

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

>> Mayor Reed: Good morning. Let's get the meeting called to order. This is the first part of our session, the labor update, and we'll go into closed session when we're done with this and then come back here at 1:30 for the rest of the items. Start I presume with Alex Gurza.

>> Alex Gurza: Good morning, Mr. Mayor, Alex Gurza, Deputy City Manager. Gina Donnelly, deputy director of employee relations, will be making the presentation this morning.

>> Gina Donnelly: We start as we normally do. With just a reminder to everyone that all the documents we will be discussing this morning are available on the employee Website and may be accessed online at the site listed on the slide above. Last week we engaged in negotiations with MEF and CEO over the draft proposed ballot measure. As well as accessor memorandums of agreement. During our session regarding the ballot measure, MEF and CEO provided the city a letter requesting to postpone the discussions over the ballot measure and focusing our negotiation efforts on retirement reform. And during our MOA negotiations the city responded to MEF and CEO's proposed ground rules and provided the city's counterproposal on those. And that concludes our presentation for this morning.

>> Mayor Reed: All right. I have no cards to request to speak, right? Okay, we're done, we're going into closed session. Thank you.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order. For August 9th, 2011. We'll start with our invocation. Vice Mayor Nguyen will introduce the invocator.

>> Councilmember Nguyen: Thank you, Mayor Reed. Good afternoon. It really gives me great pleasure to welcome back a good friend and a very well-respected pastor, Jon Talbert, to provide the invocation for today's council meeting. Besides preaching at Westgate church, Pastor Talbert is an advocate for the national compassion and justice movement called Beautiful Day. This past May Beautiful Day joined forces with the Mayor's Gang Prevention Task Force to encourage volunteers to reclaim areas that were considered hot spots for blight and gang activities. Over 1000 volunteers came out and helped clean up neighborhoods by removing graffiti, renovating homes, planting community gardens, and providing countless community service activities throughout this county. I'm very grateful for the work that Pastor Talbert and Beautiful Day continue to do for our city. Please join me in welcoming Pastor Jon Talbert.

>> Thank you, Vice Mayor. I was informed by a number of council staff that you guys were having a salsa little cookoff event so I made sure I brought gum for everybody because I know how the rest of the day could potentially go for you so this is for you guys and the rest of your day. I brought gum and someone said, what are you trying to say to me? That's just a joke. Thank you for the continued support that we are able to play a role in a partnership and we feel from the faith based community a joint effort that we can partner together with the city. With government, business, local organizations and education, health care, all the different entities working in partnership together. So it's a privilege to come and do the invocation. So if I could just pray and just ask a blessing upon our city and our officials and this day. God we come to you and we thank you for the day that we can offer it to you and all that's in it and we look to you and we pray a blessing upon our city, that you continue to do a work, in the lives of our officials, give them wisdom and discernment as they make tough decisions, give them the courage that they makes the decisions that they ought, and understanding of all the issues and working together in collaboration and partnership. We also pray for our city workers, our police officers, and all the issues that are ongoing in our city that would you bring clarity, you'd bring peace, you bring harmony, you bring hope, you would bring resources and revenue in such a way that San José would continue to be a light that would shine

not only in the Bay Area but in and around California and around our country. We just pray a blessing for this day and everyone in it. In Christ' name, amen. Here is your gum.

>> Mayor Reed: Thank you. We'll get to that in a minute. Pledge of allegiance, please stand for the pledge. [ pledge of allegiance ]

>> Mayor Reed: First item of business would be the orders of the day. Are there any changes to the printed agenda that we need to make under orders of the day? I see none. We have a motion to approve. All in favor, opposed, none opposed, that's approved. We'll be adjourning this meeting in memory of former San José councilmember and former colleague of mine, fire captain John Diquisto, who passed away on June 27, 2011. Commissioner Campos and Councilmember Rocha have a few additional words. Commissioner Campos.

>> Councilmember Campos: Thank you, mayor. If you knew John he was a throw back person, someone that this country would built on individuals like former councilmember Diquisto, and he will be dearly missed. One of my good memories of John, and I've had many, my sister and I wanted to plant a grapevine in my backyard. And he came over a couple of days later and okay, let's get to work. And to this day these grape vines are flourishing, and that's who John was. So we will all miss him. I will miss John Diquisto. Thank you.

>> Councilmember Rocha: Thank you, mayor. I want to share my condolences with his family. He was a neighbor of mine, lived just about two blocks away. And we did, as Commissioner Campos mentioned, lose a great person. Not only a public servant, great elected official, but a great friend and family member. It is a great tragic loss of San José on many ways. Thank you very much.

>> Mayor Reed: As I mentioned earlier, Councilmember Diquisto and I served together on the city council for a few years. I don't think there was anybody who didn't enjoy being around John. He did a great job as a councilmember representing a district, but he was a great human being and a great asset to our community, and we're all going to miss him. Our next item is the closed session report from the City Attorney.

>> City Attorney Doyle: Mayor the council met in closed session this morning. There is no report.

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to start by inviting Councilmember Herrera, Vice Mayor Nguyen and Councilmember Constant and Jon Talbert of Westgate church to join me at the podium. Today we're going to commend Jon Talbert for collecting the most gum ever in the history of the City of San José. But that's actually not what we're trying to do. We're trying here to commemorate and to commemorate our beautiful day team for their extraordinary role and dedication to serve San José residents and surrounding communities. And many of us have been the beneficiaries of the work done around beautiful day. This is a collection of many churches that have come together to help out people in the community. In a week long community service project. But it started at Westgate church in a very simple way of asking the question, how can we help our community? And it has certainly evolved into a great effort around the city. And we get a lot of additional public people who get invited to donate their time and volunteer for beautiful day at various locations throughout the city, and on May 21st we had a big day. It was the joint project with the mayor's gang prevention task force and our faith community as part of our initial to engage with the faith community to deal with youth and gang violence which is what we're doing in response to the community issues and desire to have our faith community engaged. So we mobilized over 2,000 volunteers in an effort to eliminate problems in our community and just eliminate problems in the community by picking up litter, dealing with graffiti, mowing lawns, planting community gardens and renovating homes. So we've done a lot, beautiful day gets a great deal of thanks from us and that's why we're doing this and councilmember has a bit more. She heads the community engagement subcommittee of our gang prevention task force. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Where did the gum go? I thought we were all getting gum.

>> Mayor Reed: It's been taken into custody.

>> Councilmember Herrera: I'll add pretty much a few more things, it's been covered by the mayor and the Vice Mayor so I don't want to be redundant. I want to introduce the people who are here from Beautiful Day. Bob Biozi, Jim Buchanan, Jason Icaiker, and Jennifer Guest, along with Pastor Jon Talbert. Obviously we're very proud and

happy to be here commending them on their efforts. And as the mayor talked about this started at Westgate church so I think it's phenomenal that one church with their efforts have now spawned an activity that covers our entire city. And so we just really want to thank today all the hard work that went into beautiful day, that project on May 21st, the thousands of volunteers that came together reclaim and provide hope to the areas hardest hit by blight and gangs in our city and as the mayor talked about thousands of volunteers came to clean up the city, removing graffiti, picking up litter, unwanted items. 100 dumpsters were filled, mowing lawns, painting, and planting gardens, and hundreds of activities. I know my colleagues were out in their neighborhoods visiting where this was actually going on. In the meadow fair neighborhood, they filled 18 dumpsters with litter and unwanted items. So we really appreciate the hard work. It was a great opportunity to demonstrate how the faith community can work together, with our citizens, with the police department, with everyone, and formalize the partnership with the City of San José. One of the highlights that came out of this initiative that I'm happy to announce is that beautiful day has identified blighted homes that they will be adopting as long term projects to help those in need such as veterans, the elderly and widows. This will help with the upkeep of homes by assisting with painting, yardwork, dumpsters and more volunteer work. We look forward to having an even more successful beautiful day next year. So now the mayor will present the commendation. [applause]

>> I wanted to say a couple of things and really, what it is, is I am the public figure of what it looks like. But beautiful day happens because there's a number of unbelievably talented volunteers and leaders that pull things together, and make things happen. I'm more the visionary and the spokesperson and I've got a great team of people behind me. And I just want to have a couple of you come and share a quick word, if you would share a quick word because they share this with me as well.

>> My name is Jim Buchanan, I was an project Alviso beautiful day. I want to thank the mayor and the council for the support we received. There's no way in the world we did what we did, we revitalized 41 sites in Alviso. The 600 volunteers we had out that this weekends. I want to express my gratitude. If I could mention Jamie Matthews in the code enforcement department was crucial in allowing us to achieve the successes we did in Alviso. Thank you.

>> Thank you.

>> Mayor Reed: We get the photo?

>> Mayor Reed: Light to invite Councilmember Chu and reverend Ann Hayes to join me at the podium as we commend the center of spiritual Enlightenment for its 30 years of spiritual enlightenment and service to our community.

>> Councilmember Chu: Thank you, mayor and the council in joining me to commend the center for spiritual enlightenment, for its serious spiritual enlightenment and service to the community. The center for spiritual enlightenment was established in 1981 as a community-based organization to assist and to empower the community through advocacy, social services service, social support services, economic development, and learning opportunities. Today the center for spiritual enlightenment is one of the largest interfaith communities in the South Bay. With over 600 active members they serve 400 households through programs and services. The center offers worship services, educational classes in spiritual philosophy and practice, guides to healthy living and leadership training. Each year the center of spiritual enlightenment worked to promote peace and nonviolence, through the community nonviolence conference. Participants enjoy many workshops and panels that highlight the work that is being done in the community, to build bridges of understanding and peace. And here today, to accept the commendation, is reverend Ann Hayes from the center for spiritual enlightenment. Ask the mayor to do the honor.

>> On behalf of our founder and spiritual director, reverend Ellen Grace O'Brien, our staff board of directors and community it is my pleasure and honor to accept this commendation. I thank Mayor Reed and Councilmember Chu, and all the city council members, for making this moment possible for us. Today, more than ever, before our guiding institutions, our faith communities, our government, educational institutions, businesses, nonprofit organizations must work together to serve our community. The center for spiritual enlightenment has grown steadily in San José over these 30 years to serve thousands of people from all walks of life. And various religious backgrounds for providing education and support for enhanced well-being healthy families and a he peaceful

community. We are especially grateful for all of the government officials who have supported and personally participated in our carry division, community nonviolence conference. Again, thank you for this acknowledgment. And I would like to leave you with these words from Harmahanzi Yogananda, who came to the west from India in 1920. He said change yourself and you have done your part in changing the world. Every individual must change his own life if he wants to live in a peaceful world. The world cannot be peaceful unless and until you yourself begin the work towards peace. It is only by removing hate from our hearts that we can live a Christ-like life.

>> Mayor Reed: Now I'd like to invite the winners of the falcon naming contest this year to come down and join me. I don't know how many we have here, but we have four winners and hopefully, they all made it. Come on down. We had four winners of our falcon naming contest this year. We obviously have three that have joined us today. We appreciate their efforts. This is a competitive contest. You can't just submit a name and have it drawn out of their hat. We have kids submit names, and they have to demonstrate with research or art or essay or something why the name should be selected. So I'd like to -- we have commendations right for each of the three. Vanessa Jautegui is a fourth-grade student at Holly Oak Elementary School in San José. She submitted the name Shadow for one of the falcon fledglings. Adithia Rau is a second grade student from San José and she submitted a name Unita, which is derived from the Italian name for oneness. D.T. Valeapin is an 8th grade student at Cheboya middle school in San José. She submitted the Hermes, who was the Greek messenger of the gods. And Leslie Quinn Phan is a fifth grade student from McKinley Elementary school who submitted the name Ahote, which is derived from the Hopi name for restless one. So three of the winners are with us, we are very proud of them, and we congratulate them on their research and their art. [applause]

>> Mayor Reed: And as long as they're here, I know there's some parents in the room so parents and family of these kids, please stand. Because we know kids don't do these things all by themselves. We appreciate your support. Thank you very much. [applause] [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Kalra, former councilmember Forrest Williams, welcome back, President-elect of the Santa Clara Valley science and engineering fair association to join me at the podium,

commending the association for its contributions to our community. I think councilmember Williams is going to bring a few members of the association with him. So come on down.

>> Councilmember Kalra: Thank you, mayor and we have all the students, as well, great. And of course, welcome as well, to former councilmember Forrest Williams as well as other board members of the Santa Clara Valley science and engineering fair association, Heidi Black, Bruce Kalanani, and Vina Jane, we are really happy to have all of you here. Founded in 1960, the Santa Clara Valley Science and Engineering Fair Association has been dedicated to awakening students to the wonder and power of science and engineering. The science and engineering fair has been held for years in San José and has been a wonderful outlet of bringing out the young and bright engineers and scientists of the future from the Bay Area. Students that participated in the highly acclaimed competition such as the California state science fair and international science fair and the board members here are some of the people that have made it possible to ensure that our students continue their passion and interest in science and engineering and provide recognition and incentives for them to pursue their dreams. And I really want to thank former councilmember Forrest Williams. I know this is something he has been very passionate about as a former engineer as well. So we have with us also some students and I do want to recognize some of those in San José that have been recognized through this program and association that have participated in a number of different events. Everyone is I'm sure familiar with the Intel international science and engineering fairs, the world's largest international precollege science competition that brings together more than 1500 high school students from nearly 65 countries and regions to compete. On May 13th, 2011 in Los Angeles, students from around the world were presented with the 2011 Intel ISEF, international science and engineering fair awards. Eight of those students were from the Bay Area, and of the eight, five are from San José high schools. So that's definitely a source of great pride for all of us. We also had the pleasure of having a teacher that was recognized with the Agilent teacher award, and that's Barjinder Sibberwal, a teacher at Evergreen Valley High School, and I believe was unable to make it today, but will have the board formally accept the recognition from the city on our behalf for the city council and the mayor, we do have with us some students including Brian do, Brian is from Silver Creek high school. We have a small token of our appreciation from the city and want to thank you and congratulate you. Stacy Huan is from Evergreen high school. And although Stacy isn't here her sister Joyce will be accepting on her behalf. [applause]

>> Councilmember Kalra: We also have Ravant Cosaraju, who is not here but board member Heidi Black will be accepting on Rayvant's behalf. Alexandra is also an award winner, Alexandra is not here but board member Black will receive on behalf of Alexandra. And then we have Linda Ju who won the third place category on physics and astronomy from Lynbrook high school. And there's one other winner, on May 8th, 2001 in Houston, 440 highly qualified projects, from 70 different countries, competed for the international sustainable world energy engineering environment project awards, also known as the ISWEEP awards. Two students from the Bay Area received second place awards, one from San José, and that's Chung Yu from Lynbrook high school. And thank you for representing us so well. We also have a commendation to the Santa Clara Valley science association, ask to present that to former councilmember Williams as well. Thank you for all work that you do.

>> Thank you, Mayor Reed, and councilmembers, and especially, Councilmember Kalra. He is a great supporter of science and engineering. The mission of Santa Clara Valley science and engineering fair is to awaken the students to the wonders and power of science and engineering. We do this by teaching, mentoring, and also, the annual fairs that we host. We encourage them to assume these opportunities for the future, to grow and become leaders in technology, leaders in the solving of the issues and problems that we have today. It's been state they'd they not only have their projects, and their interest, displayed here in San José, it also, at an international stage, where we have 64 countries, over 1500 students that are coming together to share in exchange of ideas and solutions and many of these kids have solutions that are patentable at the time. And they win scholarships, full scholarships because there's an interest. So as the world becomes closer, and the competition becomes greater, then we must execute better, excel our students, move them forward, be supportive of them. So I want to thank you for this opportunity to recognize these students and the teachers and parents to say that we are, indeed, technological capital of the word. And when we sneeze, the world catches cold. Thank you. [applause]

>> Mayor Reed: Next item is the consent calendar. I have couple of requests to speak on items on the consent calendar. We'll take the public testimony first. Robert Cortese. And David Wall.

>> Good afternoon, council, thanks for having me here. I think all of you are aware of what happened Friday night, I was attacked by the owner of a pretty prominent marijuana dispensary here in San José without provocation, without warning. I got cold clocked in the face and the mouth. You know, I don't know if this shows up on the camera but I got a nice little bit of natural eye line going on now because of it. I've worked in a bar for ten years and I know bar owners are held to a certain code of conduct or they lose their licenses and get shut down. I went ahead and looked at that time ABC licenses today, they're scheduled disciplinary actions. The bottom one here conviction of a crime involving moral turpitude I think would fall under this. Right now I've talked to the police, right before I came here. These suspects are still at large. And from what I've been hearing they're planning on fleeing San José. So I would like the City of San José to take a lead from the California alcohol board. And until these guys turn themselves in let's shutter their doors. Because Friday night, I was knocked out on the ground. And the only thing that saved me, I started thinking about my kids. I started thinking, I can't let myself end like this. I was blacked out. I couldn't see after I'd been knocked on the ground. Somebody hit me in the head while I was on my hands and knees. These sort of people should not be allowed to own or operate dispensaries in San José. Just like you wouldn't allow somebody to hold a liquor license. The same thing has to happen with these dispensaries. That's all I'm willing to say about this, thank you.

>> Mayor Reed: Mr. Wall.

>> David Wall: It would be prudent to actually close all the marijuana selling houses. One of one particular item that I mention bed a property owner that is adjacent to an affirmed action housing project next to the Del Rancho or El Rancho golf course, whose billboard sign was arrogantly overlooked in the planning process. Now, this means that either somebody in the housing department or the affirmative action housing group paid no heed as to this billboard sign, and subsequently there's almost a million dollar judgment on this affirmative housing group for that billboard sign. So I'd like to have an official inquiry into this matter. The ecopass issue, Mr. Mayor, attacks your whole vision of Green Vision, and it has still not been addressed very forthrightly yourself, Your Honor, and I think you should take some time to do that. Employees use this perk to save the environment and to keep congestion from downtown. You could sacrifice one of jury senior policy advisors to cover the cost of this program. The tied house changes poked a lot of fun about this. Alcohol sales is reasonable sale down at the

convention center and what have you. But because of the City's lack luster policy changes and changes with reference to drunkenness in public, any type of increase in drunkenness, via alcohol sales, advertising, what have you, should have a rider to the police department and the attorneys department so they could have funding for their operations. That should do it for this day, thank you.

>> Mayor Reed: Any items on the consent calendar the council would like to pull for discussion? We have a motion to approve the consent calendar. All in favor? Opposed? None opposed, those items are approved. Item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council I have two items. First as the council is well aware, last Friday Standard & Poor's rating agency downgraded its credit rating for the long term federal debt. An info memo will be distributed to you this afternoon with more information about the downgrade and its implications for the city, but I did want to highlight a couple of things at this time. First and foremost, we do not expect any immediate, direct impact on the City's credit ratings. Standard & Poor's recently issued a report noting it would not be downgrading municipal bond rating as a result of the federal down grade. Nevertheless, there are potential residual impacts stemming from a reassessment of U.S. economic growth projections and constrained federal spending. Ironically, as investors search for quality investments, they appear to be turning to bonds despite the federal downgrade. And with demand for government bonds up, the interest rate paid by the city on some \$900 million in variable debt continues to stay low. If the strong demand for government bonds continues it would also mean favorable conditions for two bond issuances that we expect to bring to the city council in the fall. While borrowing rates continue to be favorable, there is no question that the continued weak economic conditions remain a significant concern for the city. And so we will continue to monitor these conditions for any mid term or long term impacts and we'll keep you informed of any developments. I also wanted to make note of a significant project that was essentially completed by in-house staff during the July break, saving significant dollars, while improving the city's video system. Staff has replaced the cameras here in the council chambers and in the committee rooms along with all of the back-end systems associated with the civic center television system. The upgrade replaced failing cameras and routers with a new digital system that is not only more reliable and less expensive to maintain but also improves the overall picture quality. While work continues behind the

scenes to complete this effort, viewers will already notice the change with a larger image size and better picture quality. This project was a collaborative effort of the general services staff and the finance staff, as well as the civic center television staff. I do want to thank all of those involved and I also want to especially note the efforts of Mike Frezzo our video engineer for his expertise and long hours of work leading to both the project design and implementation effort. That concludes my report.

>> Mayor Reed: Item 3.3 is approval of conduit financing for renewable energy facilities. This is a tax equity and fiscal responsibility act hearing, for the issuance of bonds by the California municipal finance authority, to finance and refinance renewable energy facilities, some of which happen to be in the City of San José. Councilmember Liccardo.

>> Councilmember Liccardo: This is an appropriate time for asking questions or is this simply for public comment?

>> Mayor Reed: I have no requests from the public to speak so I think questions are in order.

>> Councilmember Liccardo: Great thanks. Scott, thank you.

>> Mayor Reed: I have one request to speak. But go ahead and ask questions, we'll get the public testimony in a moment.

>> Councilmember Liccardo: Thank you. Scott, I'm looking at the recommendation portion of the memorandum, and it makes reference to Ontario's IEUA project, so I'm assuming that the \$24 million bond issuance covers both projects, is that correct?

>> Scott Johnson: That's correct, councilmember.

>> Councilmember Liccardo: My question would be, then, is our bond issuance with this link, if Ontario somehow defaults or suffers some kind of adverse -- suffers any kind of adverse event that causes significant rating change or cause the raters to reconsider however they view Ontario's project are we impacted by that?

>> Scott Johnson: Thank you. Councilmember, Mr. Mayor, members of the council, Scott Johnson director of finance. First let me inform the council that San Bernardino county did hold a TEFRA hearing this morning and they approved the project in the TEFRA hearing. Secondly, councilmember, to your point, the main purpose of holding the TEFRA hearing here, the city is not issuing the debt. There's a financing authority, it's a JPA that's issuing the debt on behalf of the owners of this project and the operator of the project, one of which will be operated here in San José, and the other in okay Ontario California. But the main purpose for the council to hold a TEFRA hearing is to have an elected governing body, officiate the TEFRA hearing in accordance to the IRS rules to allow members of the public in which where the project will be located to provide any comment. So there will be no reflection on the City's ratings, we're not issuing the debt. We're just basically facilitating a public hearing on behalf of the financing authority.

>> Councilmember Liccardo: Thank you for clarifying that Scott. So the CMA is the issuer, is that right?

>> Scott Johnson: Right.

>> Councilmember Liccardo: So there are no dollars coming from any source at the city that are helping to finance these bonds?

>> Scott Johnson: The -- to clarify, the council did approve a purchase power agreement.

>> Councilmember Liccardo: Right.

>> Scott Johnson: With the operators. So the council has already approved that.

>> Councilmember Liccardo: Those are our payments to the owner of the facility, right?

>> Scott Johnson: Exactly, right. And the other minor fiscal issue is that the city is actually getting paid a relative small fee, about \$5,000 to hold a TEFRA hearing in San José.

>> Councilmember Liccardo: Beyond that there's no consequence to us?

>> Scott Johnson: Exactly.

>> Councilmember Liccardo: Thank you very much. Thank you Scott for all of your great leadership and service for the city.

>> Scott Johnson: Thank you, appreciate that.

>> Mayor Reed: I have one request of the public to speak. I'll take that now, Mr. Wall.

>> David Wall: I thank the learned councilmember from district 3 for answering one of my questions, so I thank you. My question then pertains to B item 4, there needs to be some form of clarification explanation as to pay certain expenses incurred in connection with the issuance of the bonds. This is convenient boilerplate language but it would be nice to have it detailed as to what expenses are incurred. Thank you.

>> Mayor Reed: Anyone else here wish to speak during this hearing on this matter? I see no others. We have no other cards, so that concludes the public hearing. We need council action on this. Motion is to approve the recommended action. All in favor? Opposed, none opposed, that's approved. We'll now move to item 3.4, it's a recommendation from our civil service commission to change the way the stipends are allocated. I have one request to speak on this item. We have a motion on the floor to approve the recommendation. We have actually a couple requests. John Fitch. And then David Wall.

>> Good afternoon, Mr. Mayor, and councilmembers. I'm currently the vice chair of the civil service commission. And we ask the City Clerk's office to provide this recommendation. Essentially this recommendation is expense-neutral. It's simply -- would be the other non-hearing member is taking some of their stipend and allocating it to the hearing officer in recognition of the additional work that that hearing officer does relative to prehearings, rulings and otherwise this is a fairly labor intensive commission assignment, especially for our current hearing officer who is a sole practitioner, so there is real opportunity cost in terms of the time that she spends on this relative to her own business. So it's within consideration of that time and effort that we're proposing this change in the stipend which again has no impact on the overall budget. Thank you.

>> Mayor Reed: David Wall.

>> David Wall: I advocate the elimination of all stipends for all committees. Not just civil service committee but all of them. Especially with reference to the treatment plant advisory committee, Mr. Mayor. Thank you.

>> Mayor Reed: That concludes the public testimony on this matter. We get a motion? I thought we had a motion, we did have a motion. Any further discussion, questions? On the motion, all in favor? Opposed? None opposed, thank you and I'm going to thank our civil service commissioners for their service. And especially the hearing officer, I know, puts in a lot of hours. We appreciate that and thanks for bringing this forward. Item 3.5 is our next item that's the audit of supplemental military pay and benefits. Audit done by our City Auditor who will lead the presentation.

>> Sharon Erickson: Sharon Erickson City Auditor. Since 2001, and during previous shorter national mobilizations the city has offered supplemental pay and benefits for employees who serve active duty -- tours of duty as U.S. military reservists. These benefits provide employees with income sufficient to bridge their gap between their city and their military salary as well as continuing city medical insurance vacation and sick leave accruals. The city at least since World War II has provided city retirement credit and makes both employer and employee contributions to the retirement systems for the entire period employees are on military leave. The current program was designed to provide short term benefit to reservists called to duty after 9/11. In 2007, after

nearly annual extensions of the program, the city council decided to keep the program going, indefinitely. The current program is now in its 10th year. As a result, problems that could be overlooked for a small, short term program, have become more pressing and need to be resolved. This audit was requested by the administration, because both reservists and administrative staff found the City's military leave program frustrating, complex, and time consuming. The purpose of our review was to find ways to streamline the program. I'd like to take a few minutes to give you a basic overview of how the program works, administratively, to give you a sense of how it can be streamlined. When an employee starts a military leave, they receive their full city pay and benefits for the first 30 days of their tour. In addition, to whatever pay they received from the military. If they are still on active duty after 30 days, their city pay stops. But the employee is eligible to receive supplemental pay, such that when it's combined with their military pay, it equals what they would have received from the city, if they weren't on leave. So for example, an employee making \$5,000 a month with the city, who is now making \$3,000 in the military, the city would supplement their military pay, cutting them a check for the \$2,000 difference. If only it were that simple. You are certainly aware of the issues about reservists owing the city money. Typically this is called by retroactive military pay increases the military takes even longer to process retroactive pay increases than does the city. For example, then, payroll issues the supplemental check but later discovers that the employee was actually in a higher military pay rate and thus should have received a smaller check from the city. So to address these problems, the city has been doing more frequent reconciliations. The process we found in place now is that on a biweekly basis a payroll accountant estimates what each enrolled reservist's military pay will be and what their city pay would have been and issues a supplemental check for the difference. A few weeks later when payroll receives income statements from the Department of Defense payroll goes back and trues up the payments. So on a rolling basis at least twice a month administrative staff are preparing reconciliations and at the end of the tour they're doing a final reconciliation. Now, the numbers are coming out about right these days. But it's particularly challenging, because both the city and the military frequently make retroactive pay adjustments. Which means that payroll needs to go back and redo the reconciliations, each time they discover a new change. And because staffing in our administrative services departments across the city has been reduced. Because of these administrative complexities, we found it cost the city nearly as much to administer the program as it pays out in supplemental military pay, not including benefits. To give you a sense of the scope of the program, between January 2008 and February 2011, 47 city employees took 250 different military leaves of

absence. Their absences varied in length from one day, to 786 days. Over that three-year period, 47 employees received a total of more than half a million dollars in state mandated military leave pay, which is the first 30 days of the tour. 23 of the 47 reservists took tours that lasted more than 30 days and thus qualified for the City's supplemental pay and benefits program. 16 of those reservists qualified for and is of supplemental income, the other seven of the 23 were making more money in the military than they were at the city and didn't qualify. Over the three year period we reviewed the program distributed a total of \$200,000 in supplemental salary, \$120,000 in supplemental benefit premiums, and about \$380,000 in retirement contributions. So our audit concluded that streamlining is possible, but if it would depend on clarifying the program's intent, we spoke to nine of the 23 recent long-tour reservists over the course of the audit to gain an understanding of their concerns with the program. They emphasized to us that what they wanted was a predictable income stream, and they didn't want to have to worry, when they're worrying about a lot other more important things, about a reconciliation process or owing the city money at the end of their tour. We concluded that it was the reconciliation process that it was most administratively burdensome part of the program and that that was the part that was causing the most reservist hardship. After extensive discussions with staff, we determined that a flat-rate program without reconciliations, that would compare reservists' actual city pay, earned in their last month before they left on the tour, compared that to their actual military pay earned during their first month of the tour, to determine a supplemental pay amount, the \$2,000 in my previous example, that would then be paid to the reservist until their return from leave. We recommended that the amount be checked and adjusted after 30 days because sometimes it takes the military a while to get the pay straight, and then be maintained as a flat-rate supplement for the duration of the tour, no reconciliations. Our audit did identify several other issues, and it included two recommendations. In order to clarify the purpose of the program, one of the things was in spite of efforts to make sure pay is exactly even, we found that the program allowed reservists a bump-up in compensation, when on tour, because the city picks up what is now a substantial contribution for retirement. So we suggested that reservists would pay the same share of retirement contributions as other employees do and as they had before they left on the tour. We also recommended that reservists be required to disclose a military pay differential, a similar kind of supplemental program as the city has if they do receive that. We were also concerned about the ongoing nature of the current program, that it could encourage employees to take on a dual career with prolonged absences from the city. 37 of the 47 reservists who took leave during the last three years were police department employees. And in a time of

major cuts to city staffing and almost 200 fewer police positions, the city has about 8 people, including about 6 police officers, on military leave at any given time. It is my understanding that there is no budget to back-fill those positions, and the department is simply running short. The permanent nature of the current supplemental military leave program, therefore, is putting additional pressure on already stretched resources. The second piece of our recommendation to streamline the program, we recommended eliminating the reconciliation process, and replacing it with a flat-rate process that I just described. We also recommended simplifying the military leave contract, incorporating reserve status and military income release forms into already existing outside employment and secondary employment forms. We recommended appointment of a military reservist liaison or liaisons to promote better communication regarding benefits and upcoming military leaves and to maintain contact with reservists while they're on tour. You have before you a council memorandum dated August 5th, that recommends that the program be permanent and ongoing. The memorandum's recommendations for the most part align with our audit recommendations but there are a few key differences. First, the memorandum suggests a different escrow account based method for tracking supplemental military pay. I am concerned that without adding additional resources in the payroll group of finance I do have some initial concerns that without adding additional resources, we could have a problem with the feasibility of an escrow account program that requires account management, interaction with reservists, reconciliation with net pay to gross pay and has undetermined legal and tax implications. Second, the memorandum recommends changing the City's base of determining city and military income to the gross pay amounts. Reservists and city administrators have debated which types of pay should or shouldn't be included many times over the past ten years and settled on the current list in 2005. Some of those items of my specific concern are military reimbursement for actually payments out by military folks. Those are listed in appendix C of our report. Third, the memorandum recommends paying full city military leave for up to 30 days per fiscal year, regardless of whether it's a single or multiple tours in that year, could result in more than 30 days of full pay for tours that happen to span fiscal years but not for others that don't happen to span fiscal years. For simplicity sake we'd recommend it conforming to state law, which requires that reservists receive full pay for up to 30 days per fiscal year, not to exceed 30 days in any single tour. I want to apologize for taking so long to explain the details of this program to you, but I do think this is important that we get this right for our reservists. The Public Safety committee reviewed the report at its June 16th meeting. In order that the administration, the City Attorney and the City Auditor have time to review the recommendations in the August 5th

memorandum in more detail I respectfully recommend that city council accept the audit report, and defer action on the recommendations contained in the audit and the council memorandum for 60 to 90 days. That should give us time to evaluate all the administrative and legal implications of the revised recommendations. And just before I close, I want to thank the City's military reservists for their service to their country and to the City of San José. And for sharing their thoughts about the program. The administration has reviewed the information in our report, and their response is shown in the attached yellow pages and when that I'd like to turn it over to deputy City Manager Alex Gurza and finance director Scott Johnson for some additional comments.

>> Alex Gurza: Good afternoon, Alex Gurza, Deputy City Manager. On behalf of the administration we would like to thank the City Auditor for her report and her recommendations to streamline the administration of the military leave program for our city employee reservists. We absolutely 100% share the goal of having a program that is administered effectively and efficiently. Primarily for our city employees, who are called to active duty in the military. But also for our administrative staff, who have been asked to administer the program. As the City Auditor mentioned we have no dedicated staff to administer this program. It is people who are now growing smaller group of people who run payroll and one of the things that have this as an added duty and we have had some very dramatic decreases in staffing both in the finance department and in human resources. So those are very large reasons why simplifying the administration of the program is something that we very much appreciate the auditor's recommendations. The City Auditor referred to the August 5th memo from Vice Mayor Nguyen, councilmembers constant, Kalra and Liccardo. We have not had a lot of time, as the City Auditor mentioned, to analyze the various recommendations and what would be required in order to do that, so we concurred with the City Auditor's request that the council defer the item to give staff sufficient time to review the issues. We have done some initial review and there's just a couple of issues that we wanted to make sure the council was aware of. Number one is that depending on the changes the council decides to make in the program, there -- and in the memo, the August 5th memo, there are meet-and-confer implications of the changes. And that's whether the program success made in some ways could be better, from the viewpoint of a reservist or what could be seen as a reduction. So once we know what the program is, the city has an obligation to give advance notice to all 11 of our bargaining units to give them an opportunity to request a bargain. They don't necessarily have to do that but we have to give them that time in order to do that. Although most of the city reservists currently are police officers

represented by the POA they are not all and so this really provides to all city employee so we have to provide advance notice to all of the bargaining units. The other issue that we wanted to at least mention is the recommendation in the August 5th memo to have a military reserve liaison who would become a subject matter expert and have decision making it says and positional authority. We absolutely agree that it's good to have one single point person that understands the issues of the military. A lot of their processes and language that they use, and codes and all that. We agree with that. 100%. On the issue of the positional and decision making authority there are certain issues that may need to be raised A to the City Manager level and in some cases back to the council. In that case we agree that there should be one point person but depending on the issue it may need further review. The other thing is the issue of the escrow account suggestion in the memo, what the City Auditor mentioned. Our finance director Scott Johnson wanted to make some brief initial comments about that.

>> Scott Johnson: Thank you Alex. Mr. Mayor, members of the council, Scott Johnson director of finance. First I'd like to reiterate the appreciation that the administration and staff that worked directly with the men and women, the reservists that are serving our country. You know we worked very directly with them in regards to this program. And I've been with the city for ten and a half years, and coincidentally after 9/11, 2001, for the last ten years, you know, we have been working on this program. I want to acknowledge that there have been bumps in the, road and we've had multiple conversations with the council in revisions to the program to streamline it. However, I do also want to clarify that given our current budget situation, what we've been going through over the past ten years we also reduced staff as Mr. Gurza had pointed out. We had asked and we appreciate Sharon's audit report because as we are continuing to streamline operations we have less staff to do that. We need to provide the core services to the city, to the residents and to the community. I wanted to remind the council that we streamline our payroll process where we no longer have paper payroll, paper paychecks or paper pay advices, it's all electronic. When we did that we were able to reduce our payroll staff by two. In addition in the current budget cycle we are now paying accounts payable every other week instead of every week. And it's the same staff that are working on payroll and accounts payable. So we've really worked hard at trying to look at areas where we can streamline the services that we need to provide to the city specifically in the finance department. And so we appreciated some of the streamlining efforts that Ms. Erickson was recommending in her report. But we are concerned by some of the potential unintended consequences of the proposal that's laid out in

front of you. I just want to kind of briefly go over a couple of those. First I think it's very important, and of I respect the ability and the flexibility to come back to council with a report after the staff has had sufficient time to analyze and provide a report to council on what I see as potential unintended consequences. To the participants of the program. As well as to the city. Clearly, there are issues that we need to address, and need to research, in regards to IRS reporting. W-2 reporting. The potential for reservists actually to receive double income. In a particular year that causes significant complexities in their income tax reporting. There also are issues in regards to what income that would be included in the reconciliations. And we've gone through that pretty significantly with the council in 2005, where, in Sharon's audit report she lays out the schedule of reimbursements and allowances that are included in those that are not included. I'm just as professional advice to the council, I just really cannot reiterate that we need to take the time, provide you with a professional feedback so can you see what those potential unintended consequences are, both to the city and to the reservists that are in this program. So thank you very much, and of course we're available for any questions you may have.

>> Mayor Reed: Thank you. Staff, we have some requests from the public to speak. Councilmember Constant, you are first on the list in terms of the council questions. Do you want to take the public testimony first, or do you want to go ahead?

>> Councilmember Constant: I think it would be best if I clarify the memo and the intent.

>> Mayor Reed: Okay, all right.

>> Councilmember Constant: So I passed out to my colleagues as well as the City Clerk, the city manager and the city staff some revised language to the motion I'm going to make now. And assuming it gets a second I will speak to it. And the motion would be to take memorandum that has been submitted by me, Vice Mayor Nguyen, Councilmember Kalra and Councilmember Liccardo, with the following changes, on item number 3 which is on first pay, the line that currently says, the supplemental military pay and benefits program should be modified as follows, that would be replaced with the language: Direct the City Manager in consultation with the City Attorney, to return to the public safety, finance and strategic support committee within, and I think 60 to 90 days was the

time frame that I was told, with an analysis of obstacles including IRS tax compliance and meet-and-confer issues to implementation of a modified policy that contains the following provisions: Keeping intact items A through H of that memorandum. Inserting a new bullet point number 4, under H -- I'm sorry, under H, first of all delete H-4. And I just want to have -- I'm sorry, H-3. I want to make sure it's clarified by adding a section 4 that says repeal San José municipal code sections 3.36.620, and 3.28.630 to ensure that all military reservists, whether participating in the supplemental military pay and benefits program or not, shall be required to pay the employee's share of retirement contributions including retiree health care contributions while on active duty to ensure parity with the other city employees. The rest of the memo would remain intact.

>> Second.

>> Mayor Reed: We have a motion on the floor, councilmember constant.

>> Councilmember Constant: I wanted to go over why we got to where we got on this memorandum. And I have been involved in one way or another with the military supplemental pay program since I got here on the city council. I was approached by a number of individual employees who were reservists that were plagued with problems, in participating in the program. One particular reservist, I have a binder that's about an inch and a half to almost two inches thick of reconciliation issues and problems that that individual reservist had in trying to establish what was really reconciled between their paychecks. I know I spoke on individual basis with the City Manager, with finance director, which I think Alex, Sharon and I went over it. I've had discussions with the City Attorney. Because it was a significant problem in reconciling this. We probably spent 30,000 of the dollars that were identified, as far as administrative expenses, just on that one issue. I personally saws four different Excel spreadsheets that were provided to the by the city to the reservists of the same time period that had completely different figures on it, off by thousands and thousands of dollars. We had a system that was simply complicated and did not work smoothly. I was also -- I made the motion back in 2007 that established the program as being permanent, instead of having it every single year. Because as we know we're in a multiyear conflict right now, two conflicts. And we have reservists being called up to duty and they had no idea when they left in one year, if the program would still be in effect the following year when they came back, if they were continued to be

deployed. And I thought that it was very important to have this certainty. So as the auditor mentioned that they could go off and concentrate on the most important thing and that's protecting our country and protecting their own well-being and not worry about the collection notices that they were receiving at home or trying to figure out a reconciliation that was happening at home. And that they could keep their mind focused on the more important things and knowing that the intent of the council which is simply to keep people whole and not provide or infer any undue financial hardship would be carried out. So with that, I took the time to talk to a significant number of reservists. I see at least one of them, Brian Christians, up in the audience up here, and also with the POA, including Jim Unland who is also here, and said let's talk about what is the easiest way to make this simple. And that is where the idea of an escrow or a reserve account. And I know escrow account can have multiple meanings. You can have an escrow account like when you buy the house, where it's a third party administered escrow account, which is rather cumbersome, formal and expensive, or you can have a simple escrow account like you do with your mortgage company, when you pay your property taxes and insurance, which is basically just an accounting entry where you see on your statement how much money's going into your escrow, and they pay your taxes and insurance and at the end of the year they say whoops, we were off by a little bit, and we are going to give you a credit, or you owe us a little bit of money and we're going to amortize it over the next 12 months. There is probably a variety of ways that this reserve or escrow account could be implemented. But the intent to give people whole, the best intent is to give the people their paycheck, submitted for 80 hours of work during that pay period and they get a paycheck for 80 hours of work. And to then take money that they're received from the military, and when they come back, to simply compare gross pay to gross pay, and say, either you made less, or you made more than what you made from the City of San José. So I'll give you two simple examples. If you had a reservist that made \$5,000 a month which is I think the amount we heard in the staff presentation, if they made \$5,000 a month here as a City of San José employee, and they were gone for 10 months, they would receive \$50,000 in pay from the City of San José. If at that time they worked for -- they got called up, and they were in the Army, Navy, Air Force, wherever they happened to be, and they made \$3,000 a month over that same ten-month period they would make \$30,000. At the end you have a \$2,000 a month difference or \$20,000. Now, in that case, when the reservist made less money than they made here at the City of San José, that \$20,000 difference would then be swept into the City's payroll account, and the city would adjust their W-2 to show the fact that they did not earn that money from the City of San José. Much like we do time card adjustments, if you put on

your time card that you were here, when you were really on vacation or on sick leave or on disability or whatever leave you may do. We have a method in place for making those payroll adjustments. The reservist would pay no money from the escrow account because it was less than the pay they received because remember they were kept whole. If they made more for purposes of simplicity, we can use the same type of example. Where they make \$5,000 but they make \$7,000 in the military because they have a higher position, some command position. In that case, the \$2,000 difference would be a positive difference that they made extra in the military over a period of ten months that would be \$20,000. In that scenario at the end of the -- when they get back to work here at the city and we get the final accounting from the military, the \$50,000 that we paid to them in salary would simply again be southwest into the account and their paycheck would be adjusted for the fact that the city didn't pay them that money, the federal government did, and the additional money, the \$2,000 would be simply distributed to the employee and that would be the extra money that they received from the military. And it would really be one reconciliation, which could be done, basically, on one 8 and a half by 11 sheet of paper. I think that's important because the problem we have is, we have a complicated system and it's been modified a number of times on what's exclude and what's not excluded, and we have this chart. But if the intent is to compare gross pay to gross pay then we compare gross pay to gross pay. I do beg to differ about the fact on reimbursements because reimbursements on expenses are not pay. Just like you are a city employee now and you have an expense you put in for reimbursement, you'll get the money on your paycheck but it's not included as taxable income, because it's not pay. It's reimbursement for expense. So if there are categories that are reimbursements for expense then we simply don't identify those as pay because they're not in fact pay. But if there is a difference of opinion on those, as Sharon pointed out, having a person who is in charge of the program, a military reserve liaison, that person would be able to look into it and say, you know what, you're right, that was a reimbursement, or no, it was not. The reason that the words positional and decision making authority were put in there were not to simply override the City Manager. That's not the intent at all. The intent was avoid what has happened in the past when a reservist went to the military liaison and said this is what I believe it should be. And then a response would be, okay, let me go and check and see if I can get it approved and then it would go away for 90 days, 120 days and then come back and still be, oh no, that's not what I meant, I really meant this, and then go away for another 30, 60, 90 days. Some of these reconciliations took place over not only months but you could count them in years? Three quarters of a year to get reconciliations. So the intent was to have someone perhaps in finance or

payroll, that could say, you're right. We make that decision. If the employee was unhappy, they could always go to the city manager. Because as we all know, the City Manager is the ultimate administrative authority in the city. Or if there needs to be a change in policy obviously that would come back to the city council. I do think that there are some areas that there may be disagreements between my opinion and my colleagues who signed on the memorandum, and what's in the audit report. Personally, I think that the military leave for 30 days or 30 days per fiscal year or 30 days per tour, no matter which way you do it, you're going to have one or the other problems. If you do it 30 days per tour, you're going to get someone who gets three tours in a year. If you do it 30 days per fiscal year, at least you have a defined period of time. And we can account for it because it's within our fiscal year. And if they use 20 days this fiscal year and ten days next fiscal year and they get called up again next year, they only get 20 days. But it's easy accounting period whether we do it payroll year or fiscal year at least it's a controlled time. Versus if you do it with tours it can become confusing. Many of these reservists that I spoke to had multiple tours on top of each other. I think it's really important that we reconcile the retirement contributions, because I don't think that number one when those medicine codes were put in that there was any contemplation of a military supplemental pay program. In talking with the reserves and with the POA, I think it's clear that nobody intended to get a bonus when they went off and have these contributions made for them. So I think it's completely right, specifically nowadays with the cost of retirements and retiree health care skyrocketing so much, that again we look back at what was the intent of the council. And I did go back to the original documentation, and I went back to the transcripts of the meetings that I participated in and it was very clear that the council intent at those times was to keep a person whole. Not for them to make \$1,000 less, not for us to get a bounce of \$20,000 in retirement benefits calmed for. It was simply coming out neutral. And in speaking with the folks I spoke with, every single one of them said that's right, that's the way it should be. They told me, we're not looking for any bonuses here. We're just looking to be kept whole. And I think that's why it's important that we keep that intent and very clearly, as a council once again, vote and reemphasize what the intent is. So that it's unambiguous. That the intent is to keep people whole as they go off to war. I think that the other issue I see is we don't even know exactly how many military reserves we have. There's no list that exists in the city. And that's why under item number 5, having that military liaison person compile a list and having the city have a list I think is important. Because it's one thing if you have 40, 50 or 75 people in the reserve program. When you have 4,000, 5,000 employees that's one thing. But I think if we had more than a thousand people in the military reserves, we as a council would want

to know what that liability is. Because it's a significant, not only fiscal liability, but quite frankly an operational liability. Because we don't know if we are going to be continuing in these contracts for year or additional conflicts. We have a responsibility to know who is in the program, whose military reservist and who may avail themselves to the system. Because if we end up having a thousand people in the workforce leave to go fight in a war we'd had a significant issue. So I think that's really important. I know there are strains on our administration and staff. But the important thing to keep in mind is that we are spending considerable A time and energy, in the reconciliation process now. And I think that while the flat rate is somewhat appealing, I think it leads to problems in the future and you're going to have people who say many well, wait a minute, I didn't make what I made. The flat rate was right for three months and it was wrong for nine months, so I got shorted X thousands of dollars. There are so many ways that you can have discrepancies, that you will then spend time reconciling, because someone's going to want a reconciliation, so they can make their case to the City Manager or come make their case to the city council or to whoever they are going to make it for to become whole. Where if we compare again gross to gross, we will have a much better system. I think that also, I know that it was mentioned a couple of times that when people were gone and we're paying them to be gone, there is a financial hardship on the department because you're paying for positions that aren't working. But we're forgetting the fact that we are not paying these people 100% of their pay. There is an amount of money that is being saved, so to speak because of the military pay component and right now it just kind of ends up somewhere floating in the department's budget. And maybe we should be administratively looking for a way to know what that number is and allocate it either to overtime or to extra relief personnel or whatever the case may be so that that money stays somewhat within the program to help with the operational issues. So with all that being said, I hope my colleagues can support this. I think the revised language that I worked on with my colleagues that are on the memo with me addresses the concerns that the administration has. And I think it really is important that we work out those issues. We don't want to cement something in stone, and in 60, 90, 120 days or two years from now find out that it's not working. And I think that it's importantly and quite frankly we should have had that in our memo originally. We didn't. And I think the administration -- I thank the administration and the City Auditor for having the discussions with me so that we could make sure that we work those things through. I do think they are all workable. I know I've spoken to a number of other agencies that have programs and they don't experience the kinds of problems that we have had. And the ones that do have problems do not have them to the magnitude that

we have had. So I've spoken a long time. I thought we'd be out of the council meeting by now already but because I've spoken so long we're not so with that I'd like to hear from my colleagues and of course from the folks in the audience that would like to opine.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you very much. First of all I wanted to thank the City Auditor and her staff for another excellent audit report and I wanted to as well as thank councilmember constant for his leadership on this very important issue. Apparently, I signed on to this issue because I felt that we had the intention of laying out a more simpler path to achieve a more concise and efficient system, where employees who serve our country will receive their fair share of benefits and pay and not to be penalized when they are on military duty. And obviously as indicated in the auditor's report there are certain slots that need to be fixed and I think the recommendations that are laid out in this memo would help us to achieve that. But because the recommendation is so expensive and we are very aware of that and we're aware that staff has concerns regarding certain aspects of the memo I really support staff bringing this issue back to the Public Safety, Finance and Strategic Support committee, in 60 or 90 days, whenever you find feasible, for us to kind of go over the analysis to see if these recommendations actually help improve our system. And if it doesn't, or if they don't, then we can actually come up with other solutions. So I think there's a lot of options out there. I think the clear intent is we just want to create a system where we don't want to give away bonuses, given our current budget situation nor do we want to penalize people who are actually serving our country. So I'm just really grateful for the men and women who serve our country and I think they deserve everything they are entitled to just like the rest of our city employees. More than happy to support the motion and I hope that moving forward we can actually create a system that is more concise and efficient. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to thank my colleagues and councilmember constant especially for the work on this. I served in the military and so I remember when, while my time in the military, that

payroll would make lots of changes. I mean there's continuous changes, I know the mayor was in the military too, I think he could probably talk about that as well. But I have a hard time thinking about us trying to reconcile, in some of the ways that have been suggested. So I am somewhat interested in what the City Auditor is talking about in terms of flat rate. But I'm happy to support this motion because I think it's going to give a chance to have feedback. I think we absolutely need to support those members of our city community who have been called up into service. And many of them who are in actual war time environments, and put their lives on the line, and their families also, supporting them while they're out there performing those duties for our country. So I absolutely support that. At the same time I think that we need to look at how can we do this efficiently so we don't have negative consequences for the city, or unintended negative consequences as everyone's pointed out for the members of our city who are serving. So I'm really interested in how we can save those administrative costs. I think that's unfortunate that we've been paying out more in administrative costs than we have been paying out in benefits. And that's stunning and we need to pay attention to that. And so I'll be looking at hearing that feedback and how we can make sure that that isn't the case, that we take care of that and reduce, make that more efficient so that we are not spending that much money on those administrative costs. And I think the whole idea of less reconciliation, whether it's councilmember constant's idea or the idea coming from the City Auditor that we should not have multiple times of reconciliation that's going to increase the cost. And I'm not sure I understand how we're going to be able to afford someone who's going to be that point-person so I would hope that somebody is going to be doing multiple things and it's not going to be one person that we're paying for to be that expert in military benefits. I don't know how we're contemplating that but that seems like a cost that we need to look at. Can staff -- maybe staff can answer that question right now.

>> Alex Gurza: Yes, councilmember. It would have to be again some -- an existing employee probably in finance that would have to wear that hat along with their normal hat of normal duties simply because we don't have the staffing to dedicate an entire person administratively to the program.

>> Councilmember Herrera: Also I think if you look at the history of this program as it was put forth over the years it really is intended for people who are called up in to serve major conflicts. Like I think this was brought back again after 9/11 where we had people going off to war. So and I think it's probably mostly used that

way. And we don't -- as I was surprised to learn we don't know who all the reservists were, I think that's an important point that we might want to know. But we certainly look at this as more of a short term situation and not where somebody is going to have two jobs where they are you know working for the military and working for the city and that was also pointed out. So I think we have to look at everything in this budget. We have to look at things critically and as much as I support this program and all the men and women that are out there serving our country we still have to look at how we can be efficient with this. Because we also have to provide the services here, too. Thank you. I will be supporting the motion.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I just wanted to thank the officers who are going off to help protect our country. I'm very, very grateful for that. And I want to thank you, Pete for all the work that you did. But what I can't my head around is why somewhere between 8 and 14 people are that problematic. I just don't get that so there must be a whole lot that I don't know about. So I hope we do wrap our heads around it. I hope there will be people out there that are willing to act as volunteers for this type of duty. I certainly will bring it to the attention of some of the people in my district but thank you very much and I will definitely support this.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. You know it's been raised a couple of times in the report it's been discussed even as we talked about this, kind of the dual-career aspect of this and I don't think this is really to be called a -- I think it gives the implication that somehow they're being given two full salaries and what you have. And really what I saw this whole process about is certainly, the issue is reconciliation, I think that there have been major headaches with that and to make sure that those that do courageously serve in the military reserve and get called up and taken away from their families that they are not at least disadvantaged by it. And I think from this process we can make it so that they're not at least advantaged economically but they are made whole. There are certain complexities about that, I appreciate the memo, the amendment for staff to have time to figure that out and find out the best way to do that but as Sharon indicated, this was approached because of the

frustrating complex nature of the whole program. And the goal is to streamline the program. And certainly at the onset there was no I guess the goal wasn't to end the program. I don't think there's no sense from the council that that's what we need to have happen. But we is a value in the program but we've seep a burden in how it's been administrated. I agree with councilmember Pyle that it's not a huge number of people. We have the ability to figure out how the best way to do the reconciliation in a manner that's efficient in a relatively short period of time. You know, I think we're starting to realize that it's impossible with the cut in city services and resources to do more with less, we have less people to do it. And we're going to have to find a way especially for programs like this which I think are very valuable to ensure that we can maintain the value of having employees that are willing to serve. You know I think that we should certainly not do anything to discourage anyone that's part of the reserves to serve. And I think that by putting any time limits and all that on the amount you can serve, certainly the discouragement to do just that. We've had a number of individuals that have served from San José and that have lost their lives. And I think that particularly the fact that number of those that are serving on the police department, they're spending however long they are on duty, in combat, then they come back here and they serve us patrolling our streets. So you're talking about a full time service to our nation and to our city. These are people that certainly should be -- should be given every opportunity to serve in both capacities, and I think we should be cognizant of the strain it causes. But you know I think at some point economic constraints or deficit issues and cutbacks, at some point there's a limit to how much that should shirk our responsibility to our community and to our employees and certainly to those men and women that serve. And I don't think -- I'm certainly going to support the memorandum and the amendments I signed along with councilmember constant. I don't think we're making them whole by doing this. We're making them whole financially. But you can never give back the time that they missed from their families. You never give back the anguish they endure whether it's emotional or physical. So this is making sure they don't lose their house and making sure that they can take care of their kids, that's what this is about. And the extra burdens that they take, they take those on individually and wholly on themselves, and we should be thankful to them for that.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I just had a question about page 9 of the report, Sharon. Refers to the -- IRP federal program that exists. What struck me was that no city employees have taken advantage of the program to date. And I think we all agree that we certainly want, we have a differential pay program because we want to do right by the men and women who serve in our military particularly at a time like this with the world as uncertain and war as it is. What I'm concerned about is that clearly, the federal government could be picking up the tab, rather than the city and we all know from recent events the federal government is not exactly on easy street but certainly they're printing money and we're not. So the question I had is, did it occur to you or anybody at HR, or did you explore whether or not we could actually require reservists simply to apply to the federal program if they are in fact eligible so that the federal government could take the burden and also the paperwork?

>> Sharon Erickson: Let me take the first stab at that, and maybe somebody who knows more about the program than I do, could explain it. It is my understanding the federal program is less generous than the San José program and that they are kind of -- at least the federal program is kind of mutually exclusive of the San José program. So if the feds know that San José is there to make this person whole, we can't have -- they are not going to pick up the first portion of the pay.

>> Councilmember Liccardo: Oh, so in other words, we can't add mezzanine levels of --

>> Sharon Erickson: If we know that they're adding on to the federal benefit, they are not going to offer the federal benefit because you're already over the income limit.

>> Councilmember Liccardo: Okay, so in other words, we couldn't have a reservist getting the federal benefit and then paying them a differential that's less generous than what we'd be offering?

>> Sharon Erickson: No, but I'm hoping that a reservist smarter than me can figure out how to do it.

>> Councilmember Liccardo: Okay. Scott.

>> Scott Johnson: Councilmember, one option that you may consider is that if we did require that they participate in the federal program, and it wasn't -- it didn't get them to become whole, the city would consider that income as part of the reconciliation process, to make them whole. So we wouldn't fund the whole amount. The federal government would pay part and then the city would pay a portion.

>> Councilmember Constant: Sam, if I could jump in here if you don't mind.

>> Councilmember Liccardo: Yes.

>> Councilmember Constant: I think what Scott is saying is actually contained in the memorandum under item 3E. But I think if what I'm hearing you say, perhaps during this 90 day period, that's something that we can explore as well, is can the programs be integrated together, or can we make any requirements. And I'm more than happy to add that extra little step. And maybe we can have some of our reservists help us out on that to find out if there is a way that we can do that.

>> Councilmember Liccardo: I would appreciate it if you would incorporate it I would appreciate that, councilmember. I'm not sure how to reconcile what Scott said with what Sharon said. They seem to be saying slightly different things. If you guys figure it out I'm all good with that. Okay, thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. May I just offer a suggestion to staff or someone in the organization. I know that we have multiple employees that oversee the prevailing wage contracts. And maybe it would be in their purview to have that background to oversee something else, in addition to that. I would see this frankly as more important than that at this point in time. So I would offer that as a suggestion, since we have a lack of people with flush bandwidth. The other item Scott just purely as a suggestion. If we just switch to a payroll system that was the 15th and the 30th versus every two weeks would that save some amount of money, cost savings, anything? So 24 checks a year instead of 26 as in most other private companies?

>> Scott Johnson: Councilmember, I'm not sure that would but we are in the process of developing an RFP to either upgrade our system or replace it. So that's something that we could potentially look at. I imagine it might be subject to meet-and-confer as well so maybe Alex may want to speak on that as well.

>> Councilmember Oliverio: You're saying switching paychecks from every two weeks to 15th to the 30th would create a meet-and-confer issue?

>> Alex Gurza: Yes, it may. We'd have to explore that further but it could.

>> Councilmember Oliverio: But do you understand anyone listening to that conversation would find that incredibly silly? I want to bring that observation to everyone listening, it's incredible. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Thank you for the report. I do have a question about your research on this. And did you find other cities, either in the state or nationally, that are providing this program similar to this?

>> Yeah, Jasmine LeBlanc from the City Auditor's offers. We are not out in left field. This is something that many other government jurisdictions provide. We do go beyond kind of average. Typically, these programs will run only for the first 12 months or so of a person's tour. And then once they're in the 13th month, they would just be getting their military pay and no other pay from their employer. But that was the biggest difference, I'd say, between our program and anyone else's.

>> Councilmember Rocha: Thank you. And as far as the impact on our staffing, you spoke do it briefly here. Would you expand a little bit on that? I mean are you filling that with overtime or filling that with other

employees picking up that workload, you didn't share that this is in your mind a significant concern of yours. So can I assume that that's the case?

>> Scott Johnson: Sure, councilmember, we used to have a dedicated staff that worked on this program. But because of the budget impacts we no longer have that. So our existing payroll staff works on this, time permitting --

>> Councilmember Rocha: I'm sorry Scott I meant more of the positions that are not filled due to the reservist. Not on our processing side.

>> Scott Johnson: Okay, sure.

>> Councilmember Rocha: Sorry, Scott.

>> Sharon Erickson: We did find that at one time eight people are out on leave, six of those are in the police department. My concern, quite honestly, was hearing that those -- that the department is simply running short. And so the question is, what is happening with that money? Is there a way, as we're cutting those levels, say, of police services, is there a way that the department doesn't just de facto take on the burden for that, we somehow take that into consideration. So it's a question of how many people do you think you have patrolling the streets, versus how many do you really have? We did not, as part of this audit, investigate how we could better budget for that. But I think that's the issue that's been expressed by at least a couple of councilmembers.

>> Councilmember Rocha: I guess from the City Manager's point of view I haven't heard from your department that you consider these impacts significant enough to have a concern.

>> City Manager Figone: Actually, it hasn't really surfaced to my level. But as I've thought about it, I do think, and I mentioned this to councilmember constant, we are going to have to take a look, case-by-case, if we are going to -- if we should just accommodate the department and budget by back filling depending on the

circumstances. Because when you take a look at how thin we are now, there's really no excess capacity in the system that maybe you could have absorbed this a little easier in the past. And when you consider disability leaves, you know coupled with military leaves and these conflicts are going on longer than you know maybe they had in the past I do think we possibly will need to backfill.

>> Councilmember Rocha: Okay. I happened to be working with a councilmember back in 2001 when we configuration considered this item so I do have a little history on it and I want to thank councilmember constant for his work and leadership on this issue. The memo you did was very thorough and thank you for your time on this. I do have a question for you if you don't mind. And that is, looking at the recommendations on item -- well I guess what I was hoping to understand is, the issue of establishing the time limit for cumulative military service or the tours. And I didn't -- you suggest accepting the City Auditor's report and there's a recommendation in there about that, considering that. Do you see that being discussed in the Public Safety committee or is that something you think you are not going to support?

>> Councilmember Constant: I do not believe there should be a time limit.

>> Councilmember Rocha: Okay.

>> Councilmember Constant: Unless we can put a time limit on our wars and our deployments, I don't think we should put a time limit on our programs.

>> Councilmember Rocha: Speaking back to the point I made earlier, when we did first consider this, and when I was here, the intent of course at the time was to provide for that particular action and the extended wars I guess you can call them or the occupations I guess you could refer to them. I'm not going to go down that path. Assuming looking backwards that wasn't really considered that's a difference I guess in the way we're viewing it now. And I do support the recommendation and the work you're doing so thank you. I just want to ask these questions as the representative of the city council. I have to ask those questions and bringing it back to the city so thank you for your time.

>> Mayor Reed: We'll take the public testimony on this. There are a few people who wish to speak. Come down when I call your name. Jim Unland. Ross Signorino, David Wall, Richard McCoy.

>> Mayor, councilmembers, good afternoon, I'm Jim unland from the POA. According to department records we have 41 reserves, three are currently deployed overseas. I want to thank councilmember constant for his work on this issue. Further I want to thank all of the council for your continued support for the men and women who finally served our city. I do take exception with the inference in the auditor's report that somehow those participants in this program are motivated by monetary reasons. They're not. They're easier ways to make an extra buck than by risking your life in Afghanistan or Iraq. I heard concerns raised over the unintended consequences of councilmember constant's memo. I didn't hear any concerns to the unintended consequences of implementing the recommendations in the auditor's report. That's telling to me. Lastly I want to thank all of the reserves, including the 41 police officers, for their unselfish service to their country. Thanks.

>> Mayor Reed: Ross Signorino.

>> Thank you, Mr. Mayor. Many times I wanted to speak on this subject but I would seem unpatriotic. Listening to you, Mr. Mayor, this morning on radio, on KLIV, you mentioned that this program is only costing about \$200,000, which is good. I don't think it's all that much. I think you're correct in saying that that is affordable in spite of the economic conditions that we're going through. But here, I hear the audience speaking that this program cost just as much to implement it as it cost to have the thing. So you have to wonder, to all this conversation I hear up here and you're looking for simplicity, I don't think you're going to get any simplicity out of this thing. I think it's just going to go on and on and on. And I remember there was such a mixup that there were overpaid veterans, they were overpaid, they had to return that and they couldn't afford that. Our city called New York City how they are handling and they said the same thing we said. You have to return that money because it's not legal to give away taxpayers' money. That was the interpretation and that was settled at the time. Now I understand too that you want to continue this program and you have to think too that other people that are fighting for their country in these wars, over there, they don't get all this supplemental pay, and yet they are doing the job at the same

time. Now I don't begrudge these people getting this extra money or supplementing their pay, I think it's good. But at the same time, we have to be practical about things, practicality must govern our judgment in these things. Thank you.

>> Mayor Reed: David Wall.

>> David Wall: With the sedative qualities of today's report, and banter, the only reason I'm not asleep is it's actually irritational. I have seen more knives stuck in the back of our troops today, with the rhetoric, than any amount on the battle field. Make it real simple. Real accounting, real simple. Put a little gold star next to those that are serving our country. That's your accounting mechanism. Then you pay them full pay, full benefits. And send them with a very thank you from a very grateful city that the rest of you that are sitting here including myself aren't put in harm's way so I could witness you and how you waste money and comment, as a citizen, to correct the matter while they defend the whole process. As to the issue of gifting public moneys, with this paying their full benefit and salaries in addition to the military wage, let's link it to and let's be really innovative here since we're Silicon Valley, let's calling it continuing education unit in how to do their jobs. Most of what I've heard today is from the police department. So they're enforcing the law somewhere, they're learning how to be a better cop serving our nation. So it's not, it's like going to conferences. How many of you take time off to go to conferences? Well, the number is legion. So let's just go back to the basic of a grateful city to a grateful nation. Pay our troops full salary, full benefits, full seniority and not worry about nickel and diming them as they tie real substantial knife in the back. Thank you.

>> Mayor Reed: Richard McCoy and then Brian Christian.

>> Good afternoon, mayor and city council members. I'm here today representing many of the veterans groups here in San José and I wish to speak in support of councilmember constant's motion. Many of you on the council are veterans and are aware of some of the issues that we faced. I remember back in 1968, when I was working as an engineer in the valley for the grand sum of \$20,000 a year, suddenly got drafted and got put down to a satisfactorily \$68 a month. At the time I had car debts, mastercard payments, furniture payments, other payments

and could not make the payments on the \$68 a month. Fortunately I was covered under the soldiers and sailors relief act which relieved me of temporary obligations while I served my country. However it didn't stop them from sending me collection letters when I was in my hooch over in Vietnam though from HFC. But upon my discharge all my obligations became due again and within 30 days I had my car repossessed as I went back to work, but I was able to take care of that. So having that burden of worrying about what's happening back at the home front, your obligations your family your children your debts is the least thing you need to worry about when somebody's shooting at you, you need to focus on what you're doing. So while I commend the city on its program to assist the activity military duty I also want to strongly recommend that they do whatever they can to relief the burden off the troops, to keep their mind focused on defending this country and not worry about what's happening back home. So again I would suggestion and hope you would support councilman constant's motion.

>> Mayor Reed: Brian Christian.

>> Mr. Mayor, ladies and gentlemen, I am now a retired military reservist, 28 years and I work for the police department, still full time. Mr. Mayor, I addressed the city council be when you were a city council member many years ago and I thanked you at that time for what the city council was doing and I can tell you that we certainly appreciate it. As has been noted by Mr. Constant, there are the problems that have continued to go look. I appreciate your work on that and I think it really reinforced some of the other issues that we have. Before we go any further I want to thank Councilmember Kalra, I think you hit the nail on the head with your comments. Nobody does this to make money, nobody does this to get ahead. The best we can hope for we don't have our homes repossessed and our families leave us, the city council recognized this many, many years ago, and your efforts to address this have been really appreciated. I have since spoken to -- let me back to a couple, last week or so I've spoke to several military reservists and talked to them about the memo that councilmember constant has come up here. And each and every one of them has said that they really wish this program, as presented now, was in effect when they were deployed. Because the biggest issue, over and over again, is the reconciliation at the end. So whatever we can do, whatever can you do, to streamline that, is going to be really, really appreciated. And I've sat with the city administration, going back a number of years now to try to get some of the issues straightened out. I thought I retired in '06 I'd never have to discuss this issue again but lo and behold here I

am. Again I want to thank all of you for keeping an open mind and doing the right thing for the folks and I can tell you I appreciate it and I know they appreciate it. Thank you.

>> Mayor Reed: That concludes the public testimony. I had a couple of questions on the audit, page 7, exhibit 1, overall military leave costs. So 8 through 10. I just want to make sure I understand the data because I was already quoted from what I said this morning about this costing us around \$200,000 a year. I'm taking that from Exhibit 1 that shows an average annual cost of \$355,000, except \$155,000 is mandated by the state. I take our policy as adding a couple hundred dollars a year to cost.

>> Sharon Erickson: Correct.

>> Mayor Reed: The other thing is I'm not alarmed about the number of reservists we might have. Every reservist in the world has been called up multiple times over the last decade. I think we know who they are. 41 was Jim unland's number. If somebody hasn't already been called up that's shocking. I know the reserves and the guard have been heavily leaned on by the country and so I don't think we have hundreds more that we haven't heard of. We might have a couple and my guess is the numbers of shrinking. Because being in the reserve and being in the guard is hard. It is extremely difficult to do that and the people who serve are really paying a heavy burden for the country. The numbers ever reservists are shrinking not growing. I do want to say that I am supporting the direction of the memorandum. We are trying to make this revenue neutral. We are not trying to overpay people, we're not trying to underpay people. I know it's been a tremendous effort to try to get to the right number. And part of what I think we should do in this process is to give you a little more leeway. I don't need to get it to the last nickel. This is an area where close enough is close enough, and it's almost responsible to reconcile all of the military things and all of the deployments and all of the variables to get it down to exactly the right number. And it's like the last 1% is very costly to get to. So think about that as you're going through it and simplifying this, let's not make it so hard for ourselves. If we overpay somebody a little bit, fine. If they're willing to be underpaid a little bit, fine. I think that would just give you guys a little more latitude in the work that you do to do it right, to get in the ballpark. But that last nickel can be awfully expensive to nail down which direction it needs to go. And finally, I do want to thank the men and women of the city who have served in garden reserve. We the city

benefit from that know not just because we're part of the country and it's a sacrifice we can make on behalf of the country. But these folks bring back great skills, great talent, we are good for the city, it helps enhance our own forces especially in the police department. So want to thank the men and women who do this. I know it's very difficult and it's hard to believe that some places will pay for 12 months but not the 13th month of the deployment. Does anybody realize how long 13 months is to be away from your family and in the last month you got to take a pay cut? That's just hard to believe that. Fortunately the army is now going back to nine-month deployments. So they say, we'll see. I hope it does because 13 months is a long way to be away from your family in some very difficult conditions. Not that everyone goes overseas but many of them do. Councilmember constant.

>> Councilmember Constant: Thank you mayor, I want to thank you for pointing out that chart on page 7. I think to note not only is it only \$200,000, but as a result of the auditor's recommendations and the council's action, assuming we approve it, it will be reduced by \$109,000 on top of that because of the retirement contribution. So we're talking about a program that's really about \$100,000 a year. So it's really, really a small price to pay for the enormous benefit we get by having these men and women fight for our country. And as you indicated come back with increased talent and expertise that they can bring to their job. I hope that everyone can support it. It sounds like from what I've heard from everyone and I wanted to reiterate that my intent was to make sure that not only the reservists were kept whole open the event that they were underpaid by the military, and that the city is kept whole in the event that they are paid more than they make here at the city by the military. I think that we're getting really close to getting that, and I look forward to the next 90 days, thanks.

>> Mayor Reed: I think that concludes our discussion. We have a motion on the floor. On the motion, all in favor? Opposed none opposed, that motion carries. Thank you staff. Good work and thank you to the men and women of our city who serve in the guard and reserves. We now have item 8.1 left on the business agenda, that's a memorandum of understanding with the city and county of San Francisco for the 2010 Bay Area urban area security initiative grant allocation. I have no cards from the public, no requests to speak. Motion to approve the item. Councilmember Liccardo.

>> Councilmember Liccardo: Sorry to halt the train. As we were just about to arrive at the station. But I just had a quick question about San José's share, did some quick math here. As I understand it, if you took the ten-county area, San José has somewhere around 13, 14% of the population, and we're getting about 3% of the region's funding. And I'm wondering why the discrepancy.

>> First of all, I'm Dave Honda acting deputy chief of the bureau of technical services. And with me is Melanie Jimenez, who is our UASI planner. I actually will turn it over to her to answer that question.

>> What you see is just the allocation for the city. And the way that the money is kind of split up is that off the top, all of the core cities, so that San José Oakland and San Francisco, are given \$1 million. Kind of to do with as they see fit, within the UASI guidelines. And everything else that goes through the region has to go through a competitive process. And the way that the federal guidelines work, the projects that receive the funding are really the regional initiatives. Projects that are not city specific. We are still receiving benefits from the other projects but it's not coming to the City of San José. For example our bomb courses that we teach for whole region are not included in this allocation because it comes from the larger pot.

>> Councilmember Liccardo: Thank you Melanie, it's very helpful. Are those regional projects are they typically county wide or broader?

>> They go broader than that now. We had started with county wide but they want you now to be including at least your hub which is composed of at least three coins.

>> Councilmember Liccardo: Thank you, very reassuring.

>> Mayor Reed: This is another piece of good news around UASI. I know we have had a lot of controversy around the UASI and some of the grant proposals but we have that I think well under control. That we have a new joint powers authority agreement in place, Bay Area-wide, that will be a vehicle for managing a lot of the larger funds that could come through from the federal government with new leadership at UASI and changes there, as

well. So I think we're on the right track and this is just a very small piece of all the things that need to be done but it's always good to get money. Nothing -- nothing bad about that at this point. So I want to thank the staff for putting this together and we've got a nice list of things that we'll spend it on. There's never a shortage of things to spend it on. It's always difficult to get the money and this is one of the cases we're getting the money. We do want to thank the federal government because these are federal funds and thank the representative in Washington to make sure the Bay Area gets an allocation of Homeland Security fund and we appreciate that. I have no cards to speak on this, right? I get a motion? I got a motion. On the motion, all in favor, opposed, none opposed, that's approved. Taking us to open forum. Last item on the agenda. Mr. Wall.

>> David Wall: There are two items I'd like speak on open forum. First this is your generic boilerplate open forum. Okay? First page, I'll just quote. Quote, you may speak to the city council about any item that is on this agenda, and we'll just put a quote around that portion. Mr. Mayor did you get a card for me for item number 3.1 today.

>> Mayor Reed: That was the City Manager's report, if you want to speak to that now is the time.

>> David Wall: No, Mr. Mayor, 3.1 is already passed.

>> Mayor Reed: You're welcome to speak to it.

>> David Wall: This is open forum do I get an extension of my time?

>> Mayor Reed: No.

>> David Wall: Very well, then we'll talk about another issue pertaining to the City Manager's report that was somewhat absent. The three senior directors of our departments have left, such as the finance director, director of environmental services, and the assistant chief of the San José police, which indicates the organization is in flux. Primarily, for a variety of reasons, Mr. Mayor, but let's talk about the sick leave buy-out policy and with

revenues to a benefit conferred upon our honorable City Manager which she's entitled to every penny thereof, with reference to when that sick leave policy buy-out kicks in, as far as being the last day you can cash in on it. No Mr. Mayor, you've indicated that sick leave buyout policy applies to every city employee. So as of one second pass midnight on January 1st, 2012, if the City Manager hasn't retired by then or if you don't have any other deal in the process, and she hasn't retired, she'll lose over \$100,000 in sick leave buyout. So I have to ask, is the City Manager going to retire on or before December 31st, 2011 with a notification of no later than November 2nd at midnight, thank you.

>> Mayor Reed: Ross Signorino and then Michael McDuffy.

>> Ross Signorino: Mr. Mayor, I have three items that I want to mention on the open forum. I want to talk about the airport for a moment, how much you charge for carts there. For people to put their baggage on and try to get around the airport, you charge \$4. Other places in the country, airports charge nothing. Now, if you want to charge \$1, that's not too bad. But \$4, that's a little be bit outrageous. That's really gouging the people. The second thing I want to speak on too is those dreaded words you hear from the mayor, sorry your time is up. On KLIV on the public comment, Bob keys mentioned the mayor should give mention how long people have to speak maybe two three days ahead of time. It's already marked how much time you're going to have. Those are not dread words, they're good words, sorry your time is up because it's redundant anyway. Have good Mr. Mayor. Then the other thing too Mr. Mayor, is this: That Forbes magazine said that San José is the most geek city in the United States. I don't know what geek means, but that's what they said, anyway. Thank you.

>> Mayor Reed: Whatever it means, it was good, Ross. So Michael McDuffy.

>> Councilmember Constant: I just want to say, good to see you, Ross. It's been a while.

>> Mr. Mayor, council I've been here before. Same topic. The street sweeping operation of the Seven Trees shopping plaza owned by gold touch incorporated, LLC out of Los Altos, I've come to finds out yesterday by my diligent research into the matter insofar as I hope you all had a good night sleep last night and for the past year

and a half, I have not. I have been disturbed every night, both as -- I call it an assault on my whole body. Because I'm subjected to the noise, which causes my tympanic membrane to vibrate and all the 27 bones inside my ear that lead to my brain through a nerve, causing me to wake up in a terrible state of mind. I call the police, and two night -- well I know last night, not last night but the night before, which was the 8th, Sergeant Millikan told me not to call 311 again about this matter, or any matter, for that record. I've had two positive verifications by Sergeant Alfonso that were supposedly related to code enforcement, I have not heard from code enforcement about what the status is. I know that the noise continues unabated. I wish it would stop. I know that you guys, if do you receive a good night's sleep, I appreciate that you do. I happen to live in a neighborhood where my neighbors are not good neighbors. I'm talking about gold touch incorporated. That's all I have to say.

>> Mayor Reed: That concludes the open forum, that concludes the business of this meeting, we're adjourned.