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>> Councilmember Nguyen: At this time I'd like to call the public safety, finance and strategic support committee to order. We'll start item B, the work plan.

>> Thank you, Madam Chair. I did want to highlight a couple of changes that we'd like to propose, for today's meeting. The first is, we need to request sunshine waivers for two items. D-7 is the -- there is a replacement report as well as the original report regarding the city's executive home loan. This report went out last Friday. The replacement report went out yesterday. So we need a sunshine waiver on that one. The second is the administration's response to Item D-9, the card room audit, we distributed that report on Monday.

>> Councilmember Nguyen: Okay, is that okay with committee members, sunshine waiver on both items?

>> Councilmember Oliverio: Do we need a motion to waive sunshine?

>> Councilmember Nguyen: Okay we have a motion and second to waive sunshine. All those in favor, opposed, hearing none, motion carries.

>> Deanna Santana: And the next item under review of the work plan, I'd like to suggest just to balance out today's meeting, D-1, 4, 5 and 6 are routine items. Shall I start over? I'd like to suggest D-1, D-4, D-5 and D-6 are routine items that we would normally put on consent calendar. I do have our budget director wanting to cover one slide under item D-4, so we would suggest those items be heard as part of the -- heard and approved by the committee as part of the consent calendar.

>> Councilmember Constant: What did you say, one --

>> Councilmember Nguyen: 1, 4, 5 and 6.

>> Councilmember Constant: So I make a motion that we approve item C-1, D-1, D-4, 5 and 6.

>> Councilmember Oliverio: Second.

>> Deanna Santana: So I'll call Jennifer just up to review the one slide that she wanted to bring to our attention.

>> Jennifer Maguire: Good afternoon, Jennifer Maguire, budget director. In our most recent monthly financial report, I did want to highlight our sales tax numbers and show you where I think we've got some sales tax revenue risk of meeting our projections for this fiscal year, which would have an impact on the '10-11 fiscal year and what strategies we have in place to mitigate any risks in that regard. Our most recent quarter, which we did receive in March, was for the October through December sales tax period. We were down 5.3%, so we had decline in our sales tax. That was actually better than we thought it was going to be. We thought it was going to decline more like 10%. All sectors were down with the exception of transportation, and our miscellaneous category. The cash for clunkers actually improved our new auto sales tax collections. Overall for the entire fiscal year we are budgeted to be down about 5%. For the first half of the year we're down about 9.2%. Which means that we need to have growth in our next two quarters, which is the half of the fiscal year growth of about 4.5% to meet our budget estimate. The lack of improvement in our economic conditions makes me concerned about that growth level, although that growth level is -- we are comparing to extremely poor performing quarters in the prior fiscal year. They were down 28, 29%. So I do believe our sales tax revenues are at risk of meeting their estimate. I'm cautiously assuming we'll make our revenue estimate, but I need to have a backup strategy to recommend to you all, if they don't meet our revenue estimate. Up on the slide we have some scenarios of what the revenue shortfall ranges could look like, just in this current fiscal year of '9-10. So if we remained flat over last fiscal year, for the second half of the fiscal year, we would be short 2.1 million. You can see the other numbers ranging, if we had a 10% decrease or basically experienced about the same level of experience from the first half of the fiscal year we could be short in our revenues almost \$7 million. There is a carryover effect to our next fiscal year based on our final collections this year, because we are assuming some small growth of about 2% in our revenue projections that we put forth in our forecast document in February. We do have our economic uncertainty reserve. It stands at \$5.5 million right now. We had to use our economic uncertainty reserve last year when sales tax revenues fell in June. We cut some expenditures in our annual report along with using a little small additional amount of fund balance. We put it back up to \$10 million in September. We had to use it again from overall revenues not

performing correctly as part of our major review, why we stand at \$5.5 million right now. I believe we're going to get some one-time revenues in the remainder part of the fiscal year. We will be bringing a recommendation to increase this economic uncertainty reserve probably as close as we can get to the \$10 million level that hopefully could handle any revenue shortfall this fiscal year as well as any carryover effects into next fiscal year. So I just wanted to make you aware of that. Overall, our revenues are just barely making the overall revenue estimate in the General Fund. Our expenditures are having difficulties staying within appropriations. A lot of it is going to be related to sick leave payments upon retirement cashouts, they're running higher because we have a higher level of retirements, and our vacancies again -- vacancies in this organization are still low. We -- more people retire, we get more vacancies. But we're having -- we're having difficulties achieving our fund balance estimate that we're assuming and carrying over. So I think we can make it, but it's not expected to be really it's going to be -- very close from my perspective. So I just wanted to give you a quick run down on our sales tax and the strategies that, if we do not make this growth, what the impacts could potentially be.

>> Councilmember Nguyen: Thank you, Jennifer. Councilmember Constant.

>> Councilmember Constant: Just want to kind of continue a comment I have if every time we have this discussion about the cash balances. It's in the second half of the report from the finance department on their page 1. And I know over a year ago when we first experienced a drop in cash balances, I asked and we talked about the impact of the one-time contributions to the pension funds, versus the monthly or payroll period contributions. And you can clearly see, in last year, that there was a rebound after that and it started to creep back up but it really didn't close the gap, so to speak. And when you look at this year, there's not that pronounced drop because we realized that drop last year. So the cash balances start out extremely low. In fact, \$140 million below the previous year. And we're currently tracking at least as far as February, at \$80 million lower and declining. So I was really concerned when I saw the box over November, when our cash balances hit significantly below \$30 million. Which is almost ready to fall off the chart. So I just think that we have to continue to make sure that that's a number that is discussed. I know you have it very in the forefront of your mind, and we talk about it, but I think it's very important that the public and everybody else pay as much attention as you are because I think that's a significant sign of weakness.

>> Jennifer Maguire: Agreed, and the finance director and I as I said are really watching this number. Besides the prepayment of our retirement that caused a lot of the decline, our revenues are just not performing like they have in the past, and we've used up reserves that just -- so the cash is not as in place as it has been in the past. So your concerns are well noted.

>> Councilmember Nguyen: Councilmember Oliverio.

>> Councilmember Oliverio: So in summation, words of caution but the end the deficit is approximately still the same?

>> Jennifer Maguire: That's -- yes, the deficit is still look at \$116 million with the data I have in place today so we bring forward the proposed budget you shouldn't see any change to that.

>> Councilmember Oliverio: And as far as the sales tax revenue the next reporting time is after the balancing of the budget?

>> Jennifer Maguire: About the third week in June is when we get that, and that's due to the state reporting requirements.

>> Councilmember Oliverio: I understand, it's the state, it's not us, that's just how it reports out. So the third week of June, so when we make the vote on the final --

>> Jennifer Maguire: We get the following information in September, but we need to accrue those revenues back to the proper fiscal year. So we have to accrue an estimate if you will and then we true it up with the following fiscal year when we come see you in the annual report.

>> Councilmember Oliverio: Suffice it to say by the time we vote, the council votes on the final adoption of the mayor's budget, we should know that sales tax number.

>> Jennifer Maguire: You should know that sales tax number, and that's why it's so important to have these reserves set aside. To not have to cut deeper in the organization, if we can soften the blow with some reserves to buy us time to figure out how to rebalance any ongoing effects, I find that to be a prudent measure.

>> Councilmember Oliverio: Thank you, budget director.

>> Jennifer Maguire: Okay.

>> Councilmember Nguyen: Thank you, I believe we had a motion and second to approve the budget item. All in favor, opposed, that motion carries. Thank you. We will now move down to item 9. It was requested by the City Manager's office to hear this item first, audit of the City's licensing and permitting of card room owners and employees.

>> Sharon Erickson: Madam Chair, members of the committee, you have before you our audit of the city's licensing and permitting of card room owners and employees. What the audit looked at was the City's process for regulating card rooms. However, pursuant to the city's request in 2009 we focused on the City's licensing and permitting of card room owners and employees. The San José police department's division of gaming control, which I'll call the DGC, also has other functions such as promulgating regulations on how card rooms are to operate, auditing card room revenue, checking to make sure that card rooms follow the rules. We did not review those aspects of the DGC's program in this audit. I wanted to note that in January my office issued an audit of civilianization opportunities in the police department, and as part of that review my office recommended that four sworn positions, four sworn positions for civilianization. There's a potential \$258,000 savings from that recommendation. The unit, the DGC, is comprised of seven total full time employees. Licenses are required for owners and key employees, those licenses are good for three years. Permits are required for line employees like dealers. Those permits are good for four years. We had two findings in this report. The first is that we found that the City's licensing process for key employees and owners is overly rigorous and should be redesigned. The city investigates the qualifications of individuals who Bligh apply for gaming licenses both owners and key employees by doing background investigations. However, the city currently has a backlog of 49 license investigations. At its current rate of completing about two licensing investigations per year, it would take the DGC about 21 years to clear the backlog. The DGC's investigations are extremely rigorous and delve into financial and personal details of an applicant. San José routinely requests ten years of financial data, where the state of California for similar function requests three years. Compared to the state of California, the city takes four times longer, and costs significantly more. In our opinion, simply hiring staff to clear the backlog does not address the core problem which is the investigation process that needs to be more efficient, and that costs should be more transparent. Furthermore, there's a potential duplication in effort between the state of California and the city, in these background investigations. The state also licenses San José owners and key employees and does background investigations of each applicant. Were the city to give up key employee license investigations, it could clear the current backlog and allow staff to even further focus on other regulatory activities. Staff currently spends about 32% of their time on licensing and permits. When employees work in card rooms on temporary licenses, the city is in effect relying on the state's licenses until their own process is completed. Some employees in card rooms have been working on temporary or provisional licenses since 2001. I did want to say that the state key employee investigations generally take about 60 days is what we're understanding, plus the commission action, with the exception of unusually complex cases. We made the following recommendations to improve and redesign the City's licensing process: The first was to retain the City's licensing of card room owners and propose amendments to title 16 to require and rely solely on the State's key employee license for issuing a San José key employee license. Thereby reducing the DGC's workload while preserving the City's ability to impose conditions on licensees including the ability to retract the license based on a key employee's violation of title 16. We believe these revisions, we're recommending these revisions of should apply to all new pending and incomplete license investigation. The second recommendation is to abide by the title 16 guideline that license investigations should be completed within 180 days. And develop clear written guidelines for when investigations can extend beyond that time. These revisions should, again, apply to all new, pending and incomplete license investigations. The third recommendation is, to better -- that to better manage its backlog of pending license investigations, the DGC should redesign its background investigations to provide clear guidance, on the desired scope of the licensing

process, to be more limited in that scope, and to track and report on the status and cost of pending and incomplete license investigation through an annual report that it already prepares to the city council. The fourth recommendation is to implement procedures to track costs and times for each licensing review, and provide an itemized accounting of those things. In addition, card room table fees cover the cost of regulation, and the city calculates table fees by using DGC costs and dividing by the total number of card tables. For 2009-10 the table fees were \$25,527 per table, which is already higher than all but one of the jurisdictions we surveyed. We found that the city had a \$161,000 encumbrance in the DGC, it was carried over from 2000-'03. According to the administration they've spent \$60,000 of that amount to purchase equipment for the permitting side of the operation. We did find some minor errors in the calculation of overhead and recommended some changes there. We did make one recommendation to address the fund encumbrance and that is that the DGC should liquidate the encumbrance that is in the DGC's fund and use the funds to offset DGC cost. Our second finding related to the work permitting process, we found that the City's processing of work permits is slow and is not customer oriented. The current work permitting process often takes more than a month to issue. The city requires that card room employees all have a work permit, before going to work in one of the card rooms. To obtain a permit, applicants pay a fee, must be finger printed and the city does a criminal background check. However, we found that the applicants under the current system are only able to make appointments to do this on one day a month. On average it took each employee about 27 working days or 36 calendar days to get a work permit even though the guideline is 21 -- is 20 days. Renewals took even longer. On average it was taking 47 days to process a renewal. Now the DGC has recently made attempts to streamline the permitting process. In April 2009 the DGC did a pilot project in which they had applicants come to the DGC to apply for work permits. This saved the applicant some time because the applicant only had to stop at one city department rather than three, the permits unit, the fingerprint unit, and the DGC. However, the DGC was directed to discontinue this pilot project because of a concern about the way permit fees were being collected. We found that other California jurisdictions actually rely, many of them on the state at least 18 of them I should say on the state to process employee work permits. State of California permit, work permits are portable, San José's permits are transferable within the city but are not portable with outside of the city. We made one recommendation to improve the work permitting process. And this was a two-parter. Either to propose revisions to title 16 to discontinue the City's permitting function and to accept state issued portable gaming work permits or, to process work permits within the DGC rather than in the permits unit of the police department. However, if the administration chooses to process work permits within the DGC we have some recommendations. We do recommend that the DGC continue to streamline and develop a work permitting approval and renewal process that strictly abide by the title 16 guidelines to issue work permits within 20 work days and that the administration analyze the cost recovery status of work permit fees. In the course of this audit, we did not make judgment, any judgments on the determination that the DGC has made. We only looked at the process. I want to thank the DGC, the card rooms, Gitanjali Mandrekar, Diana Chavez, and Steve Hendrikson from my office, who worked on this project. The administration's response was distributed under separate cover under Friday, April 9th, and I'm sure the administration would like the make some comments.

>> Deanna Santana: Thank you for the opportunity to provide a response to the City Auditor's audit. I also want to thank the City Auditor's office for completing this audit as well as the card rooms for participating in this review. By review of the administration's response you will find that there is agreement with five of the six recommendations and that we are reserving a position on one because of the desire to have more time to evaluate options. I think that this high level of agreement and all of our recent efforts to address card room concerns as outlined in this report and previously issued report demonstrates we're committed to bringing about the necessary changes with respect to business growth opportunities and with making local licensing and permitting much more efficient. The administration acknowledges that improvement is needed, there is no doubt that this is an issue that we need to focus on, and we need to focus on it in short order. And let me state very clearly today that is what we will do. Where we may differ is in approach. We do need to spend some time evaluating options gathering input talking with the state and understanding the potential impacts to other provisions of title 16. As the audit itself suggests its focus is on licensing and work permits and not on other regulatory functions. This audit serves as a good foundation to drive change with respect to these functions but also to evaluate title 16 provisions in a broader manner. I think that both card rooms are in agreement with the administration that a broader review is needed and should be conducted. Our work over the past year underscores this point. As an example last year we issued two reports to advance structural changes that would have directly enabled greater efficiencies with respect to licensing and permits. Both reports were not considered by the city council one because of the need to evaluate more broadly other issues impacting local gaming. Now in

closing I do want to offer some comments to clarify the administration's position. Our report is unusually lengthy and covers a lot of history and events. I hope that our commitment to make the needed changes have not gotten lost in the length of the report, nor that we have been misunderstood. The intention and purpose for including so much background and is to demonstrate the complexity of title 16. Our title 16 and also our current state of regulation which is directly impacted by past and current events. Title 16 as we know it today is founded on San José's gaming history, legal disputes and agreements as well as city values which can change over time. Our goal was to illustrate that our history shows why San José should be cautious, measured and well changed in bringing about a change. I want to equally acknowledge that our new context is very important towards driving the necessary change. The city and card rooms have worked together collaboratively to address some concerns. More collaboration is needed and each card room has demonstrated a willingness to work with the city to resolve issues. I believe we have a solid foundation to move forward and to afford us the time to evaluate options to be more efficient with respect to licensing and work permits. I'm certainly up for the task. I know the team is up for the task. And with that I'll close and we're certainly available to respond to questions.

>> Councilmember Nguyen: Thank you very much. I do have a couple of questions. First of all let me just thank Sharon and her team for the extraordinary work that really put into this audit. I've learned a great deal just reading through this booklet. So my first question is, going back to why it's taken us -- when an owner or a key employee asks for a permit, and Sharon has alluded to it takes the city looking at ten years of past financial statements and everything else, in order to grant the permit, while the state only require three years, that's like a huge gap. And obviously, that's probably one of the reasons why it takes so long to process these applications and to grant the permit. I was just wondering if staff can speak to that. Because it's a little bit troubling that people want to, you know, get in there, get their permit, get on the job, start working and it's taking this long for us to actually grant the work permit.

>> Deanna Santana: So I'll start by just providing a very broad response and then I'll leave it to Richard or Dan or Carl to add to my comments. In order to understand the current requirements for licensing and permits we need to look at what has put us in our current state of regulation. The San José model is specifically developed from our -- the spectrum report that a consultant provided us in which the council adopted a Nevada New Jersey form of regulation. So the three years for the State of California versus the ten years, the ten years is specifically driven by what was contained in the consultant report. So that's -- that's towards my comments in terms of we need to understand how we got here and we need to understand how we would make change to undo what our current process may be unduly burdensome. I'll pass it over to Richard or Dan if there's any additional comment.

>> Richard Tang, gaming administrator. First of all, let me differentiate the difference between key employees and the ownership license. And I'm making it very broad so instead of going through protracted details I just want to give you requick overview the differences between the two types of licenses. First of all, let's talk with key employees. These are the people that are in critical positions, where they are in charge of all of the gaming operations and you know, the cash transaction and so on, so forth. These people all have either one, a grandfathered, key employees license, and/or a temporary license to work. In other words, they don't have to wait all that time for them to be evaluated for probity through the public investigation before they're allowed to go to work. So people are allowed to go to work almost immediately as soon as a cursory review is done on these applications, okay? That's one type. With respect to the stock ownership licenses, at least one card room has grandfathered most of their stock ownership, meaning that they were allowed to have a license, prior to 1999. And they were allowed to continue working. Now, the new licenses, the new stock ownership licenses, at one of the card rooms, these are brand-new people, they just came in. It took the division six months to get these investigations done. From the time we started until we finished approximately six months' period. So let me put that on the record, first of all. Okay?

>> Councilmember Nguyen: So that the new folks, they have not been grandfathered they do have to wait six months before they can start working?

>> From the time, ma'am, from the time they put in the application, until the time we decided to move forward, to start the licensing until the time they were issued a license it was approximately six months.

>> Councilmember Nguyen: Why does it take us six months to do this background investigation?

>> Because again I want to make it very broad and I just want to give you a real quick overview and that is, this is a suitability examination. We want to make sure that people are of good character, integrity, have the honesty to come and conduct gambling within the City of San José.

>> Councilmember Nguyen: Okay.

>> It must take some time, Councilmember Nguyen, it does take some time to look at the financial records. It does take some time to analyze these financial transactions. We follow the money. It does take time to request information from the third uninterested party such as banks and insurance companies. So all that do take into consideration of time. If we had everything in front of us, then of course, that would be a lot quicker. And there is also one very important thing that I'd like to point out right off the bat is that from 2003 until now there's only one auditor in my division doing that work.

>> Councilmember Nguyen: And how many people do we actually -- does your office actually -- how many milks do you get per month or in the time frame of a couple of months? It just -- I guess I'm very troubled by the fact that you know we have two card rooms. I don't -- I don't think -- maybe it's just my lack of understanding, but I don't think that that many people would you know put in applications to work at these two card rooms. The number is relatively small for us to take that much time to go through the background investigation.

>> There are approximately on an average, we're doing about six to seven key employees concurrently. Investigations by the one auditor. And when I first came in, in 2002, there was a backlog of around 39. So we've been playing catchup ever since.

>> Councilmember Nguyen: I see, okay. Okay. Then thank you, Richard. The other question I had, just two more, part of the staff response was that we're looking out probably to put out an RFQ to hire I guess consultants to look at how we go about making these changes. I was just wondering, can we do some of this stuff in house and we do not have the expertise -- Richard is an expert of this and you've been doing a great job. You know, why are we spending more money to bring in a consultant to continue to do the things that we've already been doing?

>> Again first of all, I would like everybody to know that I am fully committed to make changes. To streamline the entire process. Whether or not we should hire an outside consulting firm to come in and evaluate what we do, I have mixed feelings on that. I mean, I certainly think I can defer that back to Deanna.

>> Deanna Santana: I'd like to -- the City Manager is interested in having a consultant advise her on how to proceed, one, Richard is very busy. The workload over there is clearly backlogged and asking him to dedicate his own personal time and resources, clearly he's an expert. We have an in-house expert who clearly has demonstrated that he knows the business. However in terms of turning the corner, getting us moving forward on the right path we'd like to be advised by an expert in termination of what our options are to move forward, and it's a decision of having a more well rounded out house, in house, card rooms, the state -- talking with -- I shouldn't have said out house. Outside. (inaudible) maybe that, too. Outside, in house, the state, the card rooms participation, we need a more well-rounded sense of input in order to move forward. It is also the acknowledgment that we need to decide where to apply Richard and his expertise. Either to help and keep up with moving the backlog or to help us turn the corner. We're all going to be stretched, but that's okay. We have said very clearly that we would use the consultant on a limited basis, not in a technical manner, but more as an advisory to the City Manager.

>> Councilmember Nguyen: Okay, and then just a final question. In regards to staff response to recommendation 6, where is my page -- I believe so there are two recommendations that the City Auditor proposed, either 1 or 2, and I believe that staff is going with 2 which is to continue the work permits process within the DGC, and staff is going with B. Now, that's staff recommendations but if the committee decides that they wanted to go with 1, that's really up to our authority to do that, is that correct?

>> Deanna Santana: In terms of whether to accept the state issued --

>> Councilmember Nguyen: Right.

>> Deanna Santana: Yes. Let me give some logic why we got to represents B and why we recommend B. Recommendation B is the recommendation we already have put in place. It is the process we use to overcome the backlog for work permits last year. And based on the two previously issued reports, that I referenced in my opening comments, it is the structure that we have reached agreement with the card rooms in terms of processing. It's about a three to four day, I'll ask Richard to correct me if I'm wrong, time period to issue work permits. In fact there is a one stop shop tonight where our DGC will be processing I think in the order of help me here, Richard.

>> It is next Thursday.

>> Deanna Santana: Next Thursday, 45 permit applications. So it's one that we've already tested. We've purchased the equipment for, based on a level of conceptual agreement from the cardrooms and previous discussion, and so it's one that we feel out the door we can immediately implement and address some of the card rooms' concerns.

>> Councilmember Nguyen: Councilmember Constant.

>> Councilmember Constant: Thanks. I'll step out of my usual role and be a little direct today. First I want to say I wasn't surprised at all by the audit because I've had discussions with representatives of the card clubs for quite a while, being that one's in my district, and have had contact with the police department on this issue. And I have to tell you, I have a real problem with the performance of the division of gaming control. Quite frankly, it's completely unacceptable that we can have people waiting five years, in some cases longer, on page 17 of the report you'll see that the average key employee license has been pending for three years. Ten of the 49 backlogged applications which happens to be 20%, have not been -- pending or not processed for five years. If you were to go out in Silicon Valley and do an experience study of the average length of time a person works for a company, all companies across the board, you'd find that most employees would have come and left the company before we even processed their application. We're talking about a service that is completely funded by the people requesting the service. Are it's a cost recovery service, and we have businesses in our city that are paying for a service that simply aren't getting the service. You know, I -- I see the division of gaming control having two very clear and distinct portion. Licensing and regulation. And first, I want to be very clear that I don't think we should give any ground at all on regulation. We have a set of rules. We know that it's important that -- for everybody involved, that those rules are followed and we need to regulate and enforce those regulations. But in the area of licenses I don't feel we're performing at all. We have people who are work on temporary licenses for years, by all -- all the research you do, we've done simply a cursory investigation on them and let them operate. We might as well not even license if we're going to do that. Why license if we don't complete the background? I think the process, the scope of the background, is clearly designed to be something that someone cannot pass that hurdle. I went -- I've done a lot of research on my own, since this report came out. I spent some time on the phone with Norm Pierce, the assistant chief of the licensing section for the state division of gaming control, I went to my banks that I work with to ask them how I would be able to garner the documentation that I would need if I wanted to apply to be a key employee at one of the card clubs today. And I can tell you, I cannot produce the documentation that is required. Banks, I have two banks. Both banks have a purge cycle of seven years. I could not provide you a cancelled check or a contract that I executed seven and a half years ago. It's an impossible hurdle to meet. So it feels to me, when do I this, is we're not finding what we can do to license people. We're doing what we can do to not license people. And I don't think that's the spirit of title 16. Because after all, we need the whole idea of having a license is so that you know about that person that carries the license. So if you can go into a card club and half the staff or more has never had a completed background what service are we providing? Forget the card clubs. What service are we providing to our residents and the customers of the card clubs? When I read the reports, quite frankly, you know, Deanna said we have a high level of agreement. I disagree. I don't think there's a high level of agreement. I think there is a document that says we don't want to necessarily change our licensing process. And I see some blame being laid, you know, that it's the card rooms' fault because they had problems years ago which have all been dealt with through the criminal or civil process. And we have new people in the case of one card club that had really nothing to do with that. We have a list on attachment B of investigations, a summary of investigations during the audit. That has absolutely nothing to do with the licensing process. That's a regulatory function of people not abiding. It doesn't say which one of these people who have open cases have completed backgrounds, and which ones are operating under temporary license? I think that would be something that would be important for us to see. It also doesn't say what is the genesis of these investigations. Were these

investigations started because we had our people, whether it be officers or the Department of Gaming control, out there, and they found these violations? Or these violations that the card clubs found and reported to the division of gaming control as they are required to do by title 16? My understanding is that a significant number of these are a direct result of referrals of card clubs who are actually following our title and doing the work they're supposed to be doing to refer stuff to us for investigation. What's not being followed in our title quite frankly is the 180 days to get something done. I know that the administration's response references the 330 day backlog with the state division but when I talked to Norm Pierce yesterday, he told me that that is taken out of context, and that is not actually an accurate representation of the time line and the backlog that they have. They said -- he said that it is a very small number, that fall into that, and they're really other than permits or specific situations, and most of them are in the 60-day. And there's a huge difference between 60 days and 330 days. So I see a lot of blame in the response saying, it's the card rooms' fault. It's the card rooms' fault when in fact I don't think it is the card rooms' fault. We're just not doing the job that we as a city should be doing. If we want to retain licensing control, which I think we should, then why are we not doing it? It's not like this has been a year or 18 months. This has been years. It goes back to the origination of this unit. Having a one-stop shop next Thursday for 40-something people to come in and start an application means nothing if five years from now most of them don't have their licenses. Why even take the application? And that's what really upsets me about this whole thing. You know, we -- the whole idea of cost recovery, and the spirit of proposition 218, is people pay for a service they receive. And I don't see that happening at all. I think the only way I would be able to support the administration's response, is if we got a clear plan that said, in X number of days, not months, not years, but in X number of days, we can be completely caught up with every licensee and we can guarantee these type of turn arounds. Because my cut reaction, quite frankly when I read the report, the audit report which came out before the administrative report, was why don't we just set a hard target. You have 120 days, and on that 120th day you're issued a license and it is our responsibility as a city to meet that deadline. Or shame on us for not doing it. They're going to work on a temporary permit. You might as well give them the permit and let them go. I think that we have strayed way way off course. And I know I've talked to several people at the police department, I've talked to former people who have worked in the card room detail before the division was created. And many of those people agree with me. It's like, why even have the sham of having a licensing if we're not going to complete it? Now, maybe the state might not do exactly what we want. But there should be no reason that we can't come up with a procedure where the state can take the burden of the background, and we can add onto that and do what we need to do. But I think that quite frankly the question that our chairperson asked about why we needed ten years of documents wasn't answered. I think you skirted the question. Quite frankly, why do you need ten years of documentation? Versus, the IRS only asks for seven, and for God sakes, we're talking about property crimes here. We're not talking about crimes where people are getting hurt or killed. We're talking about property crimes. We can background a person off the street in a matter of two months, make them a police officer, give them a badge and a gun and a baton and a taser and go out there and give them a authority to take a person's life if they deem it necessary but we can't clear someone to go deal a hand of cards or be a security person at a card club? I think it's completely screwed up. So I want to ask very particularly, and directly, what's so magic about ten years? The IRS says seven years. My bank says I can get statements back for seven years. The state says three years. Why ten years, specifically?

>> Absolutely, councilman constant. The ten year was something that when I first came in the City of San José, the application says we can ask back from today until 18 years of age or ten years whichever is shorter. So the ten year information that we do ask for that we normally do not get, we stop between five and seven years. With respect to completing a licensing investigation. Again, the ten years is not a magic number. There's no such thing as a magic number. Either three five ten whatever years it is, it was something that was agreed upon early on in 2002.

>> Councilmember Constant: So my question, why? Why ten years? Why not five, why not seven? Why not three? Why not four years two months and six days?

>> Ten years was at least in my opinion a -- San José a credible agency normally ask for.

>> Councilmember Constant: Okay, so who?

>> State of Nevada, state of New Jersey.

>> Councilmember Constant: Okay, so why? I still haven't heard the why. It's just okay, we picked ten years so I'm coming to you tomorrow, okay? I decide I'm going to quit being a councilmember and I want to be a card room person and I come to you and I hand you an application that says, I want to be XYZ at this card club. And you ask me for ten years of data and I say I'm sorry the most I can get is seven years. That's all that exists in this land. Do I have to go create and make that data? Or what do we do? Or do I just never get a license and I sit for nine years like some of these people?

>> Councilman constant we have never denied anyone with that specific violation of not bringing in ten years' worth of documents. We have never denied anybody because they couldn't come with ten years' worth of information.

>> Councilmember Constant: So what do you typically get?

>> Between five and seven.

>> Councilmember Constant: So why do we have the ten-year?

>> If you ask me why I'll tell you why. How I was trained in Nevada, and that is not all crooks have a criminal record, okay? We are dealing with some high level people, they're dealing with millions of dollars on a daily basis. What the only inventory you have in that casino is cash and cash equivalents. We wanted to make sure these people are not organized crime elements, is what it is, okay? That's -- is precisely the reason why. For instance, if I were a bad guy and I wanted to come to San José and do a business here as a key employee at one of in your card rooms, and I know the requirement is only for three years, I'm going to wait for three years and my records are cleared up, then I'm going to apply and you're not going to find anything on me. To do everything that's been done through all the legalized jurisdictions I know of including Louisiana and Missouri.

>> Councilmember Constant: So someone has to plan ten years in advance if they want to be a card room person? I just don't understand, I don't understand it at all. I think it's unreasonable. I think that I can tell you, I can't do it. And I don't think anybody sitting around these tables, I don't know, do you have your cancelled checks from ten years ago? I don't even get them from the bank. I don't even have the option anymore of getting cancelled checks. I can only get electronic copies and I can only get those for a specified period of time. And they don't exist. Do you keep yours that long?

>> Absolutely, sir.

>> Councilmember Constant: You're the first person I've asked -- I've ask lot of people in the last couple of weeks. Go ahead, chief, oh -- and congratulations on your retirement.

>> Thank you.

>> Councilmember Constant: Hopefully we'll have a happier topic before you leave.

>> I just want to add, I think we're in agreement, that we said we need -- we're in agreement. Let's work on reviewing the amount of documentation that's needed, let's work with the state, take a look at what we can draw from that, and what fits best for our model and what we're comfortable for. I think we are all in agreement on that. I think we're also all in agreement that we want to keep organized crime elements out of the card rooms. That that's a historical element in the card rooms all over the United States, not just in San José. So it is a valid concern, and financial records are one way to make sure that we don't have straw ownership where someone else is actually coming in and front -- being fronted by someone with funding that actually has a criminal record for nefarious purposes and someone has a financial background that we can track that doesn't all of a sudden spike up for unexpected purposes. There is a valid purpose, we need to find what is the appropriate amount of that I think we can come and do that and work with the state and come together and get an appropriate amount of material that we all feel comfortable with and get a good background.

>> Councilmember Constant: I think my problem with that is I think we're day late and a dollar short. I've been complaining about it for entire time I've been a councilmember. I've brought this to the attention of the

administration for a number of times. I don't understand why the administration's response doesn't have, this is the plan that we're going to do, and I'm troubled by some of this stuff. Like the photos of inside of someone's home. I went and spoke at length with Norm Pierce, again, the gentleman who's the assistant director or assistant chief of licensing at the stat, and he continually fathom a reasonable rational reason why you would do that. Sure, you can say if there's a million dollar Monet on the wall, we should -- you know where did you get it. There's a lot of different ways you can get that and I understand you have to talk about lifestyle this lifestyle that but going into people's homes and taking those kind of photos I think is far too invasive for this type thing. It makes the assumption that every single person that wants to do business in our city, as a card club, is a crook. It makes that assumption. I just think that's the wrong assumption to make. The last question I want to ask because I think you guys probably understand my position on this. Is, I really want to get an answer to what I kind of asked but kept talking and didn't take a breath. On the attachment B the summary of the investigations during the audit which again I maintain really has no purpose in this document because we're not talking about regulation, we're talking about licensing. But do we know specifically how many these hold valid licenses and how many SJPD activities versus reporting activity by the clubs?

>> Deanna Santana: Yes, we do. And the reason I'm going to ask Carl to find the quote in the report, or Dan or Richard, where we outlined the purpose of title 16, where we highlight person, the reason why that is included in the report is because title 16 is founded on the need to regulate at an individual level as well as a business level.

>> Councilmember Constant: I understand that. I read title 16 backwards and forwards. I've read this report backwards and forwards. I've talked to you about it, I read that phrase, I understand it. My question is which ones of these were permitted, which ones of these were temporary, which ones of these were PD identified, which one of these were card club reported? As part of their responsibilities under title 16.

>> Do you want to go through the list Richard?

>> I'd be happy to.

>> Deanna Santana: Okay.

>> Of the 11 investigations we've been conducting throughout the time the audit was in place, there were one two three four seven that were self-initiated meaning they were reported by the card rooms. The rest of them were initiated by the division of gaming control, okay?

>> Councilmember Constant: So a clear majority.

>> No doubt. I'm very happy to say that we have been working with the card rooms to get these kind of results by the end of the year. The rest of them we talk about work permits, these are people that are currently working with a work permit. With respect to the licenses I believe there's one two three four, there were four key employees licenses and they were all working on temporaries.

>> Councilmember Constant: Okay. So that actually makes my point. So thank you. Because perhaps if we actually had completed a background, and had fully vetted these people and they had a license maybe some of this stuff wouldn't have occurred. And it also reemphasizes my point that the card clubs aren't signature back and just letting people run wild in their club. They're following their responsibilities under title 16. And I think to put in this attachment of investigations during the audit without pointing those things out is disingenuous. It says see, we got a problem here and this is why we have to do it and it doesn't give credit where credit is due or point out flaws where flaws are due and I think we just got that information. So I think I said final comment but I'm going to say final comment again because I like to do that. We have a system that's broken. We have businesses that have been determined to be legal enterprises in the City of San José and I believe we work whether it is intentionally or unintentionally, against the best interest of the success of those businesses. If we did that with any of the other of the many multitude of are businesses that operate in the City of San José, we -- people would just move out. And it's -- I think it's irresponsible on the part of city to do so. I don't think it's right and I think we need to get our act together. And I'll tell you I am very, very willing to move this away from our own staff, into the state, if we don't have by the time this comes to council, a clear plan on how we are going to resolve these issues, when we are going to resolve these issues, and how we are going to ensure that this doesn't happen again. Because again, we

are talking about services that are paid for. And saying that we don't have the staff to do it, quite frankly, is not valid. Because they are paying for the staff to do it. If we need to have temporary staff do it or whatever, they are paying for a service. And I would love to have seen how much money has been paid in context of these people that have not received services. And I will go ahead and yield to everyone else. Sorry for monopolizing.

>> Councilmember Nguyen: Thank you, Councilmember Constant. Any other questions, Councilmember Chu?

>> Councilmember Chu: Thank you, Madam Chair, one of the councilmembers that are opposed to legalized gambling in the City of San José. I do have concern for the amount of time it takes for those people to get a working permit. I heard that the three years versus ten years financial data, I heard that you know, our PD will go into their homes and take some pictures. But what is the -- besides this, too, what is the major differences between the state issued portable gaming permit, versus the one that the city issue? On top of the three year, ten year, picture taken in their living rooms?

>> Councilman Chew we have a very good work relationship between the division of gaming control here in the city and the state's DOJ, division of gauge control. To be candid with you I do not know the extent they do background investigations. I do know they do somewhere near three years' financial analysis. I have never been able to personally observe what they have done? I have never been able to review their work paper. Although we do work on a daily base with respect to the operational side, regulatory check, those things we work hand in hand on a daily basis. We have never been able to, we would never be able to -- I request at least two or three different times myself to see whether or not we could use some of the information so that I could provide it to the city. And I was told to keep that confidential.

>> Councilmember Chu: Okay.

>> For the record.

>> Just one comment. I too have been in conversation with the attorney general's office and the assistant chief, Norm Pierce. And I did ask the question, as a part of their background investigation which is very similar to the City's background investigation for our license, whether or not they take pictures of the applicant's homes. And the answer is no.

>> I'd like to make a comment if I may with respect to taking pictures of people's homes and merchandise, what they have. I take full responsibility for my officers doing the neighborhood canvassing. I'm not out there to supervise them personally but I've trained them on a continuous basis. Now, if a person stated on his net worth statement that they have an X million dollars of arts and stuff like that, they simply ask the question, could we take the picture so I could show my boss whether or not that should be -- suffice to verify with respect to the valuation of this merchandise or artwork. It was done under consent, twice, throughout the ten years I've been here.

>> Councilmember Chu: So it's not routine.

>> No, sir.

>> Councilmember Chu: That everybody would go out and take pictures in the living rooms?

>> Absolutely not, sir.

>> Councilmember Chu: Very isolating incidents?

>> Two incidents of whether the officer is trying to satisfy in their own mind of whether or not we have this this and this, ask the applicant whether or not they could take a picture and they agreed to it. The second time when we did the renewal of this same people and they disagreed to it we did not take those pictures.

>> Councilmember Chu: Another concern I have actually brought up by Councilmember Nguyen, is that we have an independent auditor, we spent hours of work in your department, to come up with this recommendation. What can we expect for spending another X amount of money for an outside consultant? What can we expect, to keep

spending money to hire an outside consultant to help us in this case? Why can't we resolve with the administration and the independent auditor's office?

>> Deanna Santana: Under the first recommendation we do have a couple of options. I've already heard some here that we have explored, I think it was Councilmember Constant who said, can the state do the investigation and then we add on a small increment, and I may have miss interpreted that. But that is actually one of the options that we have already started to evaluate, and Dan Katz has already started to touch base with the state to further explore that information -- that type of option. There's a couple of options that we have that we would like to explore. And understand what's happening from a best practices perspective out there in the nation as well as what are some other things that haven't hit our radar and have we been looking at these issues too narrowly and as we look at a broader look at title 16 what else we might want to consider. And so while the audit speaks specifically no licensing and work permits as I said earlier there may be the need to look more broadly. I believe that there is. I said that during the card room ballot measure, that certainly there are more provisions that may be needed to be further evaluated and that's where we may need to tap in to an expert in gaming who is very current with card room gaming so we can get ourselves out of this situation we're in. We said it very clearly we acknowledge that we need to find a way to unravel this and that's what we intend to do.

>> Councilmember Chu: Do we have a time line to gather the consultant and complete the research?

>> Deanna Santana: I can verbalize what I had envisioned. We hope to hire a consultant through the RFQ in the May-June time frame. From May through September, look at what our options are, work with the card rooms, get their input. We have -- I would just acknowledge that we put two reports forward before where we thought we were all taking a step together based on conceptual approach. We've purchased equipment based on that conceptual approval, and then we find out there is a nick in the system that needs more work or that there's a broader issue that needs more evaluation in addressing. So I want to be clear that as we take the step together at this time that there we're all on the same page, we're really ready before we put out any MBA or any council report to move forward and bring to council a report that it can consider and that we not end up withdrawing it at the last minute because of more broader issues. So that takes a little bit of time. I do want to acknowledge that the organization is going to be undergoing a tremendous amount of change in the month of July and August. And so that's why I'm put thing out September as a time frame when I think we could come back with options that would be realistic. That change that the organization is going to undergo in July and August can't be discounted as we look at the other priorities. I was -- I was worrying out loud to the City Manager that Dan's recent announcement of retirement yet puts another priority that will need to compete with the card room audit. I can't tell you that you know, that this is -- that this isn't -- this isn't our priority. But we know that there are other priorities that need the equal amount of attention. Our goal is by September to have these so in the October November time frame we come together once and for all, stepping together forward, with a recommendation that we all can buy into. We've tried it before, twice, and it didn't work, and we're still going to go at it, and maybe the third time's a charm.

>> Councilmember Chu: In the meantime do we have a time to expedite the permitting process or will we just sit you know tight until September, November, to --

>> Deanna Santana: We'll continue to utilize the model that will take place next Thursday.

>> Just remember too that we're talking about permits and licenses. So you have the key permits and licenses and the permits address the majority of the folks that work in the clubs and that's what we're doing the one stop shop the other night. We've got that rolling along. I think what we're really talking about more is the key licenses and the ownership. And then making the changes that we've already proposed.

>> Councilmember Chu: Let me ask up front, you feel that after next Thursday, there will be no backlog in the permit, you're saying that we don't have a problem with the permit, we are addressing the problem with the licensing. So let me ask the question about the permitting. Then I will ask a question about the licensing. So what's our current plan to eliminate the backlog for the permit, permit?

>> May I answer this question Councilmember Chu?

>> Sure.

>> As far as I'm concerned, there will always be a backlog with respect to work permits and the reason for that is very simple. People will not be able to get their work permits from the permits unit, at least three to four weeks out, due to the fact that the majority of the turnover of these work permits, is inundated the permits unit. So people have to wait and make an appointment to the permit unit to make an appointment so they can get themselves processed. And that takes place about once or twice a month.

>> Councilmember Chu: So if we take the process work within the DGC we could expedite?

>> We were very successful sir with respect to bringing that in house during the trial period where we processed a total of around 56, 57 work permits all in one setting. We have a half of a staff tech position and one officer's position you know redeployed to accommodate for that function.

>> Councilmember Chu: Okay.

>> We are able to do that all in one day. And the turn around time and don't quote me on this is about a week. The week being that we still have to send in the fingerprints to the state and for them to send it back to us. So the turn around time is about a week out to ten days.

>> Councilmember Chu: Okay, and you are saying that you have been doing that?

>> We have not been doing that sir since approximately seven months ago.

>> Councilmember Chu: You will be doing that starting next week or do we need that direction?

>> Deanna Santana: We had the one stop process in place. It was the approach that was outlined in the MBA and the council report that we had put forward. We purchased equipment against it to put it in place. However, when the -- it appears that the backlog is getting significant we open up the one-stop approach just to clear the backlog, and resolve it. I believe that once -- and I may characterize it wrong, I may ask for Richard to correct me. Once we cleared the backlog last year, that as we started to resume the normal course of business surrounding work permits, we did collect input from the card rooms and we did revert back to our old process and we have used the one stop approach when needed so that we can ensure that the backlog does not resurface again. Did I --

>> That's correct, that's correct. Because -- because the division of gaming control is funded by the card rooms Councilmember Chu and the rest of council persons, we are funded 50 card rooms. So we cannot also charge an applicant for a work permit fee as well. So that has got to go back to the permits unit. That was -- we have to start that under legal advice.

>> Councilmember Chu: In term of licensing, is there anything that we will be doing between now and September or November?

>> Sir, we have one auditor working on this thing, seven -- six to seven key employees applications concurrently. During this whole time we have in-house conversations with the City Manager's office, audit's office, we told them we would go to five years if that was going to take, we're committed to make the changes.

>> Councilmember Chu: Okay.

>> Councilmember Nguyen: Councilmember Oliverio.

>> Councilmember Oliverio: Might as well. [ Laughter ]

>> Councilmember Oliverio: As we were going on this conversation I had somehow thought of someone coming in reply home and taking a picture of my wood paneled family room, my large, wide television. So I wanted to say, you know, obviously the fine job of the auditor's office produced a report. It obviously tells us that change needs to

happen. I think we have agreement on five out of six, and staff's going to come back with that sixth one, in ideally a short amount of time. But I would caution this: We have to decide where we spend our time. And I would hate to see city management spend an inordinate amount of time when in reality the auditor's report is pretty valid. And at the same time, I hate to see duplicate services in government. I don't understand why 100% and I hear the arguments of the past and those things that have happened but crime happens everywhere in this world and it happens today in other segments of the economy not just in two legalized state card clubs. So with that said I think deferring to the state on things that are easy would work. And we should really spend our time in our regulatory mode spending it on other things to regulate the card clubs, whether that's avoiding loan sharks that are operating, things of that matter. Let's be honest, we garner money to regulate the card clubs. So let's make our best efforts to manage the other things we can regulate versus this process which frankly makes us look bad. We look silly having something go this long for an extended amount of time. So I think that's what I wanted to say. And so to the topic of the consultant again we have a good auditor's office. They don't always have to be expertise per se on a content area such as card rooms. But I tell you what, their deep dive into this suggests to me that they have a really good idea. Between them and PD and the card clubs' owners, I think we come to an agreement without the consultant. I'm not against consultants, because in the end, if we don't have core competency here to something, then it's okay to get those things, versus hiring a full-time person. But with that said I garner that there is enough knowledge here and I trust our auditor and the auditor's department to do that. And then, I think that's really it. A lot's been said. Obviously we're going to make a motion to approve, to accept the report and cross reference this for city council, is that the idea here?

>> Councilmember Nguyen: It's really up to us.

>> Councilmember Oliverio: I could not see it not being a council discussion.

>> Deanna Santana: The standard practice for audits is they do get cross referenced out at city council.

>> Councilmember Nguyen: There's also -- there's the administration's response and then there's the audit from the auditor's office. Do you want to make a motion to accept both or just the auditor's report?

>> Councilmember Oliverio: Councilmember Constant.

>> Councilmember Constant: There's also another way, too. Is we could say figure this out and come back to public safety. And we will send it to the council. The worry I have is that nothing will get done. And call me a pessimist but I've seen it in at least a dozen things in the short time I've been here, is things just take forever. And if there's not a time certain, come back to us in 30 days, and let's have a plan. It just doesn't get done. And I don't want to be nine years on this, like some poor licensee waiting for this to be completed. I did -- before we get to that, though, I want to ask a question. Why -- I want more clarity. Why can permit fees for licenses and work permits be accepted by the police permit unit but not the police division of gaming control?

>> The question again if I understand you correctly sir is why can't the division of gaming control also collect the work permit fees from the applicants,.

>> Councilmember Constant: Yes, that's what we've been told here is, it needs to go through the permits division because you guys can't collect the fees.

>> Let me just, to the extent I can answer it, the division is funded entirely by the table fees. When the division was set up, even before the division was set up, prior to the time we had work permits we had registration that went through the permits unit, the plan that the administration gave last year would have reconfigured the division so that all the work permits would be done by the division. The division would be able to and accept the work permit fees. And all that work would be done, exclusively by the division. However, that reorganization plan did not get to council. And that's why it reverted back to -- the legal reason it reverted back to the permit units.

>> Councilmember Constant: So just very simple, you're saying that it's a management decision on whether they go to one unit or the other, that's all that it takes?

>> It -- no. It takes a reconfiguration of the unit to reorganize it so that they can accept the fees. And you would reduce -- you would reconfigure the division so that it would be the one accepting the work permit fees rather than the police department's permits unit.

>> Deanna Santana: The cost recovery assumptions for permits unit are based on the activity for the work permits that are provided, and so there's an array of permits that are issued from taxis to flower vendors to work permits. And so in order -- we would -- it's a fee schedule change, we've proposed it before but that's exactly what we would need to advance so the permit -- the cost recovery elements are, we would need to evaluate them and analyze them so we understand what revenue is lost from the permits unit, how do we address its cost recovery structure that it needs to maintain, so that we can move that function and those fees over to the DGC.

>> Councilmember Constant: So you couldn't simply -- I like to be a simple person -- you couldn't simply, when you have people coming in for applications, have a permits officer go to the division of gaming control, accept the permit, take the fees, they get all their questions answered from permits and the division of gaming control and the person from the permits unit takes the fees back to their unit and deposits them and off we go?

>> Deanna Santana: You mean having a person from the permits unit on site at the DGC?

>> Councilmember Constant: When these applications are coming in twice a month three times a month they spend two hours there? Businesses do that all the time, they'll send an employee over to go deal with something, it won't affect cost recovery, we don't have to do all these memos, we don't have to change our schedule of fees, we don't have to recalculate costs. We simply say hey, go over there for the two hours on Monday, this week, Thursday next week, and Friday the following week.

>> Deanna Santana: That's an option that I --

>> I can answer that councilman constant and that is, I asked the same question over from this unit, why can't we send a guy over to your place or you guys send an officer to my place, everybody have everything done in one shop. And so at the end of the day, the final analysis was, to send one of my guys over to the permits unit once or twice a month just like what you said and have a one stop shop.

>> Deanna Santana: Would I ask Rob and Patty was whispering in my ear the same as I was having, it would be an option and what we would really need to understand is pulling the staff person from the permits unit who already comes with the cost recovery assumptions of issuing other permits. We would need to understand what the relationship is and what the current resources are at the permits unit that we're pulling from, and potentially denying other people of their permits. I think it's all very administratively workable. We've brought forward recommendations before. We can certainly look at that as an option there's a lots of solutions and that's the good thing moving forward.

>> Councilmember Constant: I'm not going to try to be unnecessarily blunt but that's bureaucratic BS. Because the person in the permits unit is being paid to process the permits for the division of gaming control. It's just a matter of where they happen to be that particular day to get the job done. It's a whether we have the will to make it happen or not. Both of the people report to chief Davis and they're both in his budget around you know, it's not that complicated. I have my staff report out to libraries and we do office hours out there. We can do these things, if we have the will to do them. It just sounds like we just don't want to do it. I don't want to hear how we -- why we can't do it. I want to hear what can we do to get it done. And people shouldn't have to say they can only come in one day a month. So if we're going to do work permits on the 3rd of the month and this poor young lady gets hired on the fourth of the month, she has to wait 31 days before she can go in and start a 30 or 40 or 60 or 90 day process. There's no reason it can't be set up on a more frequent basis. And if we don't have applicants they just don't go do it that day. It can be done.

>> Deanna Santana: We agree, and that's why we want to move it over to the DGC so that we can get them processed very quickly and the DGC can regularly accept a work permit. I don't know if Patty --

>> Just one more attempt to attempted to clarify the permit fee issue. It is my understanding that the permits unit the way that the fees for all permits is calculated is based on the activity coming out of that unit and the officers

and other employees in the unit do all kinds of permits. So if you take one chunk out, you're going to have to recalculate that or else --

>> Councilmember Constant: I didn't say take any chunks out. You still have the permits unit doing it. They just don't do it from where they're out, they go to the other building for X number of hours to do it. It doesn't upset the apple cart at all. I know how the process works. I've been down at the permits unit. I just want to add one thing I forgot. When I was talking to Norm Pierce from the state I asked him of the criminal investigations or the criminal problems that they've seen at card clubs throughout the state, if they ever had the opportunity to look at the people who got in trouble and determined if a further background investigation could have or should have prevented the action from occurring and he said that they in fact did do that and they found no such instances where, that something that was missed or not uncovered in the background would have led to preventing or changing that circumstance from happening. And I think that is really pertinent to what we're doing here. And as far as I know we were told that the division up there doesn't share their process, I find that hard to believe, because he went through it in excruciating detail with me over the phone. So I was able perhaps to get more information than you which I find highly suspect that they won't give that information to the police department. And I know in talking to the auditors they went into excruciating detail with the auditors department. I think it's an issue of not wanting to do it. So what I'd like to do is I really would like this to come back here, in 30 days. And with some of our questions addressed that have come up here, including a more detailed description of the scope of background and the purpose for the scope of the background and a contrast of that scope to the state's backgrounding scope. A -- an explanation or a detail of how the police department and the administration would ever be able to become caught up, under any scheme that is proposed, and what it would take to ensure that everybody who has applied and everybody who has a temporary permit or license is fully permitted or licensed at any of the ranks from owner on down. Because even the people who have been waiting since whatever, 2000 or 1999 that have been operating without a license, we should have an end game. I want to know specifically what we're going to do, and what the end result is going to be. And quite frankly if that is not satisfactory, then I believe that we need to move this to the council at the next council meeting for implementation to follow the daughter's recommendations in their entirety. And take this and shift it to the state. But when I say bringing it -- well, let me get a second on that first.

>> Councilmember Oliverio: I'll second that.

>> Councilmember Constant: When I mean coming back to us next month, I don't mean having a deferral until the following. I mean this committee taking action next month when we meet.

>> Councilmember Nguyen: All right, we have members in the audience who have been waiting patiently to speak on this item. So at this time I'd like to call on Ronald Werner.

>> Madam chairwoman, members --

>> Councilmember Constant: Can you live that up so we can hear you?

>> Can you hear me? I'll talk louder. I thank you for the opportunity to speak. I feel like I'm beating a dead horse at this point. I believe that the chair and the committee fully understand the problems that the card rooms raise. For the record, my name is Robert Werner, w-e-r-n-e-r. I do represent Bay 101. I am one of the older owners and a key employee there. Just for the record, we have five owners, all five are currently licensed by both the state and the City of San José. Five of our owners are key employees -- four of our five owners are key employees. All four are currently licensed by both the State and the City of San José. We do have issues with our rank and file key employees, nonowners who have been waiting. I do have two key employees who have been licensed by both the state and the city. The others are waiting for licensing. I would like to say that there is two parts to the City Auditor's recommendation. The first part is regarding the licensing, sending the -- allowing the state to do the key employee licensing. Bay 101 fully supports that. We believe that would free up city resources to move more -- to focus more on the regulatory aspects. As far as the city retaining licensing of the ownership, since our owners are currently all licensed we're neutral in that position but we don't disagree with the City Auditor's report on that or the staff's recommendations about retaining oversight of city -- of licensing of the ownership. As far as the work permits, I believe, if memory serves me correctly, until about 2008, we didn't have this problem with delay in the work permit process, Councilmember Chu, just to address your point specifically,

that the -- a person would apply for a job, we would fill out the paperwork, send it to the city, over to the permits department. They would be licensed generally within a week's time, following the results of a CJIC report or a criminal justice intelligence report, once it came back. Somewhere in 2008, the work permit process changed. And that system has bogged down. And you clearly understand that we need to do something to hasten it along. I support the -- your comments and your recommendation from bay 101. We are where we are today as has been pointed out especially by Councilmember Constant, because of history. At a time when the state did not regulate this industry, the state now --

>> Councilmember Nguyen: Sorry, Mr. Warner your time is up. Thank you very much.

>> Our point is we would support the staff recommendation.

>> Councilmember Nguyen: Matthew love.

>> Thank you. My name is Matthew love and I'm representing Garden City casino. First I want to thank the audit team for doing a great job over the last six months. We really appreciate working with you and as far as the City Manager's office, particularly working with Deanna, she's done a tremendous job herding cats in this situation and getting us all really in a room and talking so we really appreciate everyone's efforts on that. We at Garden City have a very simple position. That is, simply accept the independent audit in its entirety. It's very simple. Including the provisions that would allow the city to maintain local regulation over the licensing. I think maybe we've skipped over that part but on recommendation number one it does say some have the state do the licensing but the city can maintain a simultaneous license. So the city can maintain the ability to revoke licenses and force title 16 on those permittees that need to be enforced on. Garden City is perfectly okay with that. In fact, Garden City wants the division to revoke licenses of those folks who need to be revoked. When Garden City fires an employee for stealing, we want the division to revoke that person's permit. That's in everyone's best interest. Now we've been talking about this issue literally for years. As Councilmember Constant pointed out, literally years and we've gotten nowhere. And that is why we are all in this room here today because we have gotten nowhere and that's why the city hired an independent auditor to create a report to let all of us know what is really going on here. For Garden City this issue is about efficiency. It is about running a business, it's about saving money for everyone involved, it's about getting jobs for people who want to work. It's about saving money for citizens who pay exorbitant fees to apply to work at these card rooms. And it's all about keeping regulatory control local. We're okay, again, please revoke permits for people who steal, we are fine with that. Garden City has never been about relaxing regulation. It's being about being able to hire good employees efficiently. That is our position. The current system is broken. That is why we are here. That is why Sharon is sitting at this table. Sharon's independent audit has the solution. All we ask is that you implement that solution. I'm happy to answer any questions that you have but that is Garden City's position. As far as I do want to throw one thing out there --

>> Councilmember Nguyen: I think your time is up Mr. Love. Thank you very much. I don't think we need to disclose who we met with but if the committee wishes you can disclose who you met with in preparation for this item. I met with members of Garden City, I don't know how long ago, but we did touch upon this very issue, probably more than six months ago.

>> Councilmember Constant: I've had numerous conversations with Ron Werner, Matt Love, Eric Swallow, Scott Hayden, Harold Furtado, and of course, our administration.

>> Councilmember Chu: I have met with the Garden City, Eric, probably a year ago. We talked about this matter of delaying in permitting.

>> Councilmember Oliverio: My disclosure is on my calendar but the conversations with Garden City and bay 101 were mostly prior to council vote for the taxing of card clubs for the June ballot.

>> Councilmember Nguyen: We have a motion and second to bring this action back to this committee in a month from now. All those in favor? Opposed hearing none that motion carries. Thank you very much.

>> Councilmember Constant: So we have the one item done.

>> Councilmember Nguyen: Two minutes for you. On each item. At this time, we move down to item D-2, status report on the implementation of public intoxication task force.

>> Deanna Santana: Open this one, we have a PowerPoint, let us know how want to proceed, given the hour.

>> Councilmember Nguyen: We'll just take questions. Are there any questions from from committee members?

>> Councilmember Constant: Mine is more of an editorial comment. When this thing passed, I think I was the only councilmember who voted against the six strikes and you're out provision. And I really believe that the spirit of giving a break was to give people a chance who made a mistake, to correct their behavior. And I think that you can see, on page 2, of the memo, the court liaison data tracking, that clearly, most people get it after the first arrest. And by far, an even larger percentage get it by the second arrest. And I think that I continue to think that going six strikes and you're out is a bad thing to do. And I think we could easily get to a three strikes at most and you're out. I think that would be the appropriate thing to do, now that we have six months of data, yeah, I think it's six months worth of data, 851 arrests. If you add that one up, you will see, I don't remember what it adds up to but it's like 670 or 660 something people would have been covered by that. And only, what, 23 -- 22 people would suffer negatively from it. And I think those are the people that are probably going to be on this chart next year, too, because they're the people that just don't get it. So I just advocate that we should go to a two strikes and we're out or a three strikes and we're out. And when is our opportunity to address that portion? Is this going to come back to council for more specific discussion, or is this just a check in and coming back for another point?

>> Deanna Santana: This is just a status report. The report-out will come on April 27th to the full council. So at that time if you want to champion the public policy change there's an opportunity there.

>> Councilmember Constant: Okay. So I'm comfortable, I don't really have any other questions and I'm comfortable accepting the report. Now do we need a cross reference for that to come on the 27th or is it going to come out anyway?

>> Deanna Santana: It wouldn't reflect on the council agenda, which is reflected as a report out from Public Safety. So if you wanted it as a specific agenda item, I'd suggest cross-referencing.

>> Councilmember Constant: I would like to accept it with a cross-reference for council on the 27th.

>> Deanna Santana: I would just noted that the 27th, I'm reminded of two significant labor items that will be on that agenda. You may want to cross-reference it for May 3rd to allow for a thorough public policy discussion.

>> Councilmember Constant: That's fine. I don't mind the date, just that we do it.

>> Councilmember Nguyen: We have a motion and second for accepting the report and cross referencing the report on May 3rd. All in favor, opposed, none opposed, that carries. Item number 3, status report on the fire department's response to the county jail. Welcome.

>> Welcome. Madam Chair, on April 2nd, 28, the Rules and Open Government Committee directed to the public safety finance and strategic support committee a memo authored by Councilmember Oliverio, regarding the fire department EMS response to the county jail. On April 17th, 2008, city staff presented preliminary findings to this committee. The memo before you provides a status report regarding concerns raised relative to the safety of San José fire department personnel during emergency responses to the county jail. Since this issue surfaced in April of 2008, there has been productive dialogue between front line staff members at the fire and county jail on these issues. Also during this periods there has been no reported violations of policies and procedures pertaining to the response within the coined jail by either the Department of Corrections or fire department personnel, to fire administration. In January 2010 the fire department changed if primary response duties from fire station 7 to fire station 1. This change was the result of analysis of response time and unit availability. Is noticed in the August 2009 memo to the committee the framework for resolving concerns was organized into three contacts. This report highlights key milestones and progress to date. The categories are the city county partnership opportunities, internal San José fire department operational issue improvements and issues that need further coordination between the city and county. We ask that you accept the status report relating to the operational issues identified

within and external to the county jail and also if you have any questions, deputy chief Nick Thomas and deputy director Jeff Cady are available to answer any questions.

>> Councilmember Nguyen: Thank you very much. Comments or questions from committee members. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you chair. I just want to thank staff for the status report, I think it's important in ensuring worker safety that you know if we have procedures and protocols that were trained and we follow them to minimize any possible incidents. So I really appreciate the analysis and update and, as far as TBD items or trainings in the near future, are there any other dates or meetings between yourselves, the fire department, and the county plan, whether it's six months, et cetera?

>> Nick Thomas, deputy fire chief. Over field operations. First I'd start off by saying that we've had consistent managers at battalion 1 which is the battalion chief responsible for fire companies that respond to the jail. The consistent message has been to our managers i.e. to our battalion chiefs that they have a freehand in scheduling orientation, familiarization training as needed to ensure the responders are appropriately prepared and ready to respond to the county jail as we know it's a unique facility and it has unique challenges. We presented a cooperately produced with the jail staff a training session in November 2008. Our intention is to replicate and build upon the training away that was delivered in November 2008 in the fall of 2010. Most likely in that same time frame we want to get past a wild land fire season, to send our companies to the jail for, again, a replication of what we did in 2008.

>> Councilmember Oliverio: Great, thank you. And as the city struggles with its finances and is nearing the option of discussing dynamic deployment I certainly hope with the EMS contract with the county San José fire will not have to be responding to the jail upon every call and that will happen with our county contract so I'll look forward to that as that evolves later on this year.

>> Councilmember Nguyen: Any other questions? Can I get a motion?

>> Councilmember Oliverio: Motion to accept.

>> Councilmember Chu: Second.

>> Councilmember Nguyen: We have a motion and second to accept the report. All those in favor? Opposed, hearing none, motion carries. Thank you. We'll move down to item 7 the executive home loan program.

>> Scott Johnson: Thank you, good afternoon, Madam Chair, members of the committee. I'm Scott Johnson, director of finance, and I'm also accompanied by Lisa Taitano. She administers this program within the finance department and coordinates with the other department including the City Manager's office and the city attorney's office. As was earlier mentioned, we had a replacement memo because we wanted to clarify two main points. One is the definition of the borrow's commute that we were recommending in some new factors in determining eligibility to the program as well as in determining the definition of principal residence. So with that we have a brief report that I'd like to go over with you. First, this particular policy is -- was established by the city council on August 4th of 2000 -- excuse me, that is not correct. Wait a minute. On April 4th of the year 2000. And but during August 4th of 2009 the council did discuss this program. And they raised some questions and discussed some potential modifications to the program. So based on council's feedback from that council meeting, the discussion focused on four main elements of the program. And they were to establish an objective analysis and criteria for offering home loan assistance to executive candidates, second was to establish criteria that can be used to evaluate the qualifications of the program, third was to establish a definition of principal residence, and fourth, was to provide alternatives to mitigate market risk. So staff, through the direction of the City Manager, and the City Attorney, we formed a multidepartment team made up of the finance department, the office employee relations, the housing department, human resources, the City Manager's office, and the finance department, as well as the city attorney's office. And we developed guidelines, based on council's feedback, and those guidelines are included in your staff report. And let me just briefly go over those, because I think they are important. That the program provides a recruitment tool that does not constitute a benefit, to which the new executive is titled to. The city is not overly zealous in our efforts to attract qualified executive candidates, and still

remain competitive. That the program provide reasonable housing assistance when San José's housing costs far exceed the area from which the new executive would be relocating from, and finally, the program encourages new executives to live in the City of San José, and become connected to the community, where they serve. So I'd like to go over with you the proposed changes, and with that, on this next slide we have a chart here. And let me briefly go over those first of all, the eligible executive positions for this program, we're not proposing any change. The current program per council policy is to offer this assistance to council appointed officers and members of the City Manager's senior staff, as well as the redevelopment agency. Related to the principal residence criteria, we have added a few elements here. Where the borrower certifies on a loan application, this is a new application we have developed, for anyone that is offered this particular provision that qualifies as an eligible executive position at the discretion of the city council or the city manager or the executive director of the redevelopment agency, that they fill out the application process, and that they certify within this process that they meet the guidelines of the program. Also, the principal residence must be used a majority of the year. And the staff report goes over a number of provisions that are considered in regards to that provision of being used as a majority of the year. The one additional provision that we did add is, one factor that would be looked at in consideration of the residence being their principal residence, would be that they would take the homeowners exemption that the county offers through the county assessor's office. There could be some timing difference because that exemption is only provided if you're in the residence as of January 1st. So that would be one of several criteria or elements that we would look at, such as their mailing address, where they attend you know social events, church, and where their car is registered, what address is used on their driver's license and those type of factors would be considered. The loan amount, and the term. We are making some proposed modifications here. Now, currently, the program provides that the loan could not exceed \$250,000. What we're recommending at first, that the loan-to-value ratio of the city loan as well as any other loans on the property, that they are equal to, the loan to value ratio is equal to or less than 95% of the purchase price. In addition, we recommend that the city loan be less than or equal to 50% of the purchase price. And finally we recommend that the city loan be less than or equal to the first loan, or \$250,000, whichever is lower. So in this case, we do have some loans that are up to 100%. We have some loans that exceed the 95% criteria. So this would be new criteria based on the discussion that the council has provided this past August. Relating to the qualified criteria, we'd like to demonstrate on the next slide a provision related to commute distance. So here is -- this is just an example. In this example, if someone was moving from oakdale, that's their previous home, the difference from their previous home in oakdale and their current home in Stockton, the commute would have to exceed 50 miles from their new commute to the City of San José. And the reason why we developed this particular criteria was, it aligns with the internal revenue service guidelines, in allowing writeoffs for moving expenditures. So we thought that this was a credible criteria and is consistent with the guidelines. And therefore, if this provision was put in place, then those members that were subject to this program would not be at risk of having this loan be subject to taxability for income tax purposes. The other criteria as I already mentioned would have to be a principal residence. And finally there is some criteria in regards to the cost differential at the median home prices. So what we do recognize is that the median home prices in our area is the second highest median home price within the country. The first, the highest median home prices in the nation, actually, is -- actually is in Honolulu, Hawaii. So what we are proposing here is, if I can get my cheat-sheet here -- 30% -- that there be a differential of at least 30% between their former residence MSA and their new residence within the City of San José. Okay. So moving on to the next slide. Another element of the program is interest rate. And it's currently based on the City's portfolio rate on an annual basis. We're not recommending any changes to that provision. Related to cost, we're recommending that there be cost recovery fees be imposed some if there are any refinances. One of the things that we're recommending here is that we do allow refinancing within this program. However, if a member that's in the program chooses to refinance, that the city should reimburse for our full cost in administering that refinance and any other cost related to the refinance from third parties, that the member pay for those costs, the borrower. Related to loan repayment, we are recommending that there be a mandatory payroll deduction. Currently that's an option for participants, and usually the participants opt to have the payroll deduction for ease of the program. But we recommend that that be a mandatory provision in the future. On property location, we're not recommending any change. The property must be located within the City of San José. And then, two other elements, one is, a repayment acceleration. This is where we're recommending several provisions. Because of issues that have come up in the past, that we modify the existing six-month repayment requirement. There are -- our current program requires that if someone terminates employment from the City of San José, that are participating in this program, within six months of termination, that they pay the city loan off. However, we have experienced situations, especially given the real estate market turmoil, where there could be a difficulty in achieving be that. So we're making a number of recommendations in that area. First of all, provide some flexibility

where we could increase the interest rate to the current market rate. And we would develop a floor and a ceiling establish on a case-by-case modification provisions, we also would recommend the criteria -- the index to be used for current guidelines would be the IRS guidelines. The IRS actually publishes current market rates for these type of loans, where it would prevent that loan from being a taxable event. So we would recommend that we use the guidelines as established by the Internal Revenue Service. And when we bring this item forward, assuming that the committee moves this item forward for council's consideration, we plan to issue a supplemental memo with more detail in regards to that provision. We also, another option would be requiring full amortization, the program. That would be another case-by-case scenario where if someone left city employment we would modify the interest rate to current rates and we would allow full amortization. The current program, the payments are only interest-only payments to the city. As long as the participant is a city employee. So we would recommend if we made a modification, if they fit those parameters, that we would allow full amortization of principal, interest, of the loan. In addition, we would also recommend adding a balloon payment requirement. And finally, to allow the borrower to convert to a rental property. So in the example, where the property maybe worth less than -- excuse me -- where the loans on the property may be greater than the market value, it may be very difficult to try to get a workout, and try to refinance that property and repay the city. So we would recommend on a case-by-case basis, that we would allow some flexibility where the borrower could convert the property to a rental property. So therefore, the city would not be at risk, and the participant would not be at risk in regards to reduction in value, and basically using the term being underwater related to the property. And finally, documentation, we're modifying another provision here where we require further documentation within this program. As I mentioned, we're currently developing an application form that would be ready by the time we go to the city council, assuming you want to move this forward to the council. As I mentioned we are working on a new application process where the applicant would be certifying that they meet the guidelines within the program. So finally, you know, we're register the staff report and this is the City Manager's memo and I'm speaking on the City Manager's behalf within the program. She's recommending that the committee accept this report, contain the recommendation changes to the San José executive home loan program, and forward it to the council for acceptance and approval. And of course, myself as well as Lisa are here for any questions that you may have. Thank you very much.

>> Councilmember Nguyen: Thank you Scott for the presentation. Councilmember Constant.

>> Councilmember Constant: Thank you. Thank you for this and thanks for the time you've spent explaining this to me. I'm glad you showed the map because I think on page 4 of the memo, the borrower's commute is not described exactly like that. So when it comes to council if we can really clarify that. On the staff recommendations, as far as allowing the borrower to convert property to a rental property, I think we need to be very explicit that that also triggers the market rate rent and full amortization. I know that's what you mean. But I just want to make sure that there's no ambiguity when this goes forward. My question is, a question of practical application of this policy. If the council chooses not to fund the executive home loan reserve, because I know like last year, we used the money in that reserve, I don't know if we used all of it but we used a portion of it during the budget process. So say we have this on the books and come July 1st a budget appropriation is zero for that. Does that temporarily effectively suspend this program or how would that work?

>> Scott Johnson: Sure, councilmember, our current process is that we anticipate -- we kind of anticipate -- we know when there are vacancies and we anticipate if there is going to be a vacancy. So we put that amount forward in the proposed budget. And sometimes, during the year, we make modifications to the budget because a situation has occurred where someone that was in the program or someone that could be qualified for the program were -- we would be in the recruitment process. The program is only available subject to available appropriation. So if we didn't have appropriation budgetary appropriation available then we wouldn't be able to offer it.

>> Councilmember Constant: Here's why I asked. Like I'm not 100% firm believer in this program but I understand we have it. And I'm glad that you know my position is if we were going to have it we really need to reign it in and have it a lot more clearly delineated and I think this policy does and I'm willing to support that. However, I think in years like next year, where we know we're going to have a \$116 million deficit, I can't see me ever voting an appropriation to put money into this fund when we're not providing essential services, when I know that that \$250,000 could go to keeping a library open another day. So I could see where we would have that conflict. And I just want to make sure that if it's defunded, that any manipulations to the budget to utilize it would have to come to council so there can be an informed decision made on whether that's something we want to

do. Because in a year where we're going to be slashing services citywide, I expect this line item to be zero on July 1st and remain there until we have money to do it. So I just want to make sure that the mechanics would work for that. Otherwise, I would rather approve it in concept and suspend it, if we can't ensure through the budget process that we're putting money where it's going to do us the most good and that's delivering services to the people of the city.

>> Councilmember Nguyen: Anyone else?

>> Councilmember Constant: Is there anything you want to say in regard to that or is that --

>> Deanna Santana: No, I think Scott was very clear that it is identified as whether it's being funded in either the proposed budget or as we've done in past in mid year and so that would be the continued practice and council would obviously have the opportunity to consider it at that time.

>> Councilmember Nguyen: Can I get a motion?

>> Councilmember Constant: So I would make a motion to accept it and bring it forward to council for approval.

>> Councilmember Chu: Second.

>> Councilmember Nguyen: We have a motion and second to accept the report cross reference for council discussion. All those in favor -- opposed --

>> Deanna Santana: I'm sorry Scott you mentioned you wanted it to proceed to full council but I wanted to add clarification in that. We wanted to bring it forward to full council in May 2010. Cross referencing it out right now would trigger it to the 27th agenda. We have those two long -- we have a lengthy agenda on that day and so we're really going to bring this back during the month of May. Is that correct, Scott?

>> Councilmember Constant: So we'll accept and you'll reagendaize.

>> Deanna Santana: We'll bring it back in May.

>> Councilmember Nguyen: Very good. All those in favor, opposed hearing none motion carries. Thank you. We're now moving down to item 8, audit of the airport's parking management agreement.

>> Sharon Erickson: Well, we'll try and keep this one a little shorter than the last one. But I'd like to get a little bit about the audit on the public record, if I could. In accordance with the City Auditor's 09-10 work plan we've completed an audit of the airport's park management agreement. The airport contracts with Ampco private company to manage parking facilities. Park revenue historically has been the largest fee sort at the airport. It was about 24 million in '08-'09 and I believe it's below that now. The ampco fee for '08-'09 was about 3.9 million. This audit is one of a series of audits of major contracts that we've initiated and was suggested by the director of the airport. Our -- we have one finding in this report, and it's very positive. It's that the airport has controls in place to ensure that it receives all revenues generated at its public park facilities. Nonetheless the current agreement which runs through November of 2010 is -- the airport staff is developing an RFP for parking management services and is in the process of doing that. So we identified several opportunities to improve controls, achieve potential cost savings, and enhance customer service in that next management agreement. Some of those include using a cost-plus management agreement for the operation of parking facilities, reducing the frequency of nightly vehicle inventories to save some money and including a provision in the next management agreement that could potentially allow the city to become the bank card merchant if that was financially viable. Since the current management agreement was signed there have also been technological changes which require updates to the agreement. Specifically we were concerned with provisions related to compliance with payment card industry data security standards fondly known as PCI. There are also some practical operating realities that suggest changes to the next agreement. We're recommending performance standards that reflect the strong customer service goals at the airport and a mechanism to monitor them and to clarify airport and operator responsibilities related to customer complaints. There were a couple of other issues that were noted during the audit. The office of equality assurance needs to determine ampco's compliance with the City's living wage policy, and there should be

revisions to the airport's nonrevenue badge program. These are the badges where card holders can have free parking at the airport. There may be some potential amendments to the Muni code sections authorizing that program, specifically to clarify city business and use by airport personnel and vendors at the airport. I believe that summarizes the report. I want to thank airport staff who suggested the audit and have welcomed it. I want to thank Ruth Marino, Joe Royce from my office who worked on it. The airport does agree with the recommendations. Their response is attached and they are already incorporating recommendations into the RFP proposes as they are moving forward. We're happy to answer any questions.

>> Councilmember Nguyen: Thank you. And again thank you Sharon and your staff on the wonderful work you put in this audit report.

>> Councilmember Constant: Motion to approve.

>> Second.

>> Councilmember Nguyen: We have a motion to approve the audit report. All in favor, opposed, none opposed, that report is accepted. Open forum? No? Meeting is adjourned.