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City of San José city council meeting.

>> Mayor Reed: Good afternoon. I want to call the San José city council to order for April 28th, 2009. We have a little bit of change to the order today, but we'll start with part of the invocation. Councilmember Chu will introduce the invocator.

>> Councilmember Chu: Organic Mayor Reed. It is my pleasure to introduce pastor Hendrickson from St. Victor's conflict church. In addition to being the head pastor at St. Victor's Catholic church, father Hendrickson is also a naval reserve chaplain, service for our men and women in Okinawa, Japan, aboard U.S.S. Iwo Jima, following Hurricane Katrina, and then to the Persian gulf in 26. Once again, father Hendrickson will be leaving our community in June, June 5th for an active duty with the army for about a year in Afghanistan. As father Hendrickson return to active duty I ask all to pray for his well-being and his family. While he will be surely missed by our community, we are also proud that he will be supporting our soldiers, who are fighting for our country. I will also ask you to pray for the many men and women serving our country overseas for their safety and well-being. Again it is my honor to introduce you Father Hendrickson. Welcome, father.

>> Mayor and councilmembers, offer a funeral oration for the sharks, but instead an invocation using prayer use, let us pray. We stand before you God conscious of our sinfulness but aware that we gather in your name. Come to us, remain with us, enlight in our hearts. Give us light and strength to know your will, to make it our own and to live it in our lives. Guide us by your wisdom, support us with your power, for you are the one glorious God. You desire justice for all, enable us to uphold the rights of others, do not allow us to be led by ignorance or corrupted by fear or favor. Unite us in the bond of love and keep us faithful to all that's true. May we temper justice with love so all our decisions may be pleasing to you and earn the award promised to the good and faithful servants. And remember this day our Fil-Am vets, we ask all of this in your most holy name amen.

>> Mayor Reed: Thank you, father Hendrickson. Please, everybody stand for the pledge of allegiance. And we are joined here today by John Muir elementary school from district 1, thank you for joining us to help us with the pledge. Please stand. [ pledge of allegiance ]

>> Mayor Reed: Thank you very much for helping us John Muir school. I'm going to work the other school into our celebration. Eventually the independence high school band will work their way in here. Are there changes to the agenda that need to be made? Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd like to continue item 5.3 for two weeks. If it's agreeable to the council.

>> Mayor Reed: 5.3 is the homework center program allocation item. And I had a request to take item 5.4, the schools and city collaborative policy to be heard immediately after the consent calendar. Is there a motion to approve orders of the day with those changes? There is. All in favor? Opposed, none opposed, that's approved. Closed session report.

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

>> Mayor Reed: Thank you. Ceremonial items. We will start, we have an ETA on the band, how long it's going to take the band to get in here? Are they in the hallway? Can we get them in?

>> Councilmember Chu: Mayor, may I take a few minutes to introduce them while they're getting ready.

>> Mayor Reed: Why don't you do that Councilmember Chu.

>> Councilmember Chu: Thank you, I'm honored to introduce the independence 76th cavalry band. It is an award winning band comprised of dedicated to the students from districts 3, 4 and 5. Won numerous awards and performed all over the world. In order to prepare for their marching band season, the members dedicated after school and weekends to band practices. Conditioning and fundraising for their band travel expenses. It is also with great pride that I share with you the news that they will be -- they have received the distinguished opportunity to represent the City of San José, and our country, in the 2010 New Year's day parade in London. In order for the entire marching band and the color guards to travel to London each student will be fundraising to pay fees, in order to participate. If you would like to support their effort, there will be a spaghetti feed and silent auction at the independence high school on May 12th at 6:00 p.m. Today they will be performing come in lion. Please join me in welcoming independence high school 76th cavalry band. [ Music ] [applause]

>> Mayor Reed: Thank you, independence high school! All right, now, while the band is filing out, I'd like to get ready for the first ceremonial item. And I need to invite Councilmember Chu to join me at the lower podium, as we issue a commendation to our American World War II veterans. I'd like to have the veterans and their families and friends that have joined them today come down here, and also Councilmember

Liccardo is going to join us, as well. This may take a minute but just come on down. Get everybody formed back here. Want to get everybody into the photo, so maybe back here. And while our veterans and their families are coming forward, I want to talk a little bit about the reason for this commendation. April 9th is Bataan day, which marks the fall of Bataan in World War II. When the United States was attacked at Pearl Harbor, United States navy was incapable of defending itself in the Pacific. And there were lots of nations that fell like dominoes in the face of the Japanese imperial army. One of those nations that was in the path of the Japanese army was the Philippines. And while we didn't have a lot of American troops in the Philippines, we got a lot of Filipinos that were activated, called to duty, they were actually under the command of the United States. And the Japanese had a pretty formidable war machine. And these men and the Filipino people, and tens of thousands of American troops were cut off from resupply for a long period of time, but they fought on. They did not have adequate materials. They didn't have adequate fuel. They didn't have adequate food. But they fought on. And after their commander ordered their surrender because they could no longer fight, many of them were forced to march down the Bataan peninsula. Many people did not survive. You're looking at some of those who did survive the march and the -- being imprisoned for a long period of time under very harsh treatments. So while the Japanese imperial army was rolling over the rest of Asia, these folks with some brave Americans, held out for a very long time while the United States was able to regroup and eventually came back to retake the Philippines. It is a tragedy of American history that, after the war, the citizenship rights, the veterans' rights, the compensation that was due to our brave Filipino veterans, was taken away from them by act of Congress, in order to save money after the war. So for 60 years, these men and their friends and their family, have been striving to get those veterans' benefits restored. And it was a proud day when the United States Congress passed a restoration of their benefits. I want to thank Congressman Mike Honda especially for his work on this, many others, Zoe Lofgren and many others were supportive but it took a very long time. Finally after 60 years of a long march in the United States, these men and their families have received the restoration of their veteran benefits. Not much for the past losses but a restoration of the benefits. So Councilmember Chu, you want to say a few more words about this?

>> Councilmember Chu: Thank you, mayor, for the brief history and thank you very much for your patience. It's really an honor to have such a big group of Filipino American soldiers here. March 9th, the battle of Bataan and survive brutal marches to prisoner camp. I would like to point out Marcello Arellano, over 90 years old. I'm sorry, right here. As one of the oldest survivors of the Bataan death march and POW. Here he is with us today. Today we are recognizing World War II Filipino American veterans for their bravery, their courage and their importance role that they contribute to the defending liberty and preserving democracy. Today is special because as Mayor Reed mentioned, we are celebrating another achievement. This year the Congress passed the American recovery and reinvestment act which include the formal recognition and a restoration of \$190 million that Filipino Americans have been waiting for, for 63 long years. So here today to accept this in behalf of the Filipino American veterans that fought for us during World War II is commander Ma Pa La. Commander mapala. [applause]

>> Mayor Reed: FCC, we're very proud to have some American legion post 858, 714 and other American legion posts with us, they're very active, including in district 3. Commander.

>> I'm commander Mapala, commander of post 858 of the American legion. And on behalf of the officers and members of the Northside post 858 of the American legion, we extend our sincere gratitude and appreciation for the recognition and honor accorded to us by the City of San José. And would like to express our sincere thanks to the honorable mayor of San José, Mayor Chuck Reed, and the honorable members of the city council of San José. This award is not only a testimonial for the sacrifice of the Filipino veterans. It is a symbol of what the United States stands for us, the greatest nation, as simplified by the top leaders of the equally great City of San José. Thank you. Thank you very much. [applause]

>> Mayor Reed: Thank you for joining us. These people are true community treasures, and I always tell the younger generation, if they think their homework is too hard or their life is too tough, just talk to these folks about what life was like when they were a teenager and recognize the huge contribution they've made to the City of San José. Thank you very much. We'll take a minute to get everybody back to their seats or out the door, depending on what they need to do. For our next ceremonial item, I'd like to invite Councilmember Kalra and Diane Cunningham join me at the podium. Today we're commending Diane Cunningham for her gold medal winning performance at the special Olympics for of all things, snow shoeing. It's really a hard thing. We're glad to give her a commendation, Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. First of all I just want to say it's such an honor to take the podium and the stage here following these American heroes that we just gave a commendation to. And you know, I think that some of the discussion that the mayor had in terms of the history of war and what occurred to these brave soldiers represent some of the worst in humanity. And I'm very happy to have an opportunity to give a commendation in what represents some of the best of humanity. And I want to give a little background on Diane Cunningham. She did compete in the 2009 special Olympics in Boise, Idaho. She was one of the nine medal winners in Northern California. Diane is being recognized for winning a gold medal in the 4 by 400 meter snow shoeing race. Diane had an asthma attack after the race, but she did not want to let her team members down, so she helped to lead her team to a medal win. Never giving up, being a team player, mayor I would please ask if you can present Diane Cunningham with a commendation today.

>> Mayor Reed: Congratulations. [applause]

>> Hi, my name is Diane Cunningham. I'm 23 years old. I've been a special Olympic athlete for 11 and a half years, I'd like to thank Ash, the councilman, Mayor Reed, and the city council, and I'd like to thank the team. Kudos for our sister city for global law for torch run and with the world games and Harvey -- Harry Garcia for pushing me for world games. I would like to invite you guys to the May 9th at Gunderson high school for spring games at 9:00 to see all of us compete for swimming, track, and tennis. The medals that I'm wearing are from world games. This one's the 4 X 400 relay, this one is the 400 meter relay, 400 race and this was the 800 meter. Thank you. [applause]

>> Mayor Reed: Now I'd like to invite councilmembers Pyle and Oliverio, relay for life, show us your hope day, to join us at the podium. Today is show us your hope day in San José, Councilmember Oliverio will explain it.

>> Councilmember Oliverio: Thank you, Mayor Reed. Today we want to make a commendation making May 1 show us your hope day, American cancer center, communities come together and participate in relay races that are 24 hours. Councilmember Pyle and I are here because it started in Willow Glen and Almaden valley. I want to turn it over to Councilmember Pyle and relay for life folks to explain it more. On a serious note, back in 2007 we had recognized the relay for life. At that point, civics my students had passed away from cancer. Today it is eight. Relay for life has done an incredible job to bring it together. Councilmember Pyle.

>> Councilmember Pyle: Thank you. The people you see before you today not only have friends who were cancer victims for themselves or may or may not have had the same experience. But instead of getting well and then carrying on with their life they get well and they help other people to get well, also. They do a phenomenal job. It gives the people who have cancer a support system. They raise money. At incredible rates! It's amazing what you can do. And they're very determined to increase the quality of life for those who have suffered from this horrible disease. So with that, Mayor. [applause]

>> A quick thank you to the city for your continued support, financial and moral support. Councilmember Oliverio comes down and does our opening ceremonies every year and brings his dad, who is also a survivor, which is wonderful. I invite you to attend, especially if you're a survivor. Willow Glen high school, there is the Almaden valley, blossom valley, and two more baby relace, Cambrian and Alum Rock which is in August. If you live in San José there are definitely relays to visit and you can find out all about the free services that American cancer society has to offer you. So please come and join us and wear purple on Friday.

>> There's purple ribbons for you and for the councilmembers.

>> Mayor Reed: Purple ribbons on Friday, is that right? Friday is wear purple day. Show us your hope day. For our next item I want to invite Councilmember Oliverio and Councilmember Campos and Jane Light, our library director to join me at the podium as we declare April 30th as El Dia de los Ninos and El Dia de los Libros, or children's day, book day in the City of San José. And Councilmember Campos has some more information about it.

>> Councilmember Campos: Thank you, mayor. We're here to declare April 30th El Dia de los Ninos, El Dia de los Libros. Children's day, book day is a statewide celebration that was established 13 years ago to emphasize the importance of literacy for every child, regardless of their linguistic or cultural background. Public institutions such as libraries provide the opportunity for learning and enjoyment for all people by inviting community members to utilize resources and services that may not otherwise be afforded by others. Librarians and libraries are critical to families, literacy and multicultural awareness. You're all invited to attend El Dia de los Ninos, on the 30th at 2:00 p.m. With that I'd like to invite Jane Light to say a few words.

>> Jane Light: I've asked Priscilla to say a few words, because she's a children's librarian who works with children and speaks to the heart on that.

>> Thank you, city council, it's an honor to be here today and we still have children in the City of San José at our libraries every day. And particularly once a year on April 30 we have a special celebration for them. On Alviso library, a local story teller is going to be there. Everybody is invited to celebrate with us. April 30 once a year is very special for us. Our library mission is highlight and the importance of reading every day at the library. It's very important. So please join us, and visit our libraries. Thank you. Thank you again. [applause]

>> Mayor Reed: Next item is the consent calendar. Are there items councilmembers wish to pull off for discussion? Do we have a motion to approve the consent calendar? All in favor, opposed, none opposed, that's approved. We're going to tape item 5.5, the proposed revisions to the council policy 0.30 council and city schools collaborative. Presentation will be by Albert Balagso.

>> Albert Balagso: Good afternoon, mayor and council, Albert Balagso, director of Parks, Recreation, and Neighborhood Services. I just have a few brief comments that the document before you is the collaborative work between the city staff and school superintendents, and was meant to update the document that was originally crafted in 1997. That original document was meant to launch the first few years of the new school-city collaborative. The work that was done was to update that to basically codify the framework and the structure for working together and to encourage a spirit of collaboration as we move on to the future. It has been brought to you through the neighborhood services and education committee, as well as being heard by the mayor's gang prevention task force last week. And with that we bring it forward to you for your consideration.

>> Mayor Reed: Thank you. I just want to comment, since Vice Mayor Chirco isn't here. She and I represent the city and co-chair this effort on behalf of the city with superintendents, that the superintendents have been very helpful to us, been very engaged with us, andists really I think we've made excellent progress on some issues by working together. So this collaborative does work. The superintendents are pleased with how it's structured. And I want to thank the staff for all the work that they put in to make it look easy. Because I know that they do a lot of work in between meetings with our superintendents and our schools on issues, everything from safety to homework centers. And this policy revision, if you saw the other one you would realize it's a little outdated. I think Albert Balagso is the only person whose name was in there who is still around, that started it back in 1997. So with that, I would urge the councilmembers to support this change in policy, as has been supported by our superintendents. We have a motion to approve the policy. All in favor, opposed, none opposed, that's approved. Next item is 3.1. Report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. I have two items to report on. First of all the topic of swine flu. Last night my office provided with you an update on what the city is doing in regards to the swine flu. However I did want to provide an update here for members of the public who might be interested. City staff is in regular contact with our counterparts at the Santa Clara County health department to monitor the situation in our area. There was a conference call at 10:00 this morning, and as of that time I can report that there are no confirmed cases of swine flu in Santa Clara County. Our human resources staff and the City's emergency services director are reviewing the city's pandemic flu preparedness plan. There are several key elements in that plan. I just wanted to highlight a couple of them. The plan is designed to do a variety of things. In particular, ensure awareness of our residents, and our employees, to ensure the -- our employees' personal and family health and safety, so that our employees can serve in their role as disaster service workers in service to the community, to ensure the continuity of government, and to ensure that we're effective in our coordination with other levels of government. And in that regard, in the event that the county's Public Health officer declares a local emergency, we will be ready to respond. In addition, our airport personnel are working with the Public Health department to coordinate with U.S. customs and border patrol personnel at the airport, so that personnel are ensured sanitary conditions inside the international arrivals facility. This includes increased custodial efforts to sanitize appropriate services at the international arrivals facility to reduce the possibility of any disease transmission. And we do continue to actively monitor the situation. And again as I mentioned as of 10:00 a.m. this morning there are no confirmed cases in Santa Clara County and we will keep the council informed as we move forward. The second item is on the topic of stimulus projects. Last Friday the Office of Economic Development submitted 19 stimulus projects for inclusion in the Bay Area regional recovery work plan, which is being developed by the Bay Area economic council institute. This is a strategic plan outlining stimulus priorities for the Bay Area, called for by the State of

California business transportation and housing agency. The 19 projects span the areas of transportation, water, energy, business development, science, and innovation in housing. The combined value of these projects is \$41 billion. Staff is engaged with the economic council process and will be involved in shaping the regional plan which is due to the state by June 1st and my office will supply council offices with the final regional plan once it is approved. And that ends my report.

>> Mayor Reed: Next item is 3.2, report of rules and open government committee Committee April 8th, 2009. I have a motion to approve the report. All in favor, opposed, none opposed, that's approved. Item 3.3 is report of Public Safety, finance and strategic support committee for April 15th, 2009. Councilmember Nguyen chairs that committee.

>> Councilmember Nguyen: Thank you. The minutes are in your packet. If there are no questions I move for approval.

>> Second.

>> Mayor Reed: All in favor opposed, none opposed, that's approved. 3.4, report of the rules and open government committee March 25th, 2009. All in favor, opposed none opposed that's approved. 3.5 is report of the Rules and Open Government committee from April 1st, 2009. Motion is to approve. All in favor, opposed, none opposed, that's approved. Item 3 many 6 is the City Auditor's semi annual recommendation follow-up report. Sharon Erickson is here to make that report.

>> Sharon Erickson: Just very briefly. This is the auditor's regular semi annual report summarizing the status of all open audit recommendations as of December 31st, 2008. It includes a total of 110 registers. We're signing off on 35 recommendations today that are implemented and six recommendations are being recommended to be dropped because they're no longer applicable. We presented this report to the Public Safety, finance and strategic support committee which recommended the city council accept the report.

>> Mayor Reed: We have a motion to approve the report. Councilmember Pyle.

>> Councilmember Pyle: Thank you for such a beautiful report. It really spells out a few problems that we have that are somewhat ongoing. In reference to the -- some of the recommendations for the wellness coordinator, et cetera, for all of the points that you've made, regarding how to improve our health structure, and decrease the amount of accidents, et cetera, I would just wonder, none of the seven have been implemented at this point? This is going on to the committee apparently and the committee will make those decisions?

>> Sharon Erickson: I believe you might be talking about item 3.7 which is the next one up on the agenda.

>> Councilmember Pyle: Yes. Oh, I'm sorry.

>> Sharon Erickson: 3.6 is the status of everything we've adopted to date.

>> Councilmember Pyle: No question about that.

>> Sharon Erickson: As soon as we adopt 3.7 we'll --

>> Councilmember Pyle: Sorry, I jumped the gun.

>> Mayor Reed: That's all right. We have a motion to approve 3.6. All in favor, opposed, none opposed, that's approved. Now 3.7, Sharon Erickson.

>> Sharon Erickson: 3.7 is our audit of the City of San José's workers compensation program. If I could spend just a minute to summarize that report. In spite of improvements the cost of the city's program about \$24 million a year is higher than comparable California cities and counties. Although the number of claims that is decreased overall and the city has reduced its total cost for medical treatment of injured workers, workers compensation costs are high and have recently increased. We found San José workers file claims at a higher rate, at a higher cost per claim than other California cities and counties that are self insured that we surveyed. From 2004 through 2007, San José's average cost per employee was \$2800, compared to Santa Clara County's cost of \$561 per employee. Although the city has taken action to moderate the escalation of medical and legal expense, more action is now needed to moderate the city's mounting cost of disability leave. Last year disability leave increased to \$9 million, the bulk of which, about \$7.5 million was in the police and fire department. This is equivalent to 45 FTE in the police department and 33 FTE in the fire department. One action that the city can take is to revise the financial incentives to stay off work by proposing structural changes to the program. Another action the city can take is to more closely monitor the cost of its workers comp program, particularly the cost of disability leave. In addition the high cost to this program warrants more comprehensive and frequent reporting of the program's cost. Our report includes seven recommendations which the Public Safety, finance and strategic support committee recommended the city council accept.

>> Mayor Reed: Councilmember Pyle did you want to finish your line of questions?

>> Councilmember Pyle: I can't think of one of these recommendation I don't agree with. Thank you. I think that will make a huge difference. Are you optimistic as well?

>> Sharon Erickson: I am. Although this is a statewide problem. It is a problem that every employer in the State of California has. If San José can fix it we'll be in the forefront.

>> Councilmember Pyle: Anything to keep people from suffering, that would be terrific.

>> Sharon Erickson: Absolutely.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. Sharon, thank you for the excellent audit. I had a question about the hours, disability leave hours. I know there seems to be something of a random walk to a lot of the hours, from the numbers year to year. There seems to be a sharp upward tick between the disability year '06-'07 and '07-'08. Particularly for fire and police. Many of the other departments in fact dropped. And I read the sections of the report focusing on those areas, but I didn't come away with a clear sense about why the increase that year. Did there have an increase that year?

>> Sharon Erickson: You hit the nail on the head. That was exactly the puzzlement we had. Some departments, there were dramatic decreases in time off. In those two particular departments there were dramatic increases. We couldn't find out what the reason was. In some cases there was increased retirement. That could have been a portion of it. One of the recommendations we had was to the police chief and the fire chief, sit down and really try to get to the bottom of this thing. So that was recommendation number 3 in our report, was to try and figure out the reason for these dramatic increases.

>> Councilmember Liccardo: I know this is an exhaustive analysis but there are always ways to be more exhaustive if you have more time or more money. Is there way of determining, some doctors seem to be more likely to be -- the ones you go to, I'm just trying to figure out if there's --

>> Sharon Erickson: You do see, there are a number of physicians in town who handle these types of cases who are experienced in those cases. So you do see the same names popping up over and over again. As auditors, we can only say what we can prove.

>> Councilmember Liccardo: Right.

>> Sharon Erickson: When we go in and look at the files after the fact, the files are clean. The time off was approved, it was approved by a doctor, it was properly signed off by supervisors. It's a case where we're recommending in, that department heads for example go in a more proactive basis, cast some light on this situation, tell the folks what this cost the department in terms of staffing. Otherwise, when we go in and look at the files they're pretty straightforward.

>> Councilmember Liccardo: Right. I don't expect that you're going to maintain medical efforts to contest any of this?

>> Sharon Erickson: That would be well beyond our scope.

>> Councilmember Liccardo: Well, thank you. I appreciate all the hard work.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, and thank you Sharon for the report and for the work you put into it as well as your staff. In regards to recommendation number 4, the wellness coordinator and the wellness program, in general regardless of what your profession is, we can all benefit from a wellness program in terms of nutrition and fitness and so on. And in terms of public safety personnel and even more so our police officers, I think a wellness program that includes kind of like the health and realization type wellness that deals with, not directly psychological, but the extra stress that deals with being in the public safety sector, when you look at some of the other programs, for example, in Phoenix, it was a wellness fitness program. Are there some hybrid programs that have the health and fitness aspect to it, along with the other in the mental health aspects of stress related issues that come from working in public safety, in the research you did or in any of the programs you may have looked at when doing the audit?

>> I'm aware that mental health is the component of some of those programs. The specific piece we were looking at in terms of wellness here was really coping with multiple injuries. So when someone comes back to work or is on modified duty and they're coping with multiple injuries, how do we help them through that? So in the context of the folks that we saw especially in the police and fire departments who had large number of injuries, how do we have them cope. I would say this recommendation would add cost to the city at a very difficult time. So the response from the administration has been, this will be considered in light of all other factors that are part of the budget. We felt it was important enough to focus on the workers comp side of this that we put it again in our report. I'm not sure how successful we're going to be

at a separate position but my staff will work with departments to see what kind of work-around we can do in the meantime.

>> Councilmember Kalra: I understand. The recommendations are recommendations. Doesn't mean we can implement them all at the same time. But it's important to see how we can have a better quality of life for our sworn officers, as they deal with other things, as well as other stress related issues that come up. I appreciate the recommendations but as the City Manager it goes through the budget as the budget permits in years to come. Hopefully that will be a recommendation we can follow through on, thank you.

>> Mayor Reed: Good work by you and your audit staff, Sharon. On page 17 and 18 of your report, there are three charts. Picture's worth a thousand words, so they say. I think these charts are worth a lot more than a thousand words. And I certainly support all your recommendations. But I am really curious as to why San José incident rate per 100 employees is nearly twice that of Santa Clara County, average incurred cost per claim is nearly three times that of Santa Clara County, and the comparison to three year loss rate per employee is about five times that of Santa Clara County. And I suggested only in half-jest that we should subcontract there out to Santa Clara County. Clearly, they figured out something there in Santa Clara County, they're good friends of ours and I'm sure they would be willing to share their expertise with us at very low cost. Did you figure out why over at Santa Clara County drives these numbers? Because if we had reduced our per employee loss rate by five times, to match Santa Clara County, we'd save millions and approximate millions of dollars every year. If they've got a secret, we got to find out what it is.

>> Sharon Erickson: If they knew bit, I'd be telling you that right now. There are many of factors that drive these numbers. The types of employees who are covered separately that plays a factor. I think the culture of an organization is a part. We have a culture where we have a lot of people filing workers comp claims. A lot of people taking time off of work. Our goal, at least from my office, was to make sure that in every case, that's because somebody was injured working for the people of San José, and we need to take care of them and there is nobody abusing this system. But when you see these patterns of numbers, it does make one pause. One I'd like to point out is the average incurred cost per claim. San Diego came out way on the low side there. One of the things that San Diego does is, they offer 100% of your pay, if you're disabled, if you're injured on the job, but only for three months. Where we offer it for 12 months for sworn and nine months for unsworn.

>> Mayor Reed: Thank you, Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Just a follow-up question, I guess the last one Sharon particularly in light of your comments. And I ask this really without making any accusations of any kind. But my understanding the way workers compensation works, you get the note from the doctor and that's more or less the ticket to get the workers comp for all intents and purposes. Are there other cities that are implementing sort of controls in the form of ways to detect malingering of any kind, that we're not implementing, that we could be looking at?

>> Sharon Erickson: The city does conduct investigations, when workers comp adjustors feel that and investigation is warranted. We do use qualified medical examiners. The revision of state law in 2004 did ensure that we have the able to question medical cost, to review bills, that kinds of thing as well. So that we have made a number of advances, and we have seen the number of claims come down, and the cost for those claims in terms of medical and legal, also come down. Where we're still seeing this and especially over the last two years, we've seen this increase is in the disability rates.

>> Councilmember Liccardo: Okay. And let me -- the answer was a fair answer to the question. I guess - is there something more that you see that other cities are doing? In terms of controls, beyond these recommendations?

>> Sharon Erickson: Well, we played the seven recommendations because those are the recommendations we can support. There weren't any other particular items that we felt we had to support to -- there's nothing that I left on the table, let me put it that way.

>> Councilmember Liccardo: Okay, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I think this is very helpful and I appreciate your help in putting this together. In terms of the disability claims, do we have a handle on how many of those end up resulting in a retirement -- disability retirement, and I guess I'm looking at police and fire.

>> Sharon Erickson: I know the ratio of police and fire disability retirees is very high.

>> Mayor and council, my name is Robin Opheim. I performed this audit. Those type of the depth of that analysis and what drives the number of disability retirements, we didn't really analyze that. But we did

look at a prior report that human resources had prepared, in terms of the request for disability retirements and the number that are awarded. 100% in 2007 was the number that firefighters requested disability retirements and the board gave every single person who wanted to retire on service connected disability that benefit. The police was close to 100%. The human resources report compared other jurisdictions in California with our level of award, and they weren't close. So we did not perform our own analysis, but rather, reviewed the human resources report. And that's called the impact of disability leave retirements and it's an excellent report.

>> Councilmember Herrera: Thank you for that. I guess I'm asking, the preceding question, which would be the short term disability which I think we're talking about in this report, how many of those then eventually become retirement disability, retired on disability?

>> Sharon Erickson: You know what we did look at was the claims within five years of retirement. You can see the claims in the five years leading up to retirement, on the one hand is absolutely something you expect to see, that somebody shouldn't be getting a disability retirement if they haven't been injured on the job. On the other hand, the pattern is pretty extreme, it seems that people may be piling up cases in order to bolster their chances for a disability retirement. And not simply because they were necessarily injured -- well, again, it's -- we're looking at the pattern. And the pattern appears to be abusive. But when you look at the individual cases, you don't see that. Because the case is well documented. There's a doctors -- the doctors have signed off, the adjustors have reviewed it. But when you look at the numbers overall, you do see this pattern.

>> Councilmember Herrera: So I guess yeah, my point is not to make any accusations about false cases. Is just to note -- I wanted to know if that were the case. Because yes, I mean, if somebody is going to get a disability retirement you would expect that they would be disabled prior to that. But the number that you're stating, 100% is a little bit troubling and the pattern. And I think this is -- the recommendations you're making here are good for step, in trying to look into this, just in terms of our process and I think the mayor made an excellent point about the county of Santa Clara. We need to you know, see how we compare to others and just try to get a better understanding. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Thank you for the audit that you completed. My question is pretty vague but yet very direct. If someone leaves their job on a disability leave and finds another position in the City of San José or somewhere else, would they still get disability and their salary?

>> Sharon Erickson: I believe they would, yes. Oh, I take that back. There's the offset -- yes, there would. If I were employed and I would -- I'm going to ask John Dam to come down here and get it from the person who really knows the answer here. Yes, if I'm injured on the job and I have workers comp benefits that are coming to me, I can either get those benefits while I come back to work or if I work in a different position. It is different if I do a disability retirement.

>> Councilmember Campos: Okay.

>> John Dam, risk retirement benefits person. If you are injured while employed, you get the retirement.

>> Councilmember Campos: Thank you.

>> Mayor Reed: Are there questions? I can't remember if we got a motion.

>> Councilmember Herrera: Motion to approve.

>> Mayor Reed: We have a motion now. Motion is to approve. All in favor, opposed, none opposed, that's approved. That takes us to item 3.8, support, recommended support of senate bill 41 carried by senator Cox regarding airports and wildlife. We have a motion to approve, wildlife and birds around airports gotten a lot more attention recently, since Chesley sullenberger had to land in the Hudson because of bird flight. I want to pity out that Chesley sullenberger was a freshman while I was a senior. I just want you to know that the senior class is taking credit for training him. Councilmember Pyle.

>> Councilmember Pyle: These are primarily birds we're talking about? While you're coming down here I'll just get to my point. The same birds tend to nest in the same areas, every year. They just don't get it, it's not going to work for them. And then they get wrapped up into the engines, et cetera. Are there some way we could change the grass or the gravel or wherever it is that they're nesting so that we discourage their coming year after year to the same spot?

>> Bill Sherry: Yes, Councilmember. Bill Sherry, aviation director, City of San José. Senate Bill 481 permits for the lethal methods of control for wildlife and birds, primary predatory migrating birds. But you should know that we have to exhaust all nonlethal methods before using lethal methods. In that we try to

control the food source, we look at squirrels, snakes, rodent population, try to control those without having to use lethal methods.

>> Councilmember Pyle: Using the food chain, you may have a shot. Pardon the pun. I appreciate that.

>> Bill Sherry: You're welcome.

>> Mayor Reed: Motion is to approve the support of the bill. All in favor, opposed, none opposed, 4.3, downtown street vendor ordinance. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, Kim, for all your hard work. I had a quick question before I put a motion on the floor. It represents to the regulations that are mentioned on page 5, City Manager regulations that would specify details about time, place and manner. Is that a work in progress still at this point?

>> Kim Walesh: Yes, Councilmember Liccardo. In order for us to put out the draft regulations, and engage the community on those, we have to first pass this ordinance. Because the important thing the ordinance does is, it gives the City Manager, director, authority to promulgate regulations.

>> Councilmember Liccardo: Thank you, Kim. I just wanted to see if I could insert in the regulation that we could, in approving the ordinances in all the recommendations in the memo, that we have an additional outreach effort, before the regulations become final. And that we work with RDA in performing that outreach, as well as restaurant and downtown association just to ensure people understand the time, place and manner restrictions and have some input about them. That would be my motion.

>> Mayor Reed: We have a second to the motion? I think we do, yes, Councilmember Herrera. Discussion on the motion. Councilmember Nguyen.

>> Councilmember Nguyen: It's just a question. Our office has been receiving phone calls regarding the transition that goes from the financing department to San José PD in terms of having the authorization to issue these permits. And I guess the concerns that we've been hearing is that San José PD has so much on their plate already, vendors are concerned that it might take longer for them to issue the permit. You can just talk about how the transition is going to go, how smooth it's going to be, so that people feel a level of comfort?

>> Kim Walesh: Yes, I'd be happy to. I should acknowledge, this is a unique situation in the sense that council, one year ago, approved this policy change, and directed us to come back with an implementation ordinance. So we had community engagement, it came up through Community and Economic Development Committee. We've just had such a huge lag because our amazing attorney Angelique Gaeta has had so many other things to complete. We're coming back to you a year after you actually discussed this. So let me point out what this ordinance revision does. The first thing I already responded to Councilmember Liccardo's question is it authorizes the creation of regulations, so for the downtown we can make sure it's clean and uniform and safe. The third thing on the list, Councilwoman Nguyen, that says, if you're a flower vendor, you have to get your permit from the finance department, as opposed to all other permits citywide are issued by the police department. So two things are happening here. One is, we're saying let's just treat flower vendors like anybody else. To be honest, we've never had a flower vendor come forward, and I'm not sure the finance department would know what to do with them if they showed up. While they have to technically issue the permit, they're not the best ones to work with the vendor and find the location and make sure that that vendor and the businesses surrounding them can be happy. So part of creating this program is having a single point of contact in the redevelopment agency, a downtown permit expediter, who is Emily Wilcox, who will be that customer-facing to make sure that's as user friendly as possible to any vendor that wants to locate in the downtown. So actually, it will be minimal interaction with the police department with the potential vendor. Staff will coordinate very closely with them. So it's going to work better for everybody.

>> Councilmember Nguyen: Thank you, Kim for that clarification.

>> Mayor Reed: Councilmember Liccardo -- Councilmember Kalra.

>> Councilmember Kalra: I don't know if you want a councilmember that combined the two of us.

>> Mayor Reed: I have two requests to speak in my mind at the same time so --

>> Councilmember Kalra: We're tough to deal with one on one. I had a question about the flower vendor program and kind of putting it all under one umbrella. And right now, with the current flower vendor program, in terms of the regulations as far as hours, and we're talking about flower vendors, we're talking about literally someone on the sidewalk or the persons that sell flowers out of, like a bucket of flowers and so on they sell like that?

>> Kim Walesh: We're talking about approved locations.

>> Councilmember Kalra: Okay.

>> Kim Walesh: Peddlers who would come in and come to a certain spot every day, most likely with some sort of cart and then remove that cart at the end of the night. Again we don't have any examples of the flower vendor doing this, this is more like for the future.

>> Councilmember Kalra: Okay, so there's some preparation for creating kinds of a more organized street vendor program throughout the downtown in particular but also creating regulations uniform for the city as well.

>> Kim Walesh: And make it easier for the vendor to establish their cart.

>> Councilmember Kalra: Thank you.

>> Mayor Reed: Now, Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, I just wanted to explain for your best Kim as well as for others who are involved in this issue why I'm concerned about outreach at this point. Because I'm mindful of the fact that we approved the policy a year ago. The challenge is, that my understanding is that a member of your team had an outreach meeting I think on April 3rd of 2008. There was a small turnout of event producers, my understanding is there were one, two, three, four representing three events and one of them is no longer the executive director of that event. So there's been some change in turnover and some folks clearly they're coming to us now saying we don't know. That is one concern we have. The other concern we have is obviously it's a vastly different world today. We have restaurants and businesses that are hanging on by a thread. I don't think there's a major event downtown that hasn't yet had an executive director come to my door saying, help. It's a really tough time and I'd just like to make sure that as the regulations go out the door, before we do we would at least check again with our partners.

>> Kim Walesh: Absolutely. We will check in with them and explain why the change was propped. Last year, we decided we would do a year assessment. After this is in place, we'll do a check in in a year, to see how it's going for the event producers, the downtown vendors. We'll keep a close eye on those.

>> Councilmember Liccardo: Thank you Kim.

>> Mayor Reed: I think the location is important. If you look at what we are doing with these vendors, it's not helpful to have a coffee cart sit being in front of Peet's coffee. Where these vendors are and what they're doing, I think these regulations are part of what we can and cannot do. I have requests to speak. Erica Justice and Ross Signorino.

>> Thank you, mayor and councilmembers. I am Erica Justice, director for creative place for 1stAct Silicon Valley. I would like to indicate our support for this item. The creation of additional small wonders that can increase the vibrancy of downtown. So we support the removal of these small barriers that can prevent some of the small wonders from making the big difference and hopefully collectively as the small wonders gain critical mass, they will bring more people down here which will, in turn, support businesses and the festivals and all the events, and will be a win win for everyone. I look forward to buying flowers downtown.

>> Mayor Reed: Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor. I was listening to radio this morning, I don't want to say what particular program because Betsy Gephart is sitting right behind me, she is with KCBS, I didn't want her to know I was listening to KGO this morning. Nonetheless, these are felons on parole and they're out there as vendors selling food and so on, getting permits for that. One, I don't remember all the names but one had a real cute sign on the cart, food cart, it says, misdemeanor Weiners is one of the things he was selling. Maybe I can get Councilmember Liccardo to contact one of his friends over there in Chicago alderman, to see if he can help some of these people, hard time getting a job, maybe if they have clean records and are approved by the police department. I urge Councilmember Liccardo not to accept any cub baseball tickets.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve the staff recommendation with the provision added by Councilmember Liccardo. Any additional questions or comments? All in favor, opposed, that's approved. Next item is 5.2, remediation of phase 1 improvements to Watson park.

>> Katy Allen: Good afternoon, Mr. Mayor and members of the council, Katy Allen, director of Public Works and joining me is Albert Balagso. Over four years ago, the council directed us to clean up and reopen the park, that is exactly what we had to do. This had very extended and extensive community meetings. We lost track of counting them but for the last five years we have engaged the community and the outcome of that is a master plan that council adopted in 2008. This is a fir of the buildout of what the park looks like. This is a contract to build out this first phase. This will clean up the park and will build some of the amenities of the highest priority to the community. Of note is the area on the lower right

adjacent to empire elementary which is some playground areas, and then the soccer field midway through the park and then the dog park at the north end of the project adjacent to 101. And so I'm not going to go through all of the community meetings. What I wanted to do, though, is just show a picture of all of the engagements that we have had. It has been a very good experience, I think, for the city to work very closely with the community in cleaning up the park and answering a lot of questions. The only thing I wanted to point out on this slide is on the second from the bottom, on the left-hand side is April of 2009. That was a date that was set over two years ago that we planned to get back to council, it is almost May, it is April of 2009. We are here recommending an award of a contract. We are here to recommend all the add alternates. We had a good contractor and we look forward to moving very quickly in the effort to reopen the park. So with that we'll answer any questions.

>> Mayor Reed: Thank you. I'd just like to note that it looks like the who's who of dirt bid on this project and 11 competitive bids and it's great to see them coming way below the engineer's estimate for a change, instead of above the engineer's estimate that we had for a few years. That's good for the community, good for us to get a little project with a little extra room. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. And I just wanted to thank you, Katy and thank you Albert for getting this over the goal line. I know this was not an easy effort, not an understatement. It is great to see it happen on a date whether we promised the community it would happen. And Katy, to the extent that you feel comfortable talking about this, my understanding of the last community meeting is that we do anticipate going out to bid again, before the end of the year. Could you just describe what we know or what we can say about that effort?

>> Katy Allen: Certainly, Councilmember Liccardo. There's a strong desire by the community to look at one more element to this project, and that's -- they've identified that second soccer field as a priority area. I think we have to do some work, and we want to take that input that we receive and evaluate the best, most efficient, cost-effective way and then connect that work with the dollars and move forward with the project. Our commitment to the community was to have our next meeting, to check in with them on July 8th, and at that time, we'll have a better sense of the best way to approach that next step.

>> Councilmember Liccardo: Great, thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. I just wanted to point out that a major source of the funding on this is coming out of the General Fund. And if we didn't have a reserve or we had money set aside to pay for something that was unexpected, whether it be a lawsuit or a problem with a park that has contamination, we wouldn't be able to act on this. So I think as we move forward we should always be conscious about keeping a certain amount of reserve money to respond to situations that are extraordinary like this, so that we could take care of them. But if we spend down everything then this park will just be sitting with a fence around it. Thank you.

>> Mayor Reed: I had one more question on the budget. Where did we end up with redevelopment agency funding in this project?

>> Albert Balagso: There was \$3.2 million that was paid for, or worked through with the agency, in lieu of the axis development, the PDE fees ode. And my understanding is the excision with the agency for the remainder of the \$3.2 million.

>> Councilmember Liccardo: Can I clarify? The 3.2 is being paid in the future by axis, that's not permanent RDA money.

>> Mayor Reed: They moved forward with the money, they get paid as axis pays its fees. About \$2 million net to the agency, I got that, that's the one I remember. Any other comments on this? I don't think we have a motion. We don't. Councilmember Liccardo, would you like to make a motion? Motion is to approve staff recommendations. All in favor? Opposed? None opposed? Congratulations staff, it's been a long haul to get here. Our next item is 6.2, a contract for the design-build of the airport terminal improve program. We had a good report from the contractor on the progress of the contract. Here is another one. Bill Sherry is here, if you have any questions. Otherwise, I don't think we have a staff presentation. Motion is to approve. I have one request from the public to speak. Ross Signorino. You want to talk about the airport?

>> Ross Signorino: Yes.

>> Mayor Reed: Okay. We're on 6.2, that's the airport construction.

>> Ross Signorino: 6.2, okay, it's not up there, I didn't see it. Just a brief remark here, I'm just wondering about this part B, where resolution of the manager, authorizing the manager to oversee this contract of \$84 million on equipment, and so on. I'm just wondering, is it, being the City Manager as she is, and the

budget as it is, layoffs coming up, I'm wondering if she doesn't have enough burden at all, laying this off on her, if she can handle it well enough, does she have enough staff people to do it? It's something I think should be considered because we don't want to burden people to the point where they can't do the job adequately. Not that she would, but it's something to consider. Thank you.

>> Mayor Reed: Let me just say this is a \$1.5 billion construction project that is on time and under budget. So the City Manager has a lot of help on this, thank you Bill Sherry. We have a motion to approve. Do we? We do. Okay. All in favor? Opposed? None opposed, that's approved. Item 6.3 is a grant application for the American recovery and reinvestment act of 2009 regarding street maintenance funding. That's also known as the federal stimulus package. This is a motion to approve, roughly \$12 million for paving. I want to thank our congressional delegation, Mike Honda, Zoe Lofgren, senators Feinstein and Boxer for their work to ensure that funding made it all the way down to the cities as it goes through the state and the regions so that we actually get some funding to do paving. This is not nearly enough to handle all of our needs or all of our problems. But we'll take 12 million bucks any time we can get it for street paving. This one is not really in doubt, because of the formula, but we have to go through this process. When I was in Washington talking about the stimulus package as it was being put together and then later after it passed talking to the agencies, they're very interested in oversight so we have to do a good job of oversight because they're going to be looking over our shoulders and they're delivering a lot of money to us. We have to do it right and we have to be able to demonstrate to them that we've done it right. And I'm sure we will because our staff will do a great job of it. Any other comments or questions on it? Grant applications are usually pretty easy to make, looking for money. All in favor? Opposed? None opposed, that's approved. I think the last item of business is our downtown entertainment zone status report, item 8.1. This is a return visit on a topic we've been working on for a while. A status report.

>> Thank you, Mr. Mayor, Lee Wilcox, City Manager's downtown coordinator, helping me is Rob Davis and others. Council directed the administration to change the entertainment zone policing model, citing a need to provide a community-style policing approach in the downtown, have officers in the entertainment zone earlier in the night, and to do so with less officers. Council further directed the administration to return with a status update, on the following: A proposed alternative policing model and any description of changes the police department has implemented in the past two years. An analysis of the feasibility of the redevelopment agency serving as an entity implementing a hybrid secondary employment program and an analysis of the feasibility for assessing a cost recovery fee on any establishment located in an entertainment zone serving alcohol after 11:00 p.m. or other appropriate time. In addition, the hospitality zone assessment report adopted by council in April 2008, recommended that the city move from a crime prevention, in the entertainment zone, to a safety, enhancement and community style policing approach. To implement council's direction, to change the entertainment zone policing model, staff has set an aggressive work plan. I'd like to review that. First staff has retained the services of a nationally recognized entertainment zone policing consultant, John Thayer. John will assist staff with the completion of a plan that identifies solutions, helps guide the entertainment zone policing plan for the future. This plan will also recommend a cost effective, collaboratively and workable police deployment model based on the community's goals, council opinions expressed during the February meeting for the people of San José. A group has been put together to work with Mr. Thayer. The group includes representatives from the night life industry such as San José restaurants and entertainment association and San José downtown association. The purpose of this workshop was to discuss specific ideas to change the current policing model, identify and discuss the strategic direction of policing in the entertainment zone, identify tactical solutions or actions that can provide the -- that can contribute to reaching the strategic direction, identify unique characteristics of each of the entertainment zone and the customer safety and policing issues that come with those and identify business specific actions necessary to ensure customer safety. I'm happy to say that the meeting went very well, and we engaged in quite a bit of dialogue that will be helpful for us moving forward. Third, as we've learned with working with Mr. Thayer this year, entertainment zone policing isn't a one size fits all approach. There are different mechanisms that work in other cities. While Mr. Thayer brings a wealth of knowledge, the city is benchmarking, other cities, Pasadena and Chicago and San Diego among others. Entertainment zone with patrons, night club owners and police officers, lastly, the City Manager's downtown advisory committee will be meeting this Thursday for the first time and will be hearing a similar presentation and staff will be using that feedback to further develop the future of the entertainment zone policing model. As mentioned before this is not an exact science, but the fundamentals are important, and staff will be using this as a foundation for our future model. To review these models would I now like to turn the presentation over to Mr. Thayer.

>> Thank you, Lee. Frequently, entertainment zones are not planned, they tend to develop over time, often overwhelming city resources. My research shows that when looking at successful entertainment districts or zones, we find there are six characteristics that tend to be key factors of that success. The first is engineering. Most effective engineering is done at the planning and design stage by engineering out features that invite or cause problems. Density and number of night clubs and alcohol license establishments can be regulated and should be done when needed. Traffic, parking, lighting, signage, maintenance and sanitation issues are very important to Public Safety, and to the appearance of order. Secondly, education. Good public education information programs are a key component of any entertainment district public safety plan. It's essential for cities to work with the media and home other than groups to communicate community standards, goals and expectations. Third, enforcement. Enforcement actions must be appropriate for the situation and reflect community standards and goals. Laws and ordinances must be reasonable and enforceable. Requiring a collaborative effort between the private and the public sector. Fourth, community policing philosophy. Community policing's an operational philosophy, not just a slogan or a program. Simply put, it's an organizational commitment to do police work, with and for the community, and not to the community. Comprehensive problem solving approach based on partnerships and empowerment will produce positive long term results and improve trust and support for the police agency. The style of policing provides a more welcoming environment to patrons. Fifth, approachable style. I'd like to use the five Fs. And that's fair, firm, friendly, it's an entertainment zone so flexibility is extremely important and lastly, fun. Sounds simple but people come to these areas to socialize, to celebrate and to have fun. The police rule needs to be flexible enough to promote a positive and safe atmosphere while taking appropriate action on problems. The goals to promote a safe and well managed environment which discourages irresponsible and illegal behavior. Simply put entertainment districts should be a, few as one or two officers, is good for public relations and helps set behavioral guidelines. Both night and day. Minor problems can be quickly resolved and effective communications with business owners can be developed. These officers can be outstanding ambassadors for the city. Continuing training should be provided to these officers working in these highly charged and dynamic night life environments. I've attended some of the training the police department's put on so far and I'm very pleased to see the results. A highly visibility uniform view not only enhances the public's perception of safety, but working relationships, San José has already start they had process however it will continue to evolve as your deployment model continues. Business operators must play an active role in managing their customers, and caring for their safety. Six, dedicated resources. The commitment of dedicated police resources to an entertainment district must be viewed as a high priority for the city. Positive management and supervision is the key to coordinating the various resources and developing cooperation and continuity in policing methods. Staffing procedures should be designed provide adequate police personnel and presence without creating an impression of over policing or deploying unnecessary resources. Care must be taken not to create an unnecessary police spectacle by overstaffing or responding to incidents with a large show of force. The overcommitment of police resources can have a dramatic impact. It will also help to develop an atmosphere of voluntary compliance and cooperation. A significant reduction in police overtime cost and more consistent and improved level of service results from the deployment of a carefully selected staff and trained specialty unit. By having dedicated resources cities have the ability to use fewer officers because the same officers are working with business operators on a continuing and consistent basis. Officers assigned to these teams should have excellent command presence and demeanor and a high level and derive initiative. In conclusion I'm very excited about the work plan that Lee's outlined. There's a value to bringing in a subject matter expert not only to assist with identifying issues, enhancing communications and assisting with developing alternative strategies and solutions but I also think it's equally important to have someone that can validate solutions that are already being contemplated. Thus far I have found City of San José and the police department to be way ahead of most cities in the way the evolving downtown entertainment district is being managed. The City Manager and police chief have been very professional, hospitable and candid with me during this study. I think the San José police department is an outstanding agency and truly one of the best that I've worked with. The department staff at all levels have been open and supportive and I commend the flexibility of the City Manager and the Chief of Police for opening this process up. While you've heard Lee outline our approach and a little on the fundamentals of entertainment zone policing the city has made very positive changes during the last six months. To highlight these changes I'd like to now hand over the presentation to the Chief of Police Rob Davis.

>> Rob Davis: Thank you very much John, we thank you for your efforts. What I'd like to describe basically is what we've been doing since we started the new process, in December, where we brought a lieutenant into the situation. Prior to December 2008, the entertainment zone deployment involved basically three different entities or details. This was the entertainment zone pay cars, the garage services detail and the downtown services detail. Now, within the San José police department organization, a detail is a smallest organizational component that can exist. We recognize the need for greater oversight and communication both within the department as well as without the department so we created the downtown services unit and we combined all three of the details unit into one unit and have a lieutenant at that unit. On any given night can have multiple sergeants working together. Unique area that have a variety of issues on any given night that we need to deal with and I believe the lieutenant can act as a facilitator and make readily available any of the department's resources including officers, sergeants, whatever the case may be to be able to enhance what's happening out there. For that reason I hand picked lieutenant McGrady, and he works now in partnership with the City Manager's downtown coordinator. Due to this outreach the lieutenant and the team have been able to make the following changes since December of '08. We have reduced the number of overtime officers assigned to the entertainment zone from approximately 40 to 44 on any given Friday and Saturday night to 30 and 32. We now recall two man walking cars and two man beats to be spread out evenly downtown. We require officers to be deployed wearing their regular uniforms instead of tactical uniforms. We've developed mandatory training, with the participation of the night club operators in that training. To date we've trained approximately 100 disperse and we are completing another 30 this Thursday. What I mean by that is, this is a program very similar to the program we use with our school officers where officers are working at our high schools or middle schools off duty where they have to get special are training so they understand the issues that are particular to school districts. Now we are training these officers to understand our community policing philosophy and the approach we want them to take when they're working downtown so they have to get certified in that class before they can actually do that. We've also opened up outreach for the downtown coordinator and downtown services unit with night life business owners and security personnel. You're aware also that we've instituted new response protocols to reduce the overresponse to any of the officers to minor incidents occurring downtown. We now require all supervisors to sign off on all reports, and by including lieutenant McGrady in this effort, now when you add these changes since we've made just since December, to the numerous positive changes that we've made over the last several years in our downtown model, you can see that we're making some good progress. But I would like to point out while these are positive changes we've made over the last few months we're not done yet. We want to figure out exactly what the final approach to the deployment will be downtown. The work plan that Lee and lieutenant McGrady will lead to an improved model both with the council vision, the community needs and the concerns with the PD for public safety. With that having been said to outline the next steps I'd like to turn the presentation back over to Lee Wilcox. Lee.

>> Thank you Chief. Our next step in the process will be to incorporate the council direction from February, the feedback we got from yesterday's community meeting, and any feedback we received yesterday from the City Manager's downtown advisory committee into a new entertainment zone policing model that will come forward. As part of this process we'll also be engaging the San José police officer association, as discussed at yesterday's community meeting any new model which require a collaborative approach, potentially reducing the amount of officers and how they are deployed, not just for police officers, but for night clubs in the areas of management server training and security training and these would be joint trainings with police officers and night club owners during the same time to help promote some familiarity around these issues. While it is imperative that San José strives to make downtown a destination, across the country, cities are developing new styles of policing in their entertainment zones. The goal is for San José to be at the forefront of policing and entertainment zones and include positive changes to our evolving downtown and welcome additional residents and visitors. Per council direction staff will be meeting with night life business owners in the near future about the possibility of amending the entertainment ordinance to authorize an increase in the fee for the entertainment permit, which would include costs related to police enforcement. San José PD is currently reviewing all available data regarding expanding the scope of businesses outlined in the council recommendation in February, specifically recommendation 5C, and will provide that data to council. Lastly staff is -- staff from the city attorney's office is here with any questions regarding recommendations 5B and 5C from the February 24th council memo. Thank you.

>> Mayor Reed: Thank you. Since we're not being asked to take action today, I'd like to get the public testimony before council starts a discussion, if that's all right. Gia Velaski and then David Powell. With. >> Unfortunately Gia Velaski had to take off, he had to pick up his daughter. I'm here to express my optimism with the current process being implemented to work together the new policing model that meets your goals and is acceptable to our many members who would be paying a portion of the said cost. Questions the analysis performed by the City Attorney, requesting I attended that meeting yesterday, that Lee facilitated, and many of my peers left that meeting very encouraged and we are looking forward to having many more meetings with Lee, captain No and the City Attorney. As a small business owner I applaud the city hiring Lee and the faster. They are the right people for the job at hand and I believe we are now closer than ever to implementing the changes you desire. We have stated repeatedly that wear willing to share in the cost, embraces a shared responsibility for the policing of our entertainment zone for the current model. Thank you.

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

>> Councilmember Liccardo: I think we are all shooting for these same goals. I want to thank Lee and captain No and lieutenant McGrady. I want to thank you all for your hard work. And welcome to you, Mr. Thayer and thank you for your willingness to jump in. I also want to thank the chief for what we've accomplished, I think since December. I think particularly the modulating or moderating of overresponse to minor incidents will have a very big impact in terms of the perception people have out on the street and hopefully will encourage the kind of behavior we want to see out there from everybody in the entertainment zone. And as I look forward I think we're going to continue to reduce cost as we're able to implement these measures. I had one one question which related to the planning overlay. And I was wondering if that was likely to come to council any time soon.

>> That's a good question, councilmember. Staff currently is working or the City Manager's office is currently working with the redevelopment agency and Planning, Building, and Code Enforcement in a draft memo that would hopefully come forward to Planning Commission in late May and council sometime in June.

>> Councilmember Liccardo: Okay, thanks Lee. And a final thank you to the chief. I understand you were instrumental in collaborating with CHP, and we are working on a more flexible approach downtown, making many more residents happier. With that I'll make a motion to accept the report.

>> Mayor Reed: Motion is to accept the report. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I wanted to also just express my appreciation, you know, this is something that I signed up pretty soon within getting onto council. I want to thank Councilmember Liccardo for allowing me to take part of the dialogue and then letting me be part of that memo. Ultimately the goal I had at that time are similar to the goals that were expressed today and the progress that has been made. I want to thank Dave Powell and the leadership of the San José downtown association, Dave already made a commitment to our city by opening up businesses in downtown. We asked him to put some skin in the game in terms of the public safety cost and I think they're entitled to not just their opinion but also to have some of their thoughts and vision shared. And so to that end I want to thank Lee Wilcox for doing his part and making sure that happened and bringing people together and also Chief Davis for not just acknowledging the desires of some of the business owners in downtown but assigning good people in the department and continually moving forward. There is more progress we need to take but I'm certainly glad to hear that these meetings are productive and they're real solutions that are coming out of them that everyone seems to be at least -- seems to be pleased with or at least feels they're going in the right direction. So I'm very hopeful that not only can we defer or defray some of our cost but create a downtown that is better and more profitable for the businesses as well as a safe and interesting place for the whole community to take advantage of and enjoy. So thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just wanted to say congratulations to all of you. This is wonderful. And I know it wasn't an easy thing. It's sort of like making sausage, isn't it? Nobody wants to see the process but it looks and tastes good at the end. So thank you for all of that. This will go a long way towards creating more economic development downtown. We all appreciate that. Thanks again.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. First of all, Lee, thank you for your presentation, and the rest of the panel for their presentation. I know that we're not taking formal action. We're going to accept the report, and I know that there's more work to be done, I got that in your presentation. But I

wanted to ask you, I know that a letter was sent this morning from the San José restaurant and entertainment association, and I don't know, have you had a chance to look at that and read it?

>> Yes, councilmember. We received it a little before lunch today. We have had a chance to read it really quickly.

>> Councilmember Campos: So since we're not taking a solid action, there is still time, I know there were several questions that were asked in the letter. And I'm wondering at what point, because I don't want to put you on the spot because you may not have the answers to a lot of these questions, and if you do I would hope you could share some of your answers with us. But at what point will you be addressing the concerns and the questions in the letter so that the council can understand your process of thinking as we move forward?

>> That's a very good question. I think for us to move forward, after the February council meeting, it was imperative that we concentrated on the deployment model. That's what we've concentrated on. I think in reading it a lot of that has been addressed as we move forward in looking at the deployment model looking at what's needed, cost model, deployment of fee. All of those will be addressed in the future, we just haven't gotten to them yet.

>> Councilmember Campos: So you will be looking at these questions and addressing them separately?

>> Absolutely.

>> Councilmember Campos: There are some questions in here I would like answers about. Is it fair to have an info memo, in case we have follow-up questions in relation to what you're moving forward?

>> Sure, I'd be happy to do that.

>> Councilmember Campos: I would appreciate it. Before it comes to the council for a vote to implement it, it would be helpful to understand whether the questions have been answered to the satisfaction of the council.

>> Okay.

>> Councilmember Campos: Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Just to follow up in terms of receiving, us receiving faxes and e-mails the last municipal. We also received a letter from the San José police officers association, in regards to not receiving any information on this political process. Lee could you share with us what happened there?

>> Absolutely. The council did direct that we meet with the police officers association. At this point in the process we just got done meeting with the public. And we'll be meeting with the police officers association in regard to our deployment models. At this point we don't feel that our deployment models will target meet and confer sessions.

>> Councilmember Nguyen: At what time do you feel you'll be meeting with them?

>> In perhaps the next two weeks.

>> Mayor Reed: As staff goes into a little bit more history, lot of discussion about what happened in March of 2006. Historically, the police department utilized a series of deployment tactics. How long does that history go back?

>> Rob Davis: That deployment go back several years. When I first became chief they expressed a variety of concerns that had been used downtown, including the stopping of cars for cruise control management, we had check points set up on Santa Clara street, we used to have metal barricades set up in some situations. We would funnel traffic onto two on ramps, and significant police officers deployed in the middle of town, these are things done for years and years and years. As a result of hearing these concerns we worked on those and eliminated those over the last three to four years.

>> Mayor Reed: Okay, I think that's important information to have, sometimes I get complaints and people remember them. We have to separate out the history from the current practices. But also, I don't want to give short shrift to some of the improvements and the result of the improvements, not just the changes in the tactics. I want to point out the staff report does have some measurable improvements and some things that are important such as reduced presence of juvenile gangs, reduction of costly swing shift holdovers. Greater accessibility on the streets, noticeably safety and civility in parking garages, overall reduction in serious assaults, large reduction in night club incidents, reduction of police tactics and emergency responses. I think those are all good things. Even though the work isn't done it's good to note that we're making some progress, and I'm sure that we'll continue as we get to the goal line here with a new model. And then the other question I had was, as we're talking about the new model, that model

works for the regular Friday, Saturday night kind of situation. But what about the national drinking holidays, in which we may have 10,000 people on the streets, not in the clubs, but on the streets, just, you know, genomic themselves or causing triple sometimes? I mean, that's going to be a different version of some kind of a model but you can't are treat that night the same you do the average Saturday night.

>> Rob Davis: That's right. We're coming up on one of those holidays soon. We have had children as young as eight years old show up 1:00 or 2:00 in the morning on one of these holidays. So we're dealing with some gang management, we're dealing with curfew management, we're dealing with a lot more people in the street which does change the pedestrian traffic model as well as the traffic model. So yes, there are some nuances we have to pay attention to when we've got those larger crowds downtown.

>> Mayor Reed: But I'm assuming as we are work on the general community model policing as we're calling its, that would inform the big holiday events as well?

>> Rob Davis: That would be accurate.

>> Mayor Reed: Okay, any other comments or questions? We have a motion to accept the report. All in favor? Opposed? None opposed, that's approved. That concludes most of the business on the agenda. I believe open forum is the only thing we have left and we have two cards to speak on the open forum, Fred villa Senor and Ross Signorino.

>> Good afternoon, my name is Fred Villa Senor. I've been a member of national council of La Raza, which is the largest advocacy and civil rights Latino organization in the nation. And it's headed by Janet Pugh -- not Janet Pugh but Janet Morgilla. I'm a member of La Raza round table, and a member of the civil rights organization headed by Victor Garza. I've had the privilege of being trained by the citizens police academy in San José several years ago. And I really appreciated the work that good honest policemen do. I know now what they go through. At the same time, I've also been a member of the independent police auditor's advisory committee, and I'm aware of concerns of citizens that sometimes have merit, and do not have merit. But there is some need, when they're independent, to look at their concerns. Mr. Mayor, council, members of the City of San José, I'm here today to condemn the process, the undisclosed process, and the selection of the IPA. And the reason for that, I think that any human resources clerk could have told any of you that this had a real potential for a conflict of interest for this candidate. The candidate realized he resigned, and I think you realized that you made a mistake. And that's good. I've heard this from the mayor and I respect this. However, I feel that you should go beyond that, Mr. Mayor, as I believe, I hope I'm mistaken, that you had the lead in the selection process.

>> Mayor Reed: I'm sorry, your time is up but we're likely to have this on a public council meeting very soon.

>> Can I say just one last statement?

>> Mayor Reed: Yes, go ahead.

>> I really want this to be independent because whoever you choose is going to be scrutinized more than anybody else because this person is going to look at the civil rights of citizens.

>> Mayor Reed: Okay.

>> And police officers --

>> Mayor Reed: I got to stop you there, but do come back when we have a public discussion of this.

>> Okay. Thank you.

>> Mayor Reed: Ross Signorino.

>> Ross Signorino: Thank you Mr. Mayor. Today I didn't get much of a chance to read the newspaper and I was just breezing through this one here. It says here, make or break time for sports in schools. I think it's a very important issue that I might say something on something like they want to have to raise something like \$2 million and even mentions in this article as much as I was able to read something like putting a parcel tax on this location where the schools are. I don't think it's a good item putting a parcel tax. You know what would be a good idea, we're trying to get the soccer, the earthquakes are going to come here, looks pretty good on its way and we're trying to get the A's here. Maybe we can get some sort of arrangement at the time, maybe we can put it on the price of a ticket or the ballpark owners can help contribute to the sport of school, that's a very important program, not only sports in school but music, at the same time. We saw it during ceremonial items, how good the young people can respond to music. And I think maybe with all this brain power sitting up here, and I certainly believe that, that you should be able to come up with a plan to try to help sports without going through this hassle trying to beg every time, maybe with these sports that are coming to San José, and I hope they do come here, that we can do it some way where it's automatically funded, that sports and music ability in schools will continue. I think that's good for the community and good especially for the young people. Thank you very much.

>> Mayor Reed: That concludes the open forum. That concludes our meeting. We are adjourned.