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>> Councilmember Constant: Welcome to the Public Safety, Finance and Strategic Support committee meeting for March 15th. I don't think we have any changes to the order of the agenda. We're all here except for the Vice Mayor. I don't think we have anything under review of the work plan today. Nothing under consent calendar. We're already halfway through. Reports to the committee. The first item, the verbal report from the police department. There's no report today. Oh, we have a question.

>> Councilmember Oliverio: Hi, for the police department. Hi, chief Goede. I'm curious on the hiring of lateral police officers. I understand we are in discussions with the union on being able to hire retired police officers from other jurisdictions to do the background checks, versus pulling people off the streets to do the background checks. Where is that?

>> Right, it wasn't -- what we were looking at was an RFP process to actually outsource that for temporarily especially right now given the constraint that we have and then the alternate one was also for some overtime to be able to backfill to do it the way we have done it. And unfortunately, at this juncture, because the decision wasn't -- I mean, we're still in budget office, and I know we've been given the overtime money, or they're still looking at that. But there's not enough time right now to even do the RFP, because it has to go out to RFP to get the people in time to get our backgrounds for September academy. That's the problem we're facing.

>> Councilmember Oliverio: So just understanding with the City Manager's office, so an RFP is a requirement to do this process, the chief couldn't just simply select retired police officers from other jurisdictions, because we can't do our own, because the retirement rules?

>> No, it's meet and confer, too.

>> Councilmember Oliverio: But understanding that, just outside of the meet and confer, must we do an RFP?

>> My understanding is yes, that we must do an RFP, and the work is in progress. But as Chief Goede indicated, there is an issue of timing of whether we could get that in place for the time for the next academy. They are trying

to move forward with the next academy trying to secure overtime hours, and discussions with the POA for potential outsourcing for the subsequent recruitment.

>> Councilmember Oliverio: Have we met and conferred on this topic yet?

>> Alex Gurza: We have exchanged letters and we will be meeting with the POA in the near future.

>> Councilmember Oliverio: What is the estimated cost?

>> We are estimating probably \$200,000 to \$300,000. It causes us to have to take about ten to 15 people over to backgrounds from patrol and as you know that's why we're hiring because we're hurt so bad in patrol. We have to figure out a way to backfill spots for patrol spots. It is somewhere between 200,000 and 300,000, that we're asking for.

>> Councilmember Oliverio: A resident would say, that makes more sense to do whatever you need to do versus the minutiae of rules. If the chief has the powers under away the people gave them to do I would sure hope they would use it versus creating an overtime expense that would create an additional patrol officer or two.

>> Councilmember Constant: I just wanted to jump in. You know we can hire our own retirees if we don't use them a certain number of hours per year. Is it differently on that side?

>> Alex Gurza: We don't have a rehire program for the retirees.

>> Councilmember Constant: This is something we are going to revisit quite often going forward.

>> Alex Gurza: We have to meet and confer, work with the city attorney's office and if we wanted to move forward with a rehired retiree program similar to what we have in Federated.

>> Councilmember Constant: I think that's something given we know in the future we're going to have to hire police officers. There's no doubt about it. Even if the council were to do nothing from a budgetary perspective we have people retiring, there's no reason to believe that that's going to slow down any time soon. So I think it's something we need to pursue, so maybe you and I can speak offline about how we might get something like that moving forward.

>> Councilmember Oliverio: Mr. Chair, so under the municipal code, what would need to be changed there?

>> Alex Gurza: Yes, so when we instituted in Federated, there were municipal code changes that were required to be made.

>> Councilmember Oliverio: And my preference would be to hire an actually retired San José retiree, to do the background, versus another jurisdiction, just since they know the culture of the organization. Not to say that I wouldn't be fine with a retired sheriff or a retired Campbell PD. But I think first preference would be San José, and if it take a municipal code change to do that, then I'm certainly in that mood.

>> Councilmember Constant: The good thing is, you and I have the ability to change the municipal code. And so we have a road map to go in that direction.

>> Councilmember Oliverio: Thank you, chief Goede.

>> And I can tell you, it is extremely important. So it's one that we definitely want to put a lot of consideration into who -- you're exactly right -- who does those backgrounds, which is why we have always wanted to keep it within house. Because it is a very vital function in the police department.

>> Councilmember Oliverio: But certainly we trust those retired San José police officers.

>> To pick the people that would do it, absolutely.

>> Councilmember Oliverio: Thank you chief.

>> Councilmember Constant: Great. So now we're going to go into our next verbal report which is the monthly report on the public safety communications initiatives and while you two are making your way down here, I'll just give a brief report out of Silicon Valley regional interoperable authorities authority. We are moving forward I guess pretty efficiently. Just recently the finance committee completed an inventory of all of the assets that are held by the JPA, and mapped out what it would take over the long term to maintain and replace those pieces of equipment. So that the board can develop and implement a reserve or sinking fund type of strategy to make sure we have those issues covered. That will be going to the full board for action here shortly. And what we are looking at is how to give long term stability to this equipment that we know is going to be of critical nature going forward. And Chris.

>> Good afternoon. Councilmembers, staff, Chris Godley director of emergency services. Very briefly, to attach on to the report regarding SV Ria. The RFP process for the SVRCS or Silicon Valley regional communication system continues, two vendors have submitted proposals are currently being evaluated by committee. Interviews will be scheduled early next month and a recommendation will come to the governing board, also in late April. The county, in partnership with SVRIA team or SVRIA staff has submitted proposal for funding under the UASI FY 12 grant. This would be for a phase 2 buildout of the SVRCS program which is not yet defined in terms of scope or jurisdictions that would be participating. However we expect the funding to be available somewhere between \$1.5 million to just over \$2 million. And we expect an award of that grant or initial allocation of that grant to occur on March 20th. So we're hopeful with that and that's also currently being endorsed by both the fire and law enforcement chiefs associations. In terms of CAD to CAD, they are currently negotiating with a preferred vendor and hope to finalize that contract very quickly and they are looking at potentially expanding CAD to CAD to provide more functionality against greater disciplines as part of the project later this year. The working group meeting for SVRIA was cancelled due to the illness of the general manager. However in the previous meeting the working group also reviewed and endorsed the recommended FY 12 and 13 budget which will go to the governing board with a budget -- operating budget of just under \$1 million for the JPA. Moving to BayRICS, a few

items. Motorola is beginning to order equipment for the buildout of the Bayweb VTOP sites. However, there is no fiber backhaul agreement in place yet with BART. And so the infrastructure is not established as yet, and so it's going to be interesting to see what that does to the timing on the project. They're hopefully going to present a final recommendation to the BayRICS governing board next month. And then as regards the MOU that San José is a partner to in establishing the JPA there was an initial withdrawal period to establish as part of the MOU language which gave jurisdictions 90 days to withdraw upon presentation of a systems funding plan. That systems funding plan was adopted by the BayRICS governing board in January, and so now the deadline to withdraw is April 19th. Given the slight benefits and the slight disadvantages, where staff is going to recommend that San José remain in the JPA at this point, to continue to gauge to be part of the regional effort to develop interoperable communications well beyond what the current scope of the Vtop Bayweb project entails.

>> Good afternoon, committee members, Michelle McGurk, senior policy advisor to mayor Chuck Reed. A few other updates with respect to the Bayweb project. As you know, San José was a partner in the original FCC waiver application, to obtain access to the spectrum that is needed to operate the interoperable broadband communication system. That FCC waiver application that we submitted back in December in partnership with Oakland and the City and County of San Francisco is currently in limbo. It's sort of a good news, bass news situation. The good news was that the federal government Congress as part of another piece of legislation finally approved the allocation of the D block spectrum to public safety. That legislation however, included changes for all of the waivers that had been granted for early adoption for this other piece of spectrum. And the FCC is currently holding all waiver applications in limbo. And in the process of developing guidelines for how they're going to transfer the existing licenses and the pending licenses over to the new authority that is created through the legislation. So we're currently in this holding pattern with the FCC and don't yet know what kind of license spectrum will be available for the bayweb system to use. The other piece that has developed since we last updated the committee is with respect to sites in the City of San José being used for the bay web project. As you remember, the council's direction back in December was for staff to continue to work with Motorola, but that we would not enter into any site agreements with Motorola for the four San José sites until environmental review was completed. There has been very little communication between Motorola and city staff, and Motorola's time line really precluded environmental review from being completed. Motorola has chosen not to include San José on the

site list. They haven't formally notified us of this but the site lists that they have given to the joint powers authority do not include San José sites. They also do not -- have not included Santa Clara County sites on the site list. And Santa Clara County took a little bit different policy direction than we did. And basically, indicated they would actually pay no costs for electricity or other operations of these sites. There is some concern on the parts of the cities of Santa Clara and Sunnyvale about their neighboring sites not being a part of the project and how that might impact the quality of service in their jurisdictions, especially with respect to the county-owned sites. So that is something that is still in flux. But as of right now it does not appear that any San José sites will be used for the bay web project. We don't know what that -- what implications that has with respect to the FCC. And their expectation that this be a complete ten-county project. So at this time, I think that is the best that we have with the update.

>> Councilmember Constant: Thank you. Any questions from the committee? No. Thank you very much. We'll now move into item D-3 quarterly report from CPLE. As you're making your way down here, we do have the memorandum in front of us.

>> Good afternoon, assistant chief Ricki Goede with Sjpd? We're here to give the quarterly update for the Consortium for Police Leadership in Equity, and with me is Meredith Smith who will be giving the report. I'll turn it over to Meredith.

>> Good afternoon, thank you so much for having us back. So as report stated, we are still continuing the analysis that we reported on last time. So as we previously said, the findings that we were coming to was that these explicit biases really were predicting complaints on stops but not use of force by officers, and that disparities in force seems to be predicted by the stereotyped threat that the officers possesses. So it's really the fear and concern is being seen as bias. And the analyses that we are conducting have really enabled us to do this most comprehensive study ever conducted on it and what we've been really able to demonstrate is that prejudice is not just predicted by one factor and that it's really three separate things that are leading to these disparities. It's the imreplicates its bias, the explicit bias as well as the stereotype threat. So the time now has come when these analyses are almost concluded, we are still waiting on one piece of data from the department but they are working

on that, for the next steps to be made. So really, what we're able to do is now decide how and what is going to be addressed. So we can now say, we want to address who is getting stopped, how the quality of the interaction goes between the officer and civilian, and really, the safety of the officer and civilian. We can address these three things, but we now know that it must all be done separately. So different trainings can be done to address each factor. The next steps now are really to discuss concrete policies that can be put into place. And we look forward to having these conversations with the chief and to just letting you know what we discuss at our next report.

>> Councilmember Constant: Thank you very much. Do we have any questions from my colleagues? No. Chief, anything you'd like to add?

>> No, we just continue to appreciate the work that they've been doing for us and we look forward to working with them to develop some policies and training, as well.

>> Councilmember Constant: Great. So it looks like the only outstanding data is the stop data, right?

>> Yes, and it is a lot of work for the department to get it to us and I know they are working hard on that so we appreciate it.

>> Councilmember Constant: Thank you very much. We'll see you next report. We'll move right into item number 4, the Redevelopment Agency financial statements as of January 1st, 2012. We have the information in our packet and just kind of to set the stage, as you know with the winding up of the Redevelopment Agencies, these are our final financial statements. We've had the opportunity to review the monthly ones for the last several years. My understanding is you're just here if we have any questions. There's no presentation, is that correct? Any questions, gentlemen? Doesn't appear so. So hopefully we get a motion.

>> Motion to approve.

>> Councilmember Constant: We have a motion and second. Anyone here like to speak on the item? All in favor? Okay. Any opposed? Thank you very much. The next item, item number 5. Audit of the police department secondary employment. I will just add as you're getting into place, we did just receive a letter from the San José Police Officers Association. Anyone from there hasn't seen it I believe the clerk has extra copies. Sharon. It's all yours.

>> Sharon Erickson: I'll tick this one off. Sharon Erickson, City Auditor. On the title of our report is police department secondary employment, urgent reform and a cultural change are needed to gain control of off-duties police work. We are significantly concerned about this issue. And that's why you see all of us in front of you. The department and my staff have been working together to address concerns that were raised as part of this audit since the very first days of the audit. Just in terms of background, the San José police department allows its sworn personnel to work secondary employment or pay jobs in addition to their regular city work. Secondary employment can encompass a broad variety of types of work and employers. The focus of our report was on secondary employment, which is performed in a San José police department uniform. This includes security work at shopping centers, apartment complexes, and schools within the City of San José as well as its special events, festivals, directing traffic at special events and directing traffic at street construction work. For members of the public who pay be watching when sworn employees are working secondary employment, added in a pay job, a member of the public would be unable to distinguish whether or not they were on regular duty or working for the city because they are in uniform. However in these instances the below is actually working directly for the pay job employer, not for the City of San José. In terms of the scope of this program we and the department estimated that last year's sworn personnel earned at least 6.1 million in supplemental income from uniformed pay jobs alone. That does not include nonuniformed work. It's the equivalent of about 62 full time equivalent employees. We had six findings on our report. The first was that the police department must gain control of secondary employment to reduce the risk of fraud Conflicts of interest and inequity. The secondary employment program has lacked substantive management oversight until recently. As a result we found a culture susceptible to the risk of fraud, conflict of interest and inequity. Our audit identified specific problems including overlaps in reported time and other issues. Taken as a whole these programs we felt warranted significant reform by the police department, and a reconsideration of if purpose and priorities of the program. Our second finding was that

supervision, overtime and enforcement of rules had been significantly lacking. During the audit we were unable to determine and get complete and accurate basic data for things such as the number of current work permits, the number and identity of current employers, the number of hours worked, or the amount of money earned. We also found that supervisors had allowed department employees to work flexible hours, to accommodate pay jobs as well as take time off at the beginning of shifts to accommodate pay jobs. We found various rules that weren't being enforced including tracking of pay job hours, look of logging into the department's CAD system for pay jobs, tracking vehicle use when employed on a pay job and adherence to department established pay rates for secondary employment. We also found that prohibitions against sick and paid leave jobs versus secondary employment weren't being enforced. Third finding: Existing rules that allow -- existing rules actually allow conflicts of interest and cash payments to police officers. We found that pay jobs may place employees in conflicted positions. We found that they can be paid in cash for off-duty work which would convey an appearance of impropriety. We noted instances where pay jobs could be perceived as conflicting with an on-duty assignment. The example we use is employees in the secondary employment unit who regulate and assign pay jobs were being allowed to work pay jobs. The fourth finding was that pay job coordinators have historically had a disproportionate amount of power in controlling and assigning jobs with little oversight from police department management. Some of those employees have significantly increased their income through that coordination. If I could take a moment just to explain, the pay job coordinator serves as a liaison between the secondary employer and the employees who are working that pay job. They handle the administrative task force, including assigning employees and scheduling them. Some pay jobs are coordinated through the secondary employment unit in the department. Others are coordinated by individual employees throughout the department. At the time we began our review the department did not have written guidelines regarding coordinator roles, responsibilities or pay. The secondary employment we found, secondary employment unit we found has had to take over accordance of some pay jobs when problems arose. At a minimum, if the current system of coordinators is retained, we do recommend oversight and accountability needs to improve. We're recommending the department seriously consider three options for the future. One is, phasing in to the secondary employment unit coordination of additional pay jobs. The second option would be bringing alt coordination into the secondary employment unit. The third option would be bringing all coordination into the secondary employment unit and paying employees on overtime through the city which is actually the way many other jurisdictions run these types of

programs. The chief's response, the department's response to our audit, if I could just deviate from our transmittal letter here to say that given the significant changes that have already been made in the program during the course of our work, and the additional changes we'll be seeing shortly, it does seem reasonable to defer any kind of action on these types of options, see what happens as we bring new procedures into play in this program, and then, reassess where the program stands at a later date. Our fifth finding was that the public and police officer safety are potentially at risk due to fatigue and lack of limits on the officers working long days. One of the issues we raised was that to the extent that secondary employment contributes to fatigue, the department should work to minimize such effect. Now, we did pull a sample of some of the heaviest users of secondary employment, or the heaviest -- the people who were charging the most number of hours, not everyone in the department who was working secondary employment is working very long hours. But we were looking at some of those, where we did see some extremes. We did see that some employees who worked high number of hours were filing workers compensation claims. The sixth finding was that the police department needs to reconsider the overall purpose and scope of the secondary employment program. As I've discussed earlier, and to the extent to which it provides a public benefit. San José's system for overseeing uniformed off-duty work to date provides minimal -- has provided minimal accountability. But the key stakeholders all have reason to like the current system. The police department, for the police department and for the city council, it augments our police force. For sworn employees they earn extra income and for businesses they receive additional policing at a straight-time pay job rate. It's not as clear thousand broad public interest is served by it. That's very difficult to measure. Although direct policing services are paid for by the secondary employer the City's General Fund is subsidizing the secondary employment unit and the insurance policy for employees who are working secondary employment. For example, we estimate that the cost of the secondary employment unit could be anywhere from 500 to \$700,000 a year. The fees from this program brought in about \$80,000 last year. The insurance policies were currently charged at a rate of about \$110. We estimate that rate would have to go up to \$173 in order to be cost recovery. In summary, part of the current system is cumbersome because of its decentralized design. It will take a labor-intensive effort to bring this system under control. A differently designed system that was simplified and consolidated but what we believe is if the secondary employment unit could be housed in the office of police chief to elevate the level of reporting and also if it could be staffed with a mix of sworn and civilian employees we would be in good shape. Secondary employment, I may finally say, represents policing services that are purchased and paid for by

private entities, based on the ability and willingness of employers to pay for those, rather than the police department's deployment strategy. Nonetheless, it is adding to the police department's deployment around the city. We have a total of 30 recommendations in our audit. Some of these recommendations will require meet and confer with the please union so we're appreciative of the POA's letter that you've just received. I want to thank the police department for their forthrightness in working with us and their cooperation through this. They've bin trying to staff in the secondary employment unit, have been trying to work on this program at the same time is coping with auditors, and we deeply appreciate their cooperation. Finally, I'd like to thank Renata Coshru from my office and introduce her to my right. She can answer any more detailed questions that you have about this review. With that, I'll turn it over to the department.

>> Councilmember Constant: Chief.

>> Okay, Assistant Police Chief Riki Goede. Again, I also want to thank Sharon and her staff for the comprehensive audit that they did. Early in this appointment I want to point out that Chief Moore recognized that there were some oversight and equity issues within the secondary employment unit and had actually started implementing changes even prior to the start of this audit and they continued in earnest even once the audit started. And in fact to my right lieutenant Mike Knox was hand chosen by chief Moore and assistant chief urban at the time to take on the task of revise being the policies and taking care of cleaning up some of the secondary employment issues that you've just heard about. We agree on many points as to control measures and reform, and we have crafted with lieutenant Knox's -- he's done the lion's share of the work -- 20-page policy revision specifically targeting secondary employment and addressing nearly all of the auditor's concerns. So what I want to do is just highlight some of the current and proposed changes that are represented in our response to the auditor's report and in our new policy. Right now we're in the process of pursuing software options to track hours worked by each employee and eliminate the burdensome tracking forms that we're currently using and were not consistently completed. Additionallyists hoped the tracking will be tied to the time card system and it looks like we probably might be able to do that. We've also utilized some temporary duty personnel that have been on modified duty because they've been injured in the course of duty to help develop some great Excel spreadsheets that have now allowed us to track permit permits and a lot of the tracking issues that Sharon spoke of just a second

ago. We now are able to track that and currently are. The department has recently started secondary employment-employer surveys to determine the satisfaction level from the employers. Additionally, postevent meetings are held to discuss events that utilize secondary employment personnel, and we've removed the employer application. It used to be that employers could apply online for secondary employment. We've removed that from our Website and now they have to make direct contact with the secondary employment unit. And they can be explained the process for officers complaints, any kind of issues that might come up. Our revised policy prohibits grinning of shift time off for paid time jobs. It also states that officers may not work pay jobs that overlap in any way with their regularly scheduled day and it also takes into account travel time. So if a pay job ended at 3:00, they wouldn't be able to work until 3:00 a swing shift that started at 3:00. Also it speaks to the not flexing any shifts anymore, they're not allowed to flex shifts in some of the -- specifically in our bureau of investigations. There are regular audits and inspection procedures that have been developed. They are also included in the duty manual revision. It includes both the employer and the employee. The revised policy includes a complete ban whether on duty or off duty, against soliciting any secondary employment assignment, instead referring all requests for secondary employment to the secondary employment unit. We identified four cash-paying jobs. The new policy will eliminate and prohibit all cash paying secondary payment jobs and a tax requirement will be added to the employer application. The revised policy prohibit officers being assigned to the secondary employment unit from working pay jobs with some exceptions that being the SEU sergeant who is specifically charged with putting together all the special events are for instance the jazz festival, some of the races that are being held downtown because he or she has specific instructions regarding that particular event. The purpose of staffing he special events within the city with offduty officers is not to create secondary assignments but it is truly to create a safe environment and limit the impact to our on-duty personnel. The revised policy includes more detail regarding the criteria used by the commander to set staffing level at events, but minimum staffing at an event in the city in which alcohol is being consumed is two officers per 1,000. By a comparison, Sacramento is two officers per 250. So we have a pretty lower than average set limit there. Additionally, performance expectations have been set for officers working secondary employment assignments that include such things as excessive texting or talking on the cell phone, as that was also outlined in the auditor's report. We have addressed the coordinator issue that Sharon just spoke of. A large majority of the secondary employment is coordinated through SEU already, however all of the school paid jobs in the city, which is important, and I'll speak to it in a little bit and approximately 80 miscellaneous

pay jobs are coordinated by individual department members, not out of SEU. These assignments fall into four categories. We have 31 homeowner associations and apartment complexes that employ 122 officers right now. We have 38 businesses ranging from private halls to malls to theaters, et cetera. They employ approximately 155 officers. Eight churches that employ approximately 22 officers and two hospitals that employ approximately 20 officers. Shifting coordination from these into SEU would require enormous amounts of resources that obviously we do not have which is why the coordinators have been so helpful in this regard. The revised policy clarifies the role of the coordinator and all of these positions are now subject to the approval of the SEU commander. And it's clear to all coordinators that the chief of police has final authority and is willing to exercise that authority. We have removed coordinators to date, Mike how many have we removed total so far?

>> Several, at least when I was in there for my eight months, I probably removed over a dozen with chief Sulkey.

>> And that would be they are not coordinating correctly, they are not auditing or not paying attention to what their specific employees are doing, that is in place and will continue. A database will track coordination, a filled compensation rate that the auditor did suggest is very problematic in that it limits the flexibility the employers have to compensate coordinators such as when some of our employees will pay on a per-event basis and sometimes they'll even volunteer the time, our coordinators will so it kind of takes that kind of flexibility away from them. The department members prohibited from representing a uniform pay scale to the employer, and coordinator specific training is actually being developed as we speak. Additionally, any secondary employment coordination while on duty is prohibited. It is the department's belief that the policy changes that I've just laid out will address the coordination issues brought up by the auditor. Now with regard to the daily and weekly hour limits, this is an area that we -- and I have to say that we have had many meetings between lieutenant Knox, myself and Renata and Sharon. And we've hashed a lot of this out. So when I say that we aren't in concurrence on a couple of things, it's not in any way a disagreement kind of thing, you agree to disagree, kind of point. We have come to terms on a lot of issues that Sharon has brought up. But with regard to the daily and weekly employment, am 14 recommended by the auditor and 24 hours in a week, however, that number can be increased if the employee decides to take vacation or compensatory day off. And to work a paid job. So if they work 54 hours and they take a day off to work a pay job that can increase by however many they use their time for. And we take that stance because as an

organization we cannot dictate what our officers choose to do on their vacation or comp time. In fact a lot of officers will take time off to do extensive remodeling of their homes, landscaping of their yards, other activities that are extremely tiring but enjoyable, because one of the main reasons for that is for the fatigue factor, which I'll get into a little more as well. But the same can be said for officers who take time off to work secondary employment. A lot of people take time off for work to teach at a collection for example or at the academy. And many of the secondary assignments officers choose that bring thank you, mayor great personal satisfaction and can be very relaxing to them and make them better officers once they come back. A number of officers that worked a high number of off-duty hours, the reality is and I want to make this clear that the vast majority of our officers working secondary employment are not working 24 hours a week. As to the issue of fatigue, the auditor raises a very timely issue, that the department will explore options for awareness training especially on the supervisory level. However with regard to secondary employment, the revised secondary employment policy specifically addresses the Supervisor's responsibility to monitor the impact of secondary employment on their officers and individuals' work permits can be revoked at any time if issues arise. And I just would give this as an example of it being a very, very a supervisory issue on the fatigue factor. I was the homicide commander for a little bit over a year. As everybody knows when we have a homicide these investigators will work sometimes anywhere from 36 to 40 hours straight when they're following leads. There is clearly fatigue that sets in. This is what our officers do. When they are making an arrest their shift can turn from 24 to 36 hours, as Councilmember Constant you know, our hours are not set hours. It became my responsibility as a homicide commander to evaluate my officers ability to continue or not continue and to actually order them home. The same can be said of secondary employment. We are going to require that our sergeants do their jobs and monitor if there is a fatigue issue. I do agree with the auditor this is something our department is going to start looking at, she raises a very timely issue. But it is not something that secondary employment is developing a bunch of fatigued officers out there. That's just simply not the case. The department also does not concur with the auditor's recommendation that to prohibit employees working as private investigators, and actually, it's not so much that we disagree, because we actually kind of agree on this right now. But it's our belief that prohibiting this behavior will not necessarily stop private investigation activity and the requirement for department members to declare these businesses to the secondary employment unit allows for proper oversight, moreover we've had no instances in which conflict of interest involving private investigators has occurred and the auditor's report does not identify any

conflicts nor does the report specify how any of the specific purposes of a P.I. conflict with the city or department and the concern of accessing databases which is the primary concern inappropriately is clearly outlined in our duty manual, code of ethics, and whether on duty or off duty, the department members are subject to these policies. And additionally we already have routine audits conducted on a continual basis for our OSSD staff for looking to see if people are accessing databases inappropriately. In conclusion, secondary employment by police officers has become a vital way to augment police resources in this city, as the auditor spoke to. It is important to point out that while the auditor's report brings out issues that clearly need to be and are being addressed, the vast majority of the 700 sworn officers currently working secondary employment assignments are adhering to the policies set in place and are not working excessively long hours. More importantly, in many instances these officers are providing vital community policing functions through their secondary employment especially in the school assignments where officers serve as coaches, provide drug and gang training and counsel and mentor teenagers on a daily basis. While it's difficult to determine the exact number of officers working on a daily basis in secondary employment it is estimated by us that daily patrol staffing is augmented by approximately 100 paid job officers per day. The department has given serious consideration chief Moore and myself to eliminating all independently coordinated uniform pay jobs and coordinate all requests for uniformed officers for the city at time and a half compensation as is the model in San Francisco Oakland and other cities, in doing so however the cost to the businesses or entities that are requesting the officers would double from the current \$46 an hour to over \$80 an hour. Obviously this would not be cost prohibitive for a lot of people requesting paid jobbers including the schools and homeowners associations and the hospitals to name a few. They would no longer be able to afford the officers and calls for service would clearly increase especially on day watch during school hours. The department recommendation as the auditor pointed out is to increase our staffing in the secondary employment unit from its current one lieutenant one sergeant and one half staff tech to one lieutenant three sergeants and 2.5 office specialists and this is in our current budget proposal and implement revised policies and procedures, utilize the tracking and auditing tools that we've developed and reevaluate in one year and the secondary employment unit has already been moved under the chief's office along with internal affairs and vice Intel.

>> Councilmember Constant: Thank you, Pierluigi you had questions?

>> Councilmember Oliverio: Well, there's a lot of variety of topics here and obviously with the police officers union letter and the -- to be worked out with all the details I'm sure there will be some compromises achieved and we'll move forward with some of the recommendations of the auditor. I really appreciate the audit. I appreciate the police input. Again this is only on uniformed police officers. This has nothing to do with secondary employment any other person that works at the city?

>> Sharon Erickson: Correct.

>> Councilmember Oliverio: Because on the topic of fatigue there certainly can be other groups of people that perhaps have other full time jobs that could cause fatigue, but that's not included in this report.

>> Sharon Erickson: We only looked at police officers.

>> Councilmember Oliverio: Correct. And then on the software side of the fence, will the police department be working with our CIO to find something that's quick and easy versus --

>> We've been working with our systems development which is also with Vijay's shop to do that. We have several staffing it as part of our peoplesoft we're trying to find ways to link the time sheet, our current time sheet system with the time sheet system for paid jobs to help make it automated, and our systems development are helping us come up with those systems.

>> Councilmember Oliverio: If I may ask Vijay, this seems like something fairly simple that could be done in just a quick SAS application outside the integration points of Peoplesoft, but it doesn't seem like this is something that requires the highest level of security or need, it's just the tracking of hours.

>> Vijay Sammeta: Thank you, councilmember. Vijay Sammeta, acting chief information officer. There are a lot of dimensions to this because it's not just being used for this purpose. There's also just the normal shift bid process in the police department so there's while the chief is talking about one component of it we're all talking

about one component of it there are actually other uses that the system is going to go after. And at the same time, we're also kind of looking at peoplesoft upgrades and alternatives. So there's just a lot of moving parts today at this point. But yes I actually have reviewed the RFP and look very carefully at it and we are looking very closely in conjunction of it.

>> Councilmember Oliverio: I feel very comfortable with your overseeing it.

>> Vijay Sammeta: Absolutely.

>> Councilmember Oliverio: Can you give me an example of how someone would have a secondary job that day and called in sick that day?

>> Sure, we just found in our review of time cards we found an instance where somebody was reporting hours for coordinating a pay job on the same day they were reporting sick leave hours.

>> Councilmember Oliverio: And is the idea that that level of effort is, you can do that sick but maybe showing up as your duties probably wasn't the best day for that?

>> Well, the duty manual specifically, the police department's duty manual specifically prohibits working any kind of pay job while you're on sick leave so coordinating is part of a pay job.

>> Councilmember Oliverio: Okay so the duty manual covers if you call in sick you can't work a second job that same time?

>> Correct.

>> Councilmember Oliverio: And then -- cat read my notes. On the reconfiguration, you know currently if one lieutenant and then you do one lieutenant three sergeants and they other people, sounded like they were unsworn

titles, wouldn't it make more cost sense to have one lieutenant and more Indians? Meaning it seems like three sergeants for this versus three sergeants in patrol would probably be better.

>> It's a great question something we put a lot of thought in. You are talking about something that requires supervisory oversight. A lot of the tracking and daily input of data would be done by the 2.5 staff tech. But right now we have one sergeant who currently oversees all of the special events that's jazz festival and jam, everything, 10K run, whatever we do that's very time-consuming takes that person's time. You need one full time sergeant just to handle that aspect in SEU, and then you need one to help audit. So the supervisory, the reason we went with the sergeant level is just because of that supervisory aspect to running these overseeing the coordination of the special events within the city but also tracking and auditing and overseeing what happens with our secondary employment officers.

>> Councilmember Oliverio: So it's the oversight so it seems like anyone could have the ability to manage an event regardless of the sergeant title, people might inherently have the ability to be a very good event organizer, manage tasks and milestones efficiently but just be a patrol officer? Or civilian?

>> The sergeant position currently in SEU, he is an integral part of the planning events that occur here in the city and he works a lot of them from the beginning until their completion and he's the only person right now in that unit who could do it. I mean I was sweating out last summer if he got into a car accident because there would have been no other department member with his skill set at that time to come in and take over his duties. There needs to be some redundancy to his position. So that there's more than one person in the department who knows how to work with OCA to plan an event to supervise an event out in the field.

>> Councilmember Oliverio: Appreciate that, perhaps two out of three so that's from the outside eye looking in. I'm inherent in this case. Could I, could a neighborhood association, a business association hire a secondary officer to actually do more than just physically be there, could that association hire them to give out tickets?

>> Well, when an association hires a police officer, I mean they're basically doing police officer duties. We're seeing this in the business improvement district. It's the same thing you hire a police officer to be there and they do their normal patrol, they patrol walk around and if they see things that entail enforcement action they do it. They can do -- write tickets or do anything of that things as long as there is some kind of infraction for them to take action on.

>> Councilmember Oliverio: So in a geographic area of homeowners just wanted something more, they wanted a police officer in their area to be there, to do that there, that does exist today the opportunity to hire a secondary officer?

>> Yes.

>> Councilmember Oliverio: That's great. Okay, thank you.

>> Councilmember Constant: Kansen any questions?

>> Councilmember Chu: No.

>> Councilmember Constant: I'd I'll just make a couple of observations and first I'll state I did work secondary employment when I was a police officer. Away I was surprised is there's several things that came up that seemed to be policies that came up back when I was an officer that just disappeared like the number of hours, the cash payments, the flex time. All of those things were policies that were in effect the last time I worked a pay job was probably '95 or '96 and they seem to have just disappeared. So I'm just kind of curious how things disappear.

>> I mean it's a fair question, councilmember. I think the problem is -- and mike can probably speak to this a little more having come in and taken over and looked closely into that. But I think the oversight and the supervision wasn't there. And I don't know that our duty manual completely, things had been changed out of the duty manual and I mean that's one of the things chief Moore recognized right away when he became chief, he saw that. And

we also had reserved, we had people that weren't working full time on the police department that were coordinating positions. That was hard to supervise that and that was brought under control and changed in the revised policy. So I just think there were a lot of -- there were a lot of things that happened and anything that got out from under in the resource as we started losing officers that was one area that got cut back and it's clearly an area we can't cut back in.

>> Councilmember Constant: Okay, just a couple of observations, one I think the 16 hours is too high. I think 14 hours worked for a long time. And by your own admission, it affects a very few number of people that work that volume of hours. But when you think about a 16-hour day and commute times and transition times, it leaves very little time for rest. And I know there was a lot of discussion around that. So I don't agree with the 16 hours. I don't think that's wise for us to be looking at. I don't have a problem with the 24 hours per week. But I really think that the 16 hours is too high. The issue of flex time, I notice on page 5 it says it's prohibited. But end of shift TO is allowed for secondary employment. I guess my concern is when we are continually hearing how understaffed we are in patrol, that we would allow a policy like this. And so my concern is, that we may want to consider when staffing hits a certainly level allowing that. But we also know we don't have enough people out there. So that's my biggest concern.

>> Well, with regard to -- because I agree with you and then the reason why we didn't take it out from the end of the shift, beginning a shift as you well know there's no control. When a person takes the beginning of shift TO where they call and say I need an hour or two hours off and it's granted and all of a sudden there's homicide, and an event that requires resources, we don't really have an ability to bring that person back and get them there to work. We're kind of stuck with what we have, which is why we were very adamant about the beginning of the shift. End of shift on the other hand, we didn't want to hamstring to say that it was absolutely that they couldn't do it at the end of the shift. But at the end of the shift again as you know as you Getz get -- if you're a sergeant you can grant me end of shift TO but that doesn't necessarily mean I'm going to get it. When we have those incidents where we have critical incidents and homicides that require the massive amounts of personnel, your end of shift is denied, it's taken away. So there's no guarantee you're going to get the end of shift T O and that's the reason we left it on the back end not the front end.

>> 11:00 at night and you leave and at 11:15 we have a homicide and we're already understaffed, those are the concerns. We keep hearing about the critical staffing level and we all acknowledge it. We've talked about in our budget sessions, we've talked about it in all avenues of discussions so I think that needs a little more thought before it gets implemented. And then my final comment is on the PI work. And you know reading from page 11, it says at that time activity was prohibited yet people kept doing it so we're going to take the rule away. I just think that that's a terrible way to determine how we're going to select our policies. And just say that because people ignored it, and we didn't have the oversight we're just going to eliminate it. And that's what this report says. That may not be how you got to it but when I read that paragraph that's what this says.

>> And it's not that -- it's not that we think okay, just because penal have ignored it let it continue. The bottom line is, private investigative work is something that a lot of police officers do not just in our department but in other departments across the state. And we have not had any problems with it at any time with PI work done by officers. They are not -- the biggest issue you realize is the conflict, they are going to access the databases, the need to know trite know. That is being taken care of, we haven't had any incidents like that. The thinking is as you may well know, if have a private, we require them as of now if they have a PI that they need to sign of with secondary employment and keep track of it and keep watch. That is the rationale of putting that in there as opposed to outlaw it completely. Because you want that ability to track it. If somebody's doing it and wants to do it I'd much rather want to know about it and coordinate it and track it than not know bit.

>> Councilmember Constant: I'm seeing the rationale, I'ming saying perhaps it's poorly worded here because of the way it comes across. But I actually know that the way we talk about actual conflict versus perceived conflict, we took a completely different approach with the Police Foundation a month ago. And it's the scale organization making the same decision around conflict of interest. One says we're going to go hard nosed in one direction, the other one says we're just going to deem with it. I have a problem when things aren't consistent you from one practice to the next and I think this is a good example of inconsistency. And then finally on the in-house versus I was going to say out house but outside coordinating, I do know, as you mentioned, that there's a lot of departments that do it in house. And I think that I really think that's the best way to go and I know it changes the

cost structure. But it works for several other police departments and there are a lot of these organizations that are paying for coordination now, and there's no reason that coordination fee can't go to the city, in a cost recovery that we know it may not be 100% cost recovery. But if it cleans up the system I think it's worth us to explore it. And tagging on to what Pierluigi said, a lot of the coordinating duties don't need to be a lieutenant or sergeant, as long as they are being supervised in their role of coordinating. Just like you mentioned it used to be done by reserve officers, it's done by line level officers who are not supervisors and we have nonsworn personnel who coordinate training and do other things. So I mean it's an administrative function and I think we should continue to look for ways maybe in a second phase of how we can bring that in-house and find ways to manage it through a civilianized process. Any other comments? Can I have a motion?

>> Councilmember Oliverio: Motion to accept and cross reference.

>> Councilmember Constant: Any comments from those of you down there? All in favor, opposed, thank you very much. All right Sharon we'll go into the next one which is item 6, semi annual recommendation follow-up report on all outstanding audit recommendations for the six months ending December 31st, 2011.

>> Sharon Erickson: This report summarizes the status of 172 open audit recommendations, as of December, 2011. It includes 159 recommendations that were outstanding after our last status report in June 30th of 2011 and 13 new recommendations from audits issued in the last six months. Since our last report staff implemented 20 recommendations, a total of 91 recommendations are partly implemented, 61 recommendations are not yet implemented. Wanted to point out that a total of 34 recommendations are noted in the report as having potential budget impacts totaling multimillions of dollars. These recommendations will be considered as part of the upcoming budget process. We do continue to follow up on open recommendations. But we do understand the current pressures on city staff in a downsized organization. And we appreciate staff's efforts to address these issues that we've opponented out in audits and in our recommendations, as well as their day-to-day tasks. If I could take a moment just to walk you through a few salient recommendations, on page -- whoops, I lost the page number, page 4 of our report we report on a 2001 audit in the fire department. A couple of interesting items there that have come up recently and I wanted to point out. We still hold these recommendations

open. Recommendation number 3 in the audit of the fire department's strategic plan was related to the omega response which allows us to respond by phone to emergency medical calls of a low priority. Recommendation number 5 which would allow an SUV-type response instead of sending a truck or an engine out for a low-priority medical call. On page 25, we have the summary of the open audit recommendations from the audit of employee medical expense. I did want to point out recommendations 15 and 16 were related to a retiree in lieu program which I think we can still pursue. Many of these other recommendations are either tied up in negotiations at this point, or in other ways.

>> Councilmember Constant: That last one, which page was that on?

>> Sharon Erickson: It's on page 25.

>> Councilmember Pyle: . It's recommendation 15 and 16. Recommendation 15 is actually on page 30 and recommendation 16 is on page 31. Then in terms of just moving on, we are making progress with the recommendations on police department civilianization. That's on page 49. But I did want to point out that there is additional work that can be done. We estimate another 2 to \$4 million in potential savings. On page 63, we outline the status of the recommendations regarding the card rooms, permitting and licensing. We do still have six recommendations to improve that process. The permitting and licensing of card room employees. There is, from this committee, direction to return in April, I believe, to the Rules Committee regarding those recommendations. On page 75 of our report, is the summary of the six open audit recommendations from our audit of pension sustainability. I did want to point out that there are, among a few things that we can all agree on, on pensions, I did want to point out that the additional reporting that we recommended I think is agreed to by all parties, so that would be recommendation number 6 to improve communication, and understanding of the financial health of the retirement systems, retirement systems should provide an annual report to members of the system. And then finally, on page 85 of our report, the audit of police department staffing recommendation number 3 concerned ratios on the span of control. The department is responding, they are engaged in internal discussions. It has been before this committee and as you discussed in January and we discussed there, we do

believe there is more work to be done. That summarizes our report on the status of open audit recommendations. Again, I believe we are making progress.

>> Councilmember Constant: Thank you. Questions, gentlemen? No questions. I don't think there's anyone here that's not city employees. So doesn't look like we have anyone who want to comment on that. Motion to accept the report?

>> Councilmember Oliverio: Accept the report.

>> Councilmember Constant: And I think I heard a second from Councilmember Chu. All in favor? Any opposed? So now we'll go right into item number 7.

>> Sharon Erickson: This is the monthly report of activities for the City Auditor's office for February 2012. During the month of February our office did issue comments on IBM's operations efficient diagnostic reports. Those comments were accepted by the city council on February 28th. We do have several recommendations -- several audits in process There are a total of seven audits in process. In addition, we issued of course two reports today. That's my report.

>> Councilmember Constant: Thank you.

>> Councilmember Oliverio: Motion to accept.

>> Councilmember Chu: Second.

>> Councilmember Constant: All in favor? Thank you Sharon. Our next two items, workmen's compensation mid year report, and the reform report I think we'll just give us your verbal on both. At the same time.

>> Alex Gurza: Yes, Mr. Chair, the mid year report is in your packet. We don't have any presentations. We are happy to answer any questions that you may have. And on the verbal report, I think as we last informed the committee, we've been working on an RFP for workers compensation, actually two separate RFPs. We are working on one that involves claims administration as well as various other other factors that we currently outsource, and the City Attorney's office is working on an RFP for the legal services side. We both expect our RFPs to be issued within the next several days and we'll be back next month to give you a further report.

>> Councilmember Constant: Thank you. I just think a high level comment is, it's not unexpected to see workmen's comp rates fall when the number of employees you have on payroll are less. In fact some of them track very closely the disability leave supplement is down 25% and our payroll's down 24%. Very close, and I think you can carry that through several areas. So I don't think it in any way needs to say that we need to slow down on our reform. It just happens to be that our costs are lower because our overall costs are lower. Any comments or questions? Gentlemen? You sure? We got time to kill here. (inaudible).

>> Councilmember Constant: Then make a motion.

>> Councilmember Oliverio: I'll make a motion to accept the report.

>> Councilmember Constant: Okay, motion and second. All in favor? Opposed? That carries. Open forum, anyone like to speak? We're adjourned.