from the community and the industry. And I actually did the community meeting and we invited every one of the bail bonds businesses to attend that meeting. Only Aladdin showed up. So it was one that I was actually quite amazed. Our goal has been to be very inclusive around this.

>> Councilmember Rocha: Do we have -- I'm trying to think of any other policy that would prohibit businesses from clustering or an overconcentration outside of liquor licenses which we often override, we did that just tonight. We have several select the drive through policy as the separation that the laps Burger King already separates those I think it's 300 feet apart as it recognized the city was not served and neighborhoods were not served to have five of them lined up in a row. So there are a number of uses, alcohol has that way, we have you

know as we were talktalking medical marijuana, again it is something that is an essential part of treating our residents and their medical needs we're still talking about separation between those businesses.

>> Councilmember Rocha: Yeah that one for me is a little interesting. The point was made about the first floor retail and we didn't even discuss that medicinal marijuana. The sale of a drug is more acceptable than a bail bonds establishment. The way I'm looking at our last experience. I know I'm simplifying it or even worse than that being sarcastic about it. But some of this is a little more restrictive than I'm comfortable with. I honestly haven't made a decision whether or not I'm going to support the motion. I'm very sympathetic about the quality of life issue that residents have spoken about but then I go back to the question I posed about nuisance or high activity of crimes and I haven't had any compelling evidence that there is a grace period that was brought up have you considered that to allow businesses that are nonconforming due to lack of C.U.P?

>> Joe Horwedel: That is a normal practice of how we work in code enforcement. We have not shut down businesses that we know are in residential zone, select number 19 on the map that was provided. That is on residentially zoned property, that should be shut down. We have not proceeded about that because we have not received flaintsz of that creating a nuisance. We are waiting for the council's policy decision to play itself out. I think having a reasonable process to transition out is going to be important, the same discussion we've been having about medical marijuana. Just by adopting an ordinance does not automatically allow us to go, as the city, and implement that either from enforcement or from permitting and we need to be fair to those businesses. It does us no good to put a business out of business while they wait to get a conditional use permit for example. So I will be an advocate of giving a reasonable amount of time to move through the process. Where there is a path forward. But if it's just to run the clock out then I'm not going to be supportive of that.

>> Councilmember Rocha: Well then does the motion consider that or -- it is a part of -- there is not anything in the ordinance that puts a specific time frame to implement the ordinance. Typically an ordinance is effective six weeks after the approval and then as staff we go off to implement that. And so how staff will be implementing this is going down the list of properties and looking at kind of chunking our way through that a little bit of time. Because it will you know we don't have unlimited code staff. If we are not having glaring problems it is not

going to be the highest priority. It is always life safety. So it gets prioritized with all the other complaints we get and then we work our way through it.

>> Councilmember Rocha: It again sounds like the medicinal marijuana ordinance and I understand the rezoning process that was proposed, we're not going to process any applications within six weeks.

>> Joe Horwedel: Correct.

>> Councilmember Rocha: Do you see that the same as a C.U.P. application in terms of how you would view it?

>> Joe Horwedel: The way I would see it is there is a business that mass a location that they think is workable we will go through and work with them a schedule to move through that process and that would be much more than six weeks. But it's one that if they have a schedule that you know, would work and that the criteria of whatever gets if the council adopts something whatever those criteria are if it works with it, then we would certainly be supportive of moving them through that process. But if just rezoning and it still doesn't meet some other separation that's not going to be helpful.

>> Councilmember Rocha: I have a side question open the C.U.P. language or policy. In general guidelines are they guidelines or actual requirements?

>> Joe Horwedel: They are guidelines. That is the important difference from policy and ordinance. The question tonight is ordinance but our council policies on drive-throughthroughs it is very clear about late night uses says that we do look at the specific circumstances because not all late night uses are the same. Bars and night clubs operate very differently than a Safeway. So we do have some flexibility of how we've used it. It sets forward a base expectation but you know the whole question about being over the back fence versus being around the corner those are the kinds of things we look at because we want to look at where the parking is for that business at late night. Is it immediately adjacent to the fence or is it out at North First Street? Those dramatically affect the noise impacts for the adjacent numbers.

>> Councilmember Rocha: I'm going to jump back to the grandfathering question. Even a true grandfathering which allow for any buss to conform so to speak you kind of answers that question but I'm really not clear on whether or not that's going to happen. And it could be my fault for not listening, because I'm trying to keep -- so the question about how does somebody obtain legal nonconforming status is that we do have a formal application process, we do in our permit center. They provide information about that substantiates what their request is so in this case it would be requesting that either they operated prior to the late-night rules, in 1984, and/or that they existed before personal services were regulated or you know, those types of questions. And then we will go through working with the city attorney's office and do a step by step kind of connect the dots and come to a conclusion and say either it does or does not meet that test. If it doesn't meet the test we explain why it doesn't and we give an opportunity if there's some more information that they could provide to reach that conclusion. So that at the end of the day they have a written determination of legal nonconforming status, or if we can't get there, not and then that essentially gives them grandfathering.

>> Councilmember Rocha: Thank you, that's all I have for now. Let me state I've also had a meeting with ash paraiu and Stanley of bad boy bail bonds .

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, I appreciate the questions that have already been asked and the dialogue from Councilmember Liccardo and certainly the comments of everyone who has subpoena publicly tonight. I do think there are some aspects of analysis that could have been more thorough and some of the details of businesses that are actually going to be affected. It is challenging to put rules into place that are going to effect we don't know how many businesses based upon you know the decision that we're making. And I also want to follow up on some of the questions that were not asked, and so if I'm please correct me because I might just have the wrong impression. But in terms of those businesses that are existing bail bond businesses, that they could apply for a legal nonconforming. But that in no way -- that does not necessarily have an impact on whether their C.U.P. will be approved or not?

>> Joe Horwedel: Councilmember Kalra it actually would be independent. So if they wish to pursue the legal nonconforming decision and they receive legal nonconforming status for being a business in the correct location and 24 hour use they would not need a C.U.P.

>> Councilmember Kalra: Well, but according to the restrictions put in place the businesses along first street are all within residences, assuming the residences are right behind their back fence so in all those cases they would need to have -- would those be -- I mean in all those cases they have to apply for a C.U.P. certainly.

>> Joe Horwedel: Not necessarily because there can be circumstances where that business -- let me pack up a bit. If they are legal nonconforming, the separation requirements are residential would not apply. The ground floor or requirements or prohibitions would not apply. Those only would apply if they have no legal standing. So they're essentially a new applicant.

>> Councilmember Kalra: That sounds good, that's something that at least is very helpful. So those in the appropriate zoning they apply, when they apply for the C.U.P., essentially the rules that are in place in terms of separation or what have you those are for any business that want to come in that they'll come into the jail area essentially.

>> Joe Horwedel: Or have already come in but did so in violation of law.

>> Councilmember Kalra: So they're in maybe commercial office or for other reasons, either residential, they're residential zoned. Okay.

>> Joe Horwedel: Right.

>> Councilmember Kalra: So those realistically speaking, those bail bond companies since they're nonlegal nonconforming would have to move and, given the restrictions put in place it appears that there really if not limited they're practically no places in the jail area for them to move into.

>> Joe Horwedel: The separation requirements especially for the 300 foot residential or even the 200 foot residential is the one that creates I think the biggest challenge for the number of properties that would qualify for a business.

>> Councilmember Kalra: Okay so I think that's at least when Councilmember Rocha was mentions, you know it's a ban, this is a pan at least for future bail bonds businesses, it seems like in effect this would in essence, effectuate a ban on future bail bonds companies that don't currently qualify that aren't current in legal status.

>> Joe Horwedel: Right and that's why in Laurel presentation of the alternatives for the council to consider, she noted that the 200 foot residential distance or less, that one of the options could be to put a zero, would really depend on the late night use policy and conditional use permit permit process to do it on a more case-by-case basis. It's not necessarily our preference, it's not a recommendation but it is certainly an option that council is available that would open up at least for consideration the properties. But recognizing first street, you know, it backs up to residential for most of those areas. So it is an inherent conflict.

>> Councilmember Kalra: The C.U.P. requirement on the main jail only applies to current nonlegal nonconforming bail bonds companies or bail bonds companies that move in or does everyone have to get a C.U.P. regardless? Not a C.U.P. regardless but those other restrictions don't necessarily apply those restrictions as far as the space restrictions and all of that?

>> Joe Horwedel: The space restrictions would apply for any new business or one trying to legitimize themselves.

>> Councilmember Kalra: You say trying to legitimize themselves? Joe Horwedel ones that are not legal and are trying to be legal nonconforming.

>> Councilmember Kalra: For outside the main jail why is there no C.U.P. required? It just seems like if it's 24 hours it's 24 hours, Councilmember Liccardo your memo does that apply to all -- anyone that wants, regardless where they are anyone that wants to operate 24 hours?

>> Councilmember Liccardo: I'm certainly happy to incorporate that as a friendly amendment.

>> Councilmember Kalra: Let me follow up with questions. I'm curious how sit any better if it's out in the neighborhoods and it's 24 hours and then if it's causing problems in this neighborhood, it's either a 24 hour use or it's not. It seems rather inconsistent just to have a requirement in the main jail area or anywhere else. If it's outside the main jail area they can operate 24-seven and not get a C.U.P., is that inaccurate?

>> Joe Horwedel: Yeah I think it's maybe confused a bit of how we described that. Our goal was to go through and not necessarily put the bail bond businesses through the use permit process. Kind of if they are out scattered around the city. We were still looking at the separation requirements so on page 4 of our staff report we had four bullets of how it would operate in those locations. But one of the things that we're looking at, is -- how the basic bail bond business operates adjacent to the residential areas and the concerns around that the late night activity, we were still going to go through and deal with late night activity but we were trying to go through and minimize the type of things that were happening. So if you were a bail business on inside the jail area, and had your employees doing all the work and in and out that was wassering the C.U.P. even if you had a customer coming there. So we said if you were outside and out in south San José or West San José and you didn't have customers coming in your site you were really like Councilmember Constant was saying like an office use where you weren't having those interactions could we go through and maybe back off on some of the regulatory structures and incentive to be outside of where everybody wants to be.

>> Councilmember Kalra: Okay, okay, that's helpful, that's a helpful explanation. The no ground floor for the main jail area, the argument at least the analysis that was given orally right now, is that we're you know protective of ground space in the main jail area. Are there areas where you wouldn't want to be protective? I mean if there's an argument that bail bonds businesses create an active or passive frontage is there an argument elsewhere or because of the current concentration and the knowledge that because of the main jail there is always going to be kind of a desire to beto have more bail bonds companies there? That's restricted to the point where we're not going to see any new ones if this were to go forward.

>> Joe Horwedel: Downtown we have the main jail requirement that prohibits uses on the ground floor because of many of the streets because of the concern that it was pushing retail out, I think that was done eight, ten years ago. That is a model that has started. We didn't use that kinds of drastic of a tool in this location. That the real issues that were being raised were about the concentration of bail bond businesses. We also looked at that there are a number of office buildings that are multistory in this area, so it wasn't just that it was a pure retail street that how we did it for downtown. So the thought was, rather than trying to deal with store frobts let's actually go through and flip it the other way and say be up off off the street is a better way to regulate that.

>> Councilmember Kalra: You news have understood the restriction for other ones to open.

>> Joe Horwedel: No it did not.

>> Councilmember Kalra: In the main jail area?

>> Joe Horwedel: There are a lot of office buildings in the main jail area that are multistory.

>> Councilmember Kalra: When was the restriction put in place, was that the 2001 action that limited bail bonds to the current zoning districts and disallowed them in commercial office? In 2001 was that the one that was done --

>> Joe Horwedel: We did the downtown cleanup work that specifically prohibited bail bonds was in 2004.

>> Councilmember Kalra: 2004, and was there any consideration over the last couple of years of considering allowing them in commercial office or the same argument of why you didn't want them to explicit downtown, was that the restriction.

>> Joe Horwedel: No restriction.

>> Councilmember Kalra: It's a really interesting issue because I agree with some of the comments that have been made by Councilmember Constant and Rocha and I don't think the issue here is as much of the conduct of the bail bonds companies or issues, I think some of the neighbors alluded to the fact and I agree with them completely that's more of wanting a variety in their neighborhood and bail bonds I don't think they're necessarilynecessarily street of them it lens lensself activity. Now the jails there and they're always going to have -- I mean and I appreciate the fact that Councilmember Liccardo indicated that the bail bonds companies serve other jurisdictions and other cities from that office but there is a need to have the bail bonds companies close to the jail, at least a desire to have them close to the jail and near the Courthouse and there are occasions usually during business hours though where you need to have a bail agent or quickly to the Courthouse or to the jail on occasion as well. So I think there are reasons why but I think the most important reason is certainly the marketing aspect, being near the jail certainly adds the ability for the bail bonds companies to market themselves very easily and very prom ineptly to potential clients and potential customers. I looked very closely at some of the issues that are raised by some of the bail bonds companies and certainly my staff had an opportunity and myself had the opportunity to speak to a few of them and get the correspondence and I spoke to the neighborhoods and I don't you know given the fact that I worked for 11 years representing the same families, many of the families that, you know, used the services of bail bonds companies, I just didn't -- I didn't feel that the 8th amendment argument was compelling. If I did I certainly in no way support -- that was one of the issues I raised a couple of years ago when this room for analysis, but I don't think the 8th amendment argument is as compelling. Do I think that we're putting -- that there are some pretty broad restrictions but it seems like for example, the distance requirements and so on that applies regardless of whether it's the main jail or out. There is an impression of these businesses

which I don't think is entirely true. I think they're more similar to office uses than other uses that require this kind of stringent -- this kinds of stringent look. However, there is-there are quite a lot in that area and I can understand why the neighborhood there would want to have an opportunity to allow for other businesses. But it doesn't mean that other businesses are going to come in. The jail is there, the bail bonds companies want to be there you know so it doesn't just by disallowing that future use does not guarantee that. However one thing that is for certain there is the number of bail bonds companies that are there certainly doesn't encourage other businesses for coming in either bail bonds industry you know can, has before and can adapt. And I think that all in all, I think that some of the restrictions I have some trouble with, but I'm taking everything in balance here and I think including the ground floor one, I think that you know there might be certain situations where you know where that just may not apply. Maybe certainly in the middle of downtown that may apply but there may be certain places where you know we have CPA offices and law offices and what have you that are very kind of passive type uses on first floors and neighborhood business districts what have you and that seems to work okay. So it just seems like it could be a pretty restrictive -- pretty restrictive even in the main jail area if there was a location that could be found. But I think ultimately it's about you know ultimately it's about the concentration, the concentration of any business and if there are 20 businesses and 18 more nail salons, I'd have a problem with that too. If there's an opportunity to have some kind of sense of some kind of sense of balance, on an industry that's just going to naturally gravitate there. And I think if I felt in any way that this would diminish or limit the opportunity of somebody to bail out in an effective speedy manner I certainly wouldn't support it but I think from doing my own research and from my own professional experience I think in balance I think that in this case, the needs of the neighborhood I think and the quality of life of the neighborhood can certainly be improved by putting some restriction had a allows for a greater diversity of business I think that more than anything else is the one factor that will help me vote in favor of this motion.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Most everything's been said but what I've heard from the neighborhood, and I want to say how I appreciate the neighborhood's coming forward and speaking tonight, as well as the businesses, is the overconcentration. I mean that's really the main issue that I've heard tonight. And

the neighbors wanting to be able to have their neighborhoods have more diversity in terms of businesses. I supported the moratorium two years ago when this got brought up and have waited to hear and to see, follow this and how this would move forward. And I am going to be supporting this. I signed on the memo. Do I support what we're asking for tonight. I think that we circulate, Joe's points were very well taken in terms of allowing enough time for the transition. It's not going to happen overnight and I think we need to be concerned about making sure we treat the businesses fairly. And make sure that if there is an opportunity for a business to move into another area and apply for that rezoning that we allow for that. But I think ultimately it's about overconcentration and we need to address it for the sake of those neighborhoods. I think if it was another type of business that was overconcentrated we would probably be asked to look at the same thing. And on the C.U.P. other large cities like Las Vegas, LA, long beach have addressed this issue with C.U.P., it's not an unusual numbers are, it does concern me that we don't know exactly how many there are. But it looks like 25% to listening to the numbers tonight so there is a lot of concentration and hopefully this will address it.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just wanted to disclose I had a phone conversation with Jeff Stanley. My staff met with neighborhood residents ash paraiu and Pacific coast bail bonds. Disclosing that. Most of my questions have been asked. I'll make a couple of comments and observations. One being that if you look at the map, one of the reasons why you don't have vibrancy down this business district for neighborhood supporting businesses, I mean I think I heard you say restaurants, grocery stores, ice cream shops is a vast majority of this is zoned commercial office and correct me if I'm wrong, you can't have retail businesses in commercial office, is that correct?

>> Joe Horwedel: That's correct.

>> Councilmember Campos: So there's a lot more that you're going to have to change if you want to attract those types of businesses. And I think blaming bail bonds companies which are businesses in this city contributing tax dollars to this city, at a time when we can't afford to create an ordinance that could potentially put

them out of business, is something that we shouldn't do. I was recently at a state conference for the Hispanic chamber of commerce. And I was out of town -- at a town hall forum where they did an online poll and there was about 150, 200 people and most from Northern California from the area. And they asked what is the number one impediment for your businesses to strive and how can government help. Overwhelmingly, a number of people you know, punched in the button that said, government needs to be able to not be so restrictive on their ability to get permits on time, and you know, and process zoning, that government makes things too confusing. And I think this is another example. I can see that a number of bail bonds businesses are probably going to apply, because I can count, so you know, I mean I've heard most of my colleagues already that a lot of these bail bonds businesses are going to go through the legal nonconforming process. And they're probably going to get denied. They'll -- and the ones that need to get the C.U.P., which sounds like all of them are going to need to get the C.U.P., they're probably going to get denied at the Planning Commission. Unless they're out in other neighborhoods in the city which then brings up another question of mine is, why not the rest of the city, and why -- why is this so special? And what makes this more special than Willow Glen or Alum Rock or you know the Evergreen village? I just think that this needed more time to be vetted out, so a lot of questions could be answered. I'm disappointed that this is here before us, the day before the moratorium ends. This should have you know been before us at the beginning of the month or in June and I know we had a lot of things to deal with in June. But this forces us to make decisions that maybe -- maybe we weren't ready to make. Like I said, I will not be supporting this motion. I think that it needs to be vetted out even more. And bail bonds is not the problem. It's not the reason why retail is not thriving down first street. It's the zoning, the current zoning that exists. And after tonight, you know, I'm very sympathetic for your -- for the issues that you have. But your work has just begun. Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. Let me just again by disclosing that my staff met with -- well my staff and I have met with Jeff Stanley with Bad Boys bail bonds. My staff had a conversation with ash paraiu, as well as I met with him. I really appreciate staff analysis and answers in regards to the proposed ordinance, I am in support of it, as it pertains to the new businesses. Because I am concerned about the proliferation of bail bond businesses in the main jail area as well as the downtown core. But I do have deep and similar concerns that have

been raised by my colleagues. I don't associate blight with bail bonds. Bail bonds are businesses to me like any other businesses that operate in the City of San José. Although they have a specific purpose. Blight to me is vandalized prostitutes neglected properties, et cetera. Blight makes our city look horrible and I don't think bail bonds do that. And so I don't appreciate that that type of language, written in Councilmember Liccardo's memo, because I don't honestly feel that, you know, blight can be associated with bail bonds. And then just from hearing the public comments, there doesn't seem to be a high rate of crimes in these areas. And we haven't heard anything, in regards to code enforcement issues, we haven't really heard anything that the bail bonds businesses contribute to these kind of issues. And I also met with a lot of the neighbors in the Vendome area as well as other people and that's not what I heard when I spoke with them. And so the problem here is it's an overconcentration, obviously, neighbors are just not happy with a lot of bails bonds business in the area. But I don't think that's really fair to the business either. They've been here, they've been here for a long time. Neighbors decides to move into the area and then you know there's more because we allow these businesses to operate. Just like Councilmember Kalra said, if we had about 50 nail and hair salons in the area I think we would have a problem with that too because we want diversity. We want diverse neighborhoods and businesses. In regards to a ground floor, if I was going to open a business, I don't think I would want to be on the bottom floor and have a bail bonds businesses above me. The motion on the floor is not anything I could support. I will support a motion that will give some flexibility to the existing bail bonds businesses because they've been here. I'm not asking for them to be grandfathered in but I'm asking for us to give them some type of flexibility othey can apply for rezoning without requirements of the ground floor use. I think that will help us to stay with the 80 bail bond businesses that we currently have without really increasing the number of bail bond businesses if the proposed ordinance does take place. So I really don't want to drive businesses out. We always encourage businesses to stay in the City of San José. We provide tax revenue for them we provides jobs for them, and by policy and what this council really wants as regards to employment and continue to generate tax revenue. So I can't support the motion but I'm hoping that the maker of the motion will consider some type of flexibility to allow the existing bail bond businesses to comply with the rezoning requirements.

>> Mayor Reed: You want to address that?

>> Councilmember Liccardo: Was that a request for a friendly amendment?

>> Councilmember Nguyen: Yes.

>> Councilmember Liccardo: I appreciate the sentiment. The challenge is by simply allowing businesses that moved into parcels that were not lawfully occupied to begin with to allow them simply to change their status without moving essentially eviscerates the rule. They had no business being there I think it sets a very bad precedent, and it frankly undermines what we're doing in the appreciate the concern and I've also heard concern of Councilmember Kalra and others about this ground floor restriction and I appreciate that. Really, the constraining element here is really the distance restriction. So I would be fine with removing ground floor restriction with -- obviously with all the other remaining requirements in place. And obviously, businesses always have the ability to apply for legal nonconforming status or to rezone their parcels. But they shouldn't simply be able to illegally move somewhere and then say now legalize my status.

>> Councilmember Nguyen: Councilmember Liccardo I really appreciate that. If I can just ask for another friendly amendment, then I believe that there are at least eight of the existing businesses that are in the commercial office zone now. And there are a couple or two -- I'm not asking for the ones that are located in the residential zoned to be rezoned, but the ones in the commercial office zoning district, if you can give consideration to those businesses.

>> Councilmember Liccardo: I think that that process really should be left to the Planning Department in terms of rezoning or a legal nonconforming status. I'd prefer not to do that. First of all I've concerns about the map that's been submitted open the document indicating Veril consultant. I had legal nonconforming that were not identified in the map. I know that number 19 is in the wrong place. That's actually should be about two and a half blocks to the East. So I have no idea whether this map is accurate or not and the numbers here are accurate or not. And I'm not disparaging anybody on this but I can't say that A-CO commercial zoned parcels are the ones that we should be focusing on because I don't believe what's been submitted here by an advocate is necessarily adequate.

>> Councilmember Nguyen: Let's assume that's an arbitrary number would you consider any businesses that are currently zoned in the commercial office zoning district, that would be something that we can apply for, without any restriction when they applied for a rezoning?

>> Councilmember Liccardo: No. It seems to me that no, I believe that the staff recommendation should remain otherwise as I indicated which is obviously removing the ground floor restriction because otherwise again I'm concerned that the exception eviscerates the rule. Folks knew what they were doing when they moved in. Folks spent lots on lawyers and lobbyists. Operating under a premise that says you're doing the right thing under the law then you can remain.

>> Mayor Reed: I need clarification Councilmember Liccardo with regard to the ground floor restriction. Are you going to take that out of your motion?

>> Councilmember Liccardo: That's correct.

>> Mayor Reed: Is that okay with the seconder? Okay, you have a modification to eliminate the ground floor restrictions but eliminate the other restrictions councilmember Oliverio.

>> Councilmember Oliverio: Did you mention something about distance requirements or solely the ground floor?

>> Councilmember Liccardo: Solely the ground floor .

>> Councilmember Oliverio: Okay so to the conversation we're having at hand, totally sympathetic with the neighborhood. I did meet with some as well and I asked the poignant question of well you bought a home after a jail was built. And they admitted that. But they also admitted that you know as brought up in Councilmember Liccardo's presentation that since law is changed in the state and the number of became bonds businesses increase, that the propagation occurred to the point where you really noticed it. I was very sympathetic to that

notion. And also knowing that this neighborhood is probably going to be a lot different, you're still going to have your single family homes but you are going to have ten, 20, 50 story towers along the right rail line. And that's the fact that we need to put that type of housing along light rail. Why I said that classified a NIMBY against that. You're just looking for something more of the traditional retail environment that is provided in other parts of the city or other cities in gem. To the bail bond industry, I understand to some extent not knowing fully the process of how bail works, and that line and sight but the fact of being chose to the jail sort of makes sense, right, whatever the argument, being able to manage things remotely. However I do think that the industry kind of created this problem by being to the legal letter of law on signage, you can do it in a classy way or you can do it in a way that sort of yells. And I think the way when I was on snort first street this weekend, it's sort of apparent can have, signs can be laid out different for businesses. Sort of the biggest possible inch and neon, if it were done in a different way there would be, certain way that's where it's at. I'll give you a prime example. Aladdin it just sort of says it loud and I think you know I think people are just cognizant of that. Because you know we're running this fine line of what we feel is a legitimate business or classy business right? Frankly it's a legitimate legal business and people have a right as we know to obtain that business and it's been pretty clear that we're not certain how many will close but a certain number will close and I know that support of this proposal would certainly some close and certainly those are some that have zoned for properly and my guess is that we probably have plenty of nonconforming doughnut shops that slipped through the system and flob is going to do what Joe Morrow what grand father just by happening of history? Doesn't have to be accurate but maybe some anecdotal ones.

>> Joe Horwedel: That's a tough one. I think of the biggest type of complaints that we went off to work after, second units is one where we have had several thousand around the city and we've created rules to try to regulate those. That's probably the closest group of illegal activity that we planned to look on. There was something thought about looking at alcohol type uses but I think just because it's a -- so heavily regulated by state, there are very few of those, there are a couple that we stumble upon. I really don't know how to answer that differently.

>> Councilmember Oliverio: Laurel, in your conversations with the jail, did the topic ever come up about releasing people during the day, so that the 24 hour use wasn't needed as many, if I am correct they tend to release very early in the incorporating?

>> Thank you. I didn't speak with the -- they indicated that they used to do releases, you know, on a 24-7 basis, and then a few years ago they changed their practice and they basically don't release during the early morning hours. But they also indicated that they could appreciate why a bail bond's operation would want to be open 24 hours, just because of the way the system works. And they felt that the most important thing would be for the bond to be available when the jail opened. So that way, the defendant would be able to be released. They, again the county executive apples office did not have any comment on the ordinance. They didn't really want to get into the land use regulation side, they felt that was really the purview of the council.

>> Councilmember Oliverio: And then on the idea of we're going to move forward here, some of going to close, there is going to be some elimination of some of the current ones. Is it logical to think we would ever revisit this policy?

>> Joe Horwedel: Absolutely, that was going to be one of the things that we drew a close to the discussion. And we've done this on a number of ordinances to really understand how it's it'sing. And that's partly why I want an absolute we're not going to up shoes down on Thursday. We should work ourselves through it, if there's something that doesn't council I think it is unfortunately that I was not able to get participation from the became bond industry about these rules. As we can.

>> City Attorney Doyle: The community meetings. It was just -- it was frustrating from that end. I would like to see that there maybe is a better solution out of it but -- so yes, I want to come back to the council.

>> Councilmember Oliverio: Okay because I certainly want to improve the neighborhood desire to have fewer and a whres concentration but then I'm -- I don't know exactly what, the effect, so you 92 I'm someone that we sort of could this a lot, the term is called incrementalism, what I had proachtd under medical cannabis is best

locations et cetera. And wouldn't you know bail bonds and medical cannabis took two years. So here we are, the 23rd month of that one. So that's somewhere I'm looking and I think the 300 feet of separation for the new businesses, I know we spoke a lot. But again, that's not linear separation it's all four.

>> Joe Horwedel: It is, that is one of the things I reality would like to kind of spend some time in -- and see sit achieving the goal we're setting up to achieve? It is a large separation, it is similar to what we do with drive throughs, we're dealing with a very compacts area but we're also doing a really heavy concentration. I think 300 work work our way through it.

>> Councilmember Oliverio: I think much's looking at the swricialg right of the street and how many there are in the street but then again if it's all four corners, then you certainly I will have less by far, now we don't do zoning by linear or these types of regulation. We do it by around --

>> Joe Horwedel: We regulate both ways, like chronological we have straight distances out but you also will know that when we bring forward things will talk about travel distance, how far soik has to walk to get between residential and the liquor store. So those are types of things that we do add and I think and a component to look at through the use permit process, those kinds of questions.

>> Okay, so I'm sort of torn in that I think there should be some separation but the 300 sort of makes it large. You could be on a commercial office building let's say on the second floor that borders residential. I don't know every specific parcel on that building but it seems that the property is on second versus first. I have some concerns there so it's something I'd rather sort of tie them you know tie them in the regulation as we go further. So I know, Councilmember Liccardo do you have any thoughts on that on how that might work out based on --

>> Councilmember Liccardo: I don't. And I honestly don't know that there's going to be a meaningful difference between the 200 and the 300. I simply haven't -- it's the parcel by parcel analysis. I took 300 for a number of reasons. There was a congruity with the council starts from 1984 about late night use. We're going to be granting a C.U.P., there woil be any rye dun daunt analysis about whether 300 foot analysis it will qualify for it to be a 24

hour C.U.P. as well, and you won't have a lot of quibbling, I'm close enough as well. It is a simple reason why I went with it, it seems simple and straightforward but I don't know what significant difference it would have.

>> And on the late night operation of a business obviously councilmember Constant in his night owl days, working at a business. Anyone being in the building or receiving visitors?

>> Joe Horwedel: No, I'll just the example of the grocery store, the neutral example. If they are stocking shelves, they coming in and out of that then it requires the use permit. They can have loading activities occurring 24 hours a day without a use permit. Er go Councilmember Constant being able to operate if his office use you could go through and operate that way, if you weren't having -- if it was a personal service type use and you had customers coming in then we'd say you need a conditional use permit. If you're just sitting at your desk doing your bookkeeping for your business then we have not required a conditional use permit for that.

>> Councilmember Oliverio: So technically a bail bonds business if they were given a -- without a C.U.P. could are doing late night paperwork in the office ?

>> Joe Horwedel: And that's how we looked at this there isn't a prohibition for them soak was calling in saying they had wanted to bail out someone at the jail, doing that online or over the phone that paper work could be processed with the bail representative at the jail when they opened up in the morning. And that would not require a C.U.P.

>> Councilmember Oliverio: Okay, so Councilmember Liccardo I think I'll just ask then for even though it might not make too much of a difference if you would at least consider a friendsly amendment to consider either linear separation of the bail bonds, the new bail bonds, or reducing from 300 to 200, just something that allows some more flexibility, again, I think I'm not against revisiting there item and I would even say this: That you know, I would sort of like to revisit the item because I would sort of like to see just without regulation, for example, that the bail bond industry might consider doing different types of signage, that just don't you know that are just more for lack of better words classy. Or that may be not as big and loud and I think you would have less you know less

hesitancy about that. But at the same time to extend that possibility of the carrot I would want the possibility of coming back and look at tightening it, if we can't get to the point where we have that happy medium.

>> Councilmember Liccardo: So the request for a friendly amendment is somehow or other tightened to the 300 foot distance restriction is that correct?

>> Councilmember Oliverio: Yes I believe something I would leave it open to something you would consider to be appropriate.

>> Councilmember Liccardo: Consider this I am not willing to consider a linear measurement, I think the 360 bail bonds operation I think that's a relevant consideration for them. I do recognize as we were hooking at the map it's probably not a significant difference between the 200 and 300. I'm fine to go with the staff recommendation 200 because I don't believe it's ultimately going to have a significant impact one way or another. Particularly given the fact that there are so many residents in the neighborhoods arounds here that I think that's essentially going to mean the same result. So if that would make you feel more comfortable I'll go with the 200 foot as staff recommended but of course they recommend measuring a 360 degree basis.

>> Councilmember Oliverio: Understand that.

>> Mayor Reed: Seconder okay with that? Okay.

>> Councilmember Oliverio: Joe assuming this would pass night what would be the time line that any of the residents of the city would recognize there is a difference? Would it be wush year?

>> Joe Horwedel: Realistically, one year here is how we've implemented it here's the status and if weave identified anything both from the neighborhood and the businesses about how to maybe make some changes.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Want to thank my colleague for some of these late additions and friendly amendments. This is about halfway to where I wanted to get to. Honestly maybe even closer to three quarters where I wanted to get to which really for me is unfortunate because this dialogue probably circulate have, not probably, should be happened prior to the meeting, which speaks to what Councilmember Constant speaks having this item the day before the moratorium ends is very unfortunate and often doesn't lead to good policy at the end of the day which is our responsibility. As I mentioned, I'm -- you're almost there for me and I appreciate what you have done. I think at the end of the day, this is a better policy or ordinance and I appreciate some of the direction that Councilmember Oliverio just got to in terms of returning because I think that's going to be really valuable. But again I have some initial concerns about some of the points I made earlier and I'm not going to be able to support this motion. Thank you.

>> Mayor Reed: I just wanted to add to my disclosure that a member of my staff also trucked to another member of the bail bonds, ash paraiu. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. when did that happen?

>> Joe Horwedel: We had the community meeting in may.

>> Councilmember Herrera: How many meetings were.

>> Joe Horwedel: We had one meeting where we invited everybody to come into neutral territory and talk about the issue. And it was -- we did not come in with a proms about how to regulate this, we set it up to have a conversation about what the issues were and how to proceed. So we did get input from Aladdin inabout -- they had just gone through the permitting process for their location and then obviously a lot of input from the residents.

>> Councilmember Herrera: How many residents were there?

>> Joe Horwedel: We had 12, 15.

>> Councilmember Herrera: And how many bail bonds companies were there?

>> Joe Horwedel: It was Aladdin bail bonds and I think they had two members from their company there.

>> Councilmember Herrera: I guess my question is simply rhetorical I suppose that there's many bail bonds companies here tonight and there's been lots of communication to the 18th floor about meeting to have this open discussion when the community was there. When I think about other issues like for example reusable plastic bags, the grocery industry stepped forward and got involved and eventually a lot of them supported our ordinance. So I'm a bit disappointed that we didn't have more of these companies stepping up to help us through this. Because truly, when we're trying to craft an ordinance it helps to have the industry involved and working with us. And I just wanted to make that comment.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Yes, mayor I just wanted to disclose that my staff did meet with ash paraou and Pacific coast. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I met with Jeff Stanley and I spoke with ash paraou and many months ago I met with folks from bail bonds companies, I know Sparatino was one of them. I met with community residents including a he committee meeting we had a week and a half ago.

>> Mayor Reed: Believe it or not I think we're done, last request I have to speak. We have a motion on the floor. It's been amended a couple of times by friendly amendment. On the motion, all in favor, opposed, I count one opposed, Campos, two, Nguyen, three, Rocha, four Constant, that passes on a seven-four vote. Thank you for getting it done. Last business item I think request to speak under the open forum, we have no requests to speak. All right, Mark Trout requested but he's not here I don't see him. Okay we are adjourned.