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>> Mayor Reed: Good morning, we're going to get started with the meeting. We have a quorum at the dais. This is a piece of our day here, starting with the labor update. And we will adjourn into closed session. Have the balance of our closed session agenda and then take up the rest of the city agenda at 1:30 as scheduled. I think this is the third time we've had a labor update in open session here. And we're still trying to figure out what's the most effective way to use the time and to communicate the information. So Alex and I have discussed a third way so today's presentation will be a lot shorter than the last time. So that we can have more time in closed session, to discuss whatever council needs to discuss. But we will take comments from the public, people who wish to testify, and rather than me trying to limit the range of what people have to say, we'll just give you two minutes and you can say whatever you wish. As long as it's not negotiating, bypassing or direct dealing as the City Attorney may have to figure out. So we'll start then with Alex I think is going to click things off right Deb, is that right? Alex Gurza.

>> Alex Gurza: Good morning, Alex Gurza, Director of Employee Relations. I do want to every time take an opportunity to remind anybody who may be watching on the Internet or on television that information about labor relations is available on the City's Website. The proposals that we're going to be discussing with the city council are all posted online and anybody can look at our Website going to city departments, employee relations under the City Manager's office and then click on labor relations informing. The link to that can be obtained more directly by just going to the City's home page and looking for labor relations informing then there is information by bargaining unit, and again, we post proposals that we receive and that we make to bargaining units on the day that they are made. So really we do as the mayor indicated we're trying to streamline the presentation that we make in open session. And this is the actually the only slide that we will be using this morning. Part of the idea in this open session is to present publicly or be able to give an opportunity publicly for anybody to comment on proposals that we have received from bargaining units. The mayor and the council have in front of them a packet of the proposals that we have received since the last open session update. Those are also as I mentioned available online and copies here in the chambers. The proposals that we have received really are from the bargaining units that are listed in the first three rows from the firefighters local 230 that gave us a proposal late yesterday afternoon, that is a package proposal in other words a comprehensive proposal to settle the entire contract. And that proposal is in front of you. Then we also received a couple of proposals from the coalition that

is negotiating simultaneously and that is five bargaining units, engineers and architects, maintenance supervisors, the electricians union, the building inspectors union and the city association of management personnel and management bargaining unit. They have provided two different proposals, one is related to the 10% ongoing total compensation reduction, and another one is about second tier benefits for new employees. Again, those proposals are in front of you and available online. The next row is operating engineers local 3. Our team met with OE 3's team twice last week and yesterday. So a total of three times since the last time we were before you in open session. They provided us with a preliminary list of interest and issues that is essentially the same thing we also provide to bargaining units as a list of topic areas that they would like to raise during the negotiation process. They also submitted to us four counterproposals to individual proposals that we had made to them, and also, a proposal on second tier benefits for new employees. Again all of those proposals are before you. The other thing we wanted to point out that we did provide the council with a hard copy of is for AFSCME, the MEF and CEO. They provided us with an extensive information request at yesterday's session, and we have provided the city council with a copy of that. So otherwise, the meeting scheduled we have next meetings are on the right, furthest right for each bargaining unit. So all of the City's 11 bargaining units are represented on this slide and the current status and next meeting. So that is the end of our presentation this morning.

>> Mayor Reed: Thank you Alex. Anybody wish to comment from any of the bargaining units that are here on any of the proposals? We'll take that now. Why don't you just come on down. Got some cards I guess. Jeff you want to go first? Since you're closest.

>> Good morning mayor and council and staff. Pleasure to be before you this morning. I just have a brief few statements that I'd like to make and respect the two minutes. But what you have before you right now is a signed offer that answers all of the needs you've expressed and calm for performance savings at all levels. It is a 10% total compensation reduction in an ongoing manner. A reduction in minimum staffing. A second tier retirement for new employees and an opt in second tier for active employees. As Councilmember Liccardo blogged yesterday in San José inside, while constitution protections make it difficult if not impossible to do so, through traditional mechanisms of collective bargaining, we need to work with our unions and find a new bargain with our employees, one that is both fair and sustainable. Our offer achieves that, fair and sustainable deal, it is a legal

alternative, for active employees to select a cheaper retirement which creates savings now. For the taxpayers and the employees. Our proposal is simple. It's laid out. It's easy to understand. And there's no strings attached. It creates certainty and security for the council, the employees and the citizens. I'm here to say that I'm happy and eager to answer any and all of your questions, should there be any. But we'd like to reach an agreement as soon as possible to put this to bed and move forward so we can start working on more significant issues and getting the business of the city done on the streets and keeping the people safe. We sincerely hope that there's an agreement that's reachable and you provide direction to make that happen. Thank you.

>> Mayor Reed: Nancy Ostrowsky.

>> Good morning everyone, as you can see, the coalition, the five unions, we're together, we're strong, we maintain our spirit and we maintain our commitment to work through all of the challenges in the City of San José. We made significant movement with the city last week by giving not only the new hire on pension proposal, but also the 10% ongoing that was addressed by the city council. And put down on your list. So please, consider everything that we're doing, and we're staying in the good faith and the spirit. Thank you.

>> Mayor Reed: Brian Doyle.

>> Brian Doyle I'm one of the negotiates for the association of legal professionals. Good morning. Mayor, city council. I just wanted to make the point that although we had no meetings last week, we had two meetings the prior week. And one of our requests, which we haven't received a very clear answer to, was simply that any time the city makes a proposal that has economic consequences, that there be actual dollar figures next to that proposal. This, we believe that we're very interested in making a deal with the City. We would like to bring this together very soon. But until we actually have dollar figures next to any city proposal I don't think we'll be able to do that. And I just urge you to urge your team to make sure that that happens. Thank you very much.

>> Mayor Reed: LaVerne Washington.

>> Sorry for being a little late. Good morning mayor and councilmembers. In an information request to the city, to prepare for these negotiations, AFSCME requested information regarding the City's span of control for each department. We requested information regarding the number of managers and the number of rank and file employees for each department. In response the city provided with us a breakdown of the number of full time equivalent employees for each bargaining unit. This information did not address our request in the slightest. They're in the negotiations sessions when I asked about this information, I was told that this information would be extremely difficult to obtain, and may not exist. I was then offered copies of any organization charts that may exist for the departments, with the caveat that there are departments which do not have updated organization charts. As a resident of the City of San José, and a representative of the city employees, I was shocked at this explanation. For a city this large, how can anyone know if we are operating efficiently, and spending the taxpayers' money without knowing the actual organizational structure of each department? I am befuddled and amazed that the City of San José does not maintain current organizational charts for each department, or have readily available information pertaining to the number of employees and supervisors. I'm hoping that when AFSCME receives this information it is current and complete, for each and every department. In addition, yesterday, the city passed seven contract proposals to AFSCME. At least four of these proposals were financial in nature and result in cost shifting or cost increases to AFSCME members and alleged cost savings to the city. When AFSCME asked about the financial impacts to the city and our members, the City's negotiation team did not have any financial analysis or information regarding the financial impact these proposals would have for the city or AFSCME members. It is virtually impossible to determine any cost savings or financial impacts without budget and financial projections. We have asked the city to provide us with the budget and financial projections as soon as possible. So that AFSCME may analyze these proposals. We sincerely hope that prior to passing any future proposals with the economic impacts, the city will include budget and financial projections so that AFSCME may quickly analyze and return to the bargaining table with a response. Thank you.

>> Mayor Reed: Any other cards? None. Okay, that concludes the comments, we're going to adjourn now into closed session. To continue first the discussion on labor and then the rest of the closed session agenda. We will be back here at 1:30. [Recess]

>> Mayor Reed: (gavel strike) Good afternoon, I'd like to call the San José city council to order for March 1st, 2011. We'll start with an invocation and the invocators will be introduced by Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Our great treat today, I think I'll pick the different -- (inaudible) [Laughter]

>> Councilmember Liccardo: I suddenly feltly Rose. Wonderful. It's our great pleasure today to have with us two of the leaders of the Notre Dame student body as many of us know Notre Dame is a Catholic school down here in San José. For young women. Has been located here for 160 years. It is 160 years of educating young leaders in our community and coming with these fine students is Ms. Katherine Pandori director of student activities and joining Ms. Pandori with the invocation of course, Justine de La Rosa, Notre Dame high school peer ministry leadership team member, and Feeza Mohammed, vice president of our youth council in District 3. We are delighted to have us with us today.

>> Good afternoon, I'm Justine de la Rosa, and this is Feeza Mohammed. We would like to share our information with you. In our education at Notre Dame High School we are learning the values of goodness, human dignity, peace, justice, diversity and service. We would like to share a poem by Arthur Wescow that shows us how the fires can provide us with the light that we need to see.

>> We are the generation that stands between the fires. It is our task to make from fire not an all-consuming blaze but the light in which we see each other fully. All of us different, all of us bearing one spark. We light these fires to see more clearly, the rainbow in our many-colored faces. Blessed in the one within the many. Blessed are the many who make one. Arthur Wescow.

>> May you be blessed with the ability to see each other fully and the ability to see each other during these challenge financial times. Thank you. .

>> Mayor Reed: Thank you. [applause]

>> Mayor Reed: Next we will have the pledge of allegiance and we're joined by Payne elementary school and they're going to help us with the pledge of allegiance. Everybody please stand. [pledge of allegiance]

>> Mayor Reed: First item of business would be the orders of the day. Are there any changes to the printed agenda order? I have no requests.

>> Move to approve.

>> Mayor Reed: I have motion to approve orders of the day. All in favor, opposed, none opposed, that's approved. Closed session report. City Attorney.

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

>> Mayor Reed: Now we'll take up ceremonial items. I'd like to start by inviting Councilmember Herrera, Jeff Ruster, and members of Target to join me at the podium. Today we're commending Target stores in recognition of their importance as a key employer, as well as mayor support for Work2Future, our economic development, and arts and cultural programs in San José. Councilmember Herrera has some of the details.

>> Councilmember Herrera: Thank you, mayor. At this time I'd like to introduce Work2Future director Jeff Ruster and representatives of target stores who have joined us today. Bennie Bovita, district manager, Joe Contrucci, regional vice president for the Bay Area, Dean Osaki, community relations, and Dean Robinson, district team leader. Welcome here. We all know Target as a leading retail company that has expanded in Silicon Valley, serving thousands of residents in San José as a local shopping destination. But today, as Chair of Economic Development, I'm proud to recognize Target Stores for their support in serving San José and its residents. Target serves the community as a significant prestigious employer, playing a critical member and catalyst and supporting economic development in San José. Target has proven its commitment to serve and employ residents of our

community through its partnership with Work2Future. Target has hired hundreds of Work2Future clients at their many local locations and has been the chair of the Work2Future board for over the last two years, helping Work2Future meet all of their performance outcomes despite the difficult economic state. Target has also provided initial funding support for businessownerspace.com which helped Work2Future connect with over 200,000 small businesses. Target's commitment to serve our community goes beyond employment opportunities. Through its support of community events throughout San José and charitable efforts such as its partnership, grant with the Silicon Valley education foundation and the Hispanic foundation of Silicon Valley to support the stepping up to algebra program, its grant to support summer concerts of the symphony Silicon Valley and ZeroOne program. Its donations and volunteer support to the Santa Clara County Second Harvest Food Bank and through the field trip program in partnership with the Silicon Valley educational foundation, serves 1500 students by providing free admission and transportation to arts and cultural institutions. Target is also helping San José meet its Green Vision goals by building more energy efficient stores, reducing energy in all of its stores and using an extensive recycle program and recycle stations in all of its stores for customers. I'm very proud today to acknowledge target today with Mayor Reed, the office of economic development and my colleagues for their continued dedication to serve San José and its residents and at this time I'd like Mayor Reed to present the commendation and then Benny Bovida is going to have some -- everyone gets one, Benny Bovida is going to say a couple of remarks.

>> Thank you, Councilmember Herrera and thank you mayor and to the rest of the city council. We are very honored and on behalf of target thank you for this commendation. It means a lot to us. You know ever since Target was founded in 1962, our founders made sure that we give back to the communities we serve and we're very proud to be part of this community. This is a great community. And we will continue to develop and cultivate our relationship with the city and the citizens and continue to make sure that San José is a great place to live for everyone. So thank you very much. [applause]

>> Mayor Reed: Councilmember Herrera is going to come back I think, in a minute, along with Vice Mayor Nguyen, councilmembers Pyle and Rocha, and the South Bay international women's network they're all going to

join me at the podium as we recognize the month of March 2011 as women's history month in the City of San José.

>> Councilmember Herrera: Thank you, mayor and my colleagues Vice Mayor Nguyen and councilmembers Pyle and Rocha for joining me here at the podium. At this time I would like to introduce and thank the representatives from the South Bay international women's network who have joined us today. South Bay women's day network co-founders are Loni Lee Ho, Charlotte Casey, Patricia Santiago, Liz Gonzales, Virginia Hurado, Nueme Tipping and Adriana Garcia. And also Christy Espiroso and Patrick Campbell. Today we are recognizing March 1st as women's history month, the start of that. Women's history month is an opportunity to recognize the accomplishments that women of every race, class and ethnic background have contributed to overcoming obstacles to women's empowerment, equality locally and internationally. Women's history month celebrates the extraordinary accomplishments of women and their role in shaping the course of our nation's history. It is also an opportunity to unite, network and mobilize as a community for meaningful change. There is still much work left to be done. Thousands of events are held throughout the world to support women during women's history month. This month we also celebrate international women's day. This day has been observed since the early 1900s to celebrate women's economic political and social achievements in the past, present and future. I've asked the South Bay international women's day network to join us to recognize their efforts in educating our community about the history and changing roles of women. The South Bay international women's day network is a women's based organization founded in 2010 by a network of organizations, and this organization celebrates women's history month and international women's day with an annual march to recognize the local struggles and international triumphs of women fighting for human rights and to revive the tradition of commemorating international women's day on a day celebrated for women around the world. Today I'm proud and honored to proclaim women's history month in San José together with Mayor Reed and my colleagues and I would ask Mayor Reed to please present the proclamation, and I would like to invite Adriana Garcia to say a couple of words.

>> We thank Rose Herrera, her staff, Vice Mayor Madison Nguyen and the rest of the city council staff for their support and efforts to unite in women's rights with their working all the services and programs that they provide in the city. Women have made great strides in the fight for equality, but we still have isms, oppression and suffering

that continues to create huge variance for women are color children and working families, women's history month which begins today, offers an tint to make new partnerships locally to build a women's red movement in the South Bay. As part of the larger struggle to counter imperialism and it's the root cause for many social ills. The South Bay international women's day network founded last year, organized by a dozen organizations to revive a hundred year tradition, and be able to connect it in this second annual to today's critical women's human rights issues from San José, to Wisconsin and Mexico to North Africa. The network plans to mark international women's day in women you a 90th, uniting, as well as allies including our men because everyone has an obligation to fight together to promote equality, fairness, diversity, accessibility, antioppression, antidiscrimination practices to improve the life of all persons in our community. This includes working hand and in recognizing the contributions and hard work of our local leaders, who make a positive impact in the daily lives of our families and communities. To continual ongoing and create more safe spaces, that not only allow us to heal but also politicize us, to improve our social conditions, so that our children will not have those same plights so our children will enjoy a life of dignity, justice and freedom. So we ask you to wear purple and join us on Saturday, March 5th, at 11:00 a.m. at Roosevelt Park. March to defending women's services in migrating human rights, not to violence, not to war not to U.S. occupation in wars anywhere, marriage equation for all and we stand in solidarity with women in the Middle East, north Africa, U.S. stop funding dictators. Thank you. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Liccardo and Jack Varito to join me at the podium as we commend Jack for his many contributions to the commercial and sports life of San José. And the Silicon Valley. Councilmember Liccardo will give you the details.

>> Councilmember Liccardo: Thank you, mayor. As Jack approaches, joined by just a few friends from the San Jose State University golf team, I want to tell a little bit about Jack and his extraordinary legacy here in San José. Welcome, Jack. Jack is joined by many friends and family including of course here behind us, this is daughter-in-law Peggy, son Jim, in the audience, nieces Jill, and Kathy, some old friends, they're not old but they've been friends for a long time, Bill Barrett and Lee Brandenburg, as well as Tom McEnergy, thank you for being here. Jack has been a pillar in our downtown, and throughout San José, born and raised here, attended and graduated from San José high, San José State, a World War II veteran, served our country in South

Pacific. He also was a trustee of Eastside union high school district, long time member of rotary, obviously served and led in many, many ways. Many downtown knew Jack through his work in leading a family business here, the Bariteau dry cleaners which occupied a spot between 1919 and 1992, a location that we will affectionately call the future site of the San José A's baseball stadium. That was a business that was started by his father in 1919, and he operated until 1992 here. What is particularly remarkable about Jack is his extraordinary accomplishments in athletics. He comes from a family of great athletes. His father was a pitcher who barnstormed back in the early part of the century and pitched against Babe Ruth and all the greats. And Jack's game though was golf. And Jack was a star on the San José State golf team, regional champion, a founder of spyglass hill golf club, president of San José country club. As a result of all his contributions to the sport he was recently inducted into the NCGA golf hall of fame and for that and all his service to the community I ask the mayor to present him with a commendation.

>> I didn't come prepared for this event. But my whole life has been San José. I was born in San José. I'm Atlanta Street, right off of Bird Avenue and when I was eight years old my parents moved off of North first Street to Ayer avenue. We went through the first Willow Glen elementary, then Jefferson grammar school, Peter Burnett junior high, San José high and eventually San José State. I also ran a business in this community for 40 years. Had the good fortune to be on the board of the northern Cal golf association for nine years. And I always pushed San José as the best place in town to live. Thank you. [applause]

>> Mayor Reed: Next item is the consent calendar. I have some councilmember requests to pull some items off for discussion. Items 2.5, 2.9, 2.12, 2.14 and 2.17. Any other requests? A motion to approve the balance of the consent calendar. Anybody who wishes to speak on any other items on the consent calendar, now is the time to do it. All right, motion on the balance of the consent calendar is to approve. All in favor, opposed, none opposed, that's approved. Item 2.5 is the travel report, Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'd like to report that on February 16th I traveled with Vice Mayor Nguyen, councilmembers Ash Kalra and Donald Rocha plus RDA executive director Harry Mavrogenes to the state capitol. We had a very full day in Sacramento meeting with all 11 of the City's representatives, seven

assembly members four senators. Our mission was to discuss the governor's proposal to eliminate Redevelopment Agencies and enterprise zones statewide. As we all know, eliminating redevelopment agencies and enterprise zones would severely impact the city's ability to attract and retain jobs. Something that's crucial to the economic health of San José, the Bay Area, and California. The state of California (inaudible) packages -- excuse me -- I lost my place here a little bit. For the corporate community while Texas, Arizona and several other states do we need Redevelopment Agencies and enterprise zones in order to compete with them. We discussed the positive impact that redevelopment has had on the North San José and the Edenvale area as well as how effective RDA has been in supplying affordable housing for the city. In addition we quickly reminded the legislators how important it is for San José to have a seat on the MTC, Metropolitan Transportation Commission. Our goal was also to hear from the legislators regarding their concerns with redevelopment. I was encouraged by their understanding of the need for redevelopment, and by their comments that San José is a model for how redevelopment should be done. And at this point I welcome the other councilmembers who joined me to share their thoughts.

>> Mayor Reed: Vice Mayor.

>> Councilmember Nguyen: Thank you. First of all let me just express my gratitude and appreciation to councilmember Nancy Pyle for arranging this trip, and also to Roxann Miller and Betsy Shotwell for being with us and making sure that we got to meet with every single legislator who represents Silicon Valley. That was just incredible. And of course, we had a couple of legislators who really surprised us because they were really open to some of the ideas that we provided during the trip. In all, I thought the trip was very successful. We are very confident that we got our points across and that we're hoping that the conversations we had with them really help them to make their decisions regarding different issues regarding the redevelopment agency throughout California. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Nothing else to add, except I really want to thank Councilmember Pyle for spearheading this trip once again, and I want to thank all the legislators and their staffs that took time out to meet with us. I think it definitely was valuable, regardless of the outcome what's going to happen in the next two weeks I feel that wear just going to be listened to.

>> Councilmember Rocha: I'm going to third that and thank Councilmember Pyle for coordinating this, your leadership, and pushing us to do that. I think the effort was extremely valuable, and a number of the legislators pointed out that a letter is important, but the fact that there were four councilmembers from San José there to speak to the issue and talk about the value of the agency and the work they're done, that was really important and they appreciate it so thank you again.

>> Mayor Reed: Anything else on trip reports? Okay. Is there a motion to approve? Motion is to approve the trip reports. All in favor. Opposed none opposed, approved. Item 2.9 some, or actions related to the 2011 Amgen tour of California stage finish. Several people I want to thank on this. We're grateful to be able to have the bike race back. It generates tax dollars for us and that's a good thing but it does take money to put it on and I just want to say that we would not have been able to do this without the help of Carl Guardino, Silicon Valley leadership group and CEOs from his companies, as Carl is coming up to speak I also want to acknowledge that Kim Walesh Tammy turnipseed from our staff as well as Karen Erin Strom from the San José sports authority did some heavy lifting in making this happen. I just want everybody to know that on the trip to Japan that Carl and I went to try to get some air service Tokyo to San José, that Carl was giving me hourly reports on his fundraising efforts on this so even when he wasn't working he was working. Carl. That cut out just a minute there. If the light's on you should be working.

>> Mayor Reed and members of the council sir you made it easy to fund raise because our 340 companies believe in San José, believe in what you are all doing to make this a better place to live and work and to recreate as well and this falls clearly within those bounds. We only sent out requests by e-mail not a single call to about 50 of our member-companies. 32 responded yes. You set a target for us to try to raise at least \$100,000. We raised \$150,000. With those e-mail responses. So it's a tribute to you and the work that you're doing to bring the tour of

California here. Also, to bring with it coinciding that week, our king of the mountain CEO, public official, charity challenge where we ride the same 3.9 mile hill at 12% grade as the pros. So we want to encourage Mayor Reed, I think you've rode that ride, that charity ride every single year.

>> Mayor Reed: I have and it's only an average of 12% because there are parts of it that are a lot worse. In fact all of it is a lot worse for me.

>> And it's not downhill, it's uphill. It's all uphill, yes. So we want to invite all of you to join us on the morning of May 18th first for the charity ride and then to stay and watch the wonderful final stage, stage 4, for the tour of California. You have the most exciting stage of the whole week, by the way because it's the only mountain top finish stage! So with that, mayor and council we want to thank you again for reaching out to the leadership group. We look forward to many more opportunities to partner as we all squeeze limited dollars to benefit our valley.

>> Mayor Reed: Thank you. We appreciate it. Wouldn't have happened without the financial support of Silicon Valley leadership group companies.

>> It's a pleasure sir.

>> Mayor Reed: Anything else, on the race, anything to add from our staff? I don't think so. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just want to put an exclamation point on this. This is no -- we value all of our vets here in the city but this is no minor event. There are 3 million viewers watch the Amgen tour every year. This has become the biggest bike race in the country, San José has become a highlight of it because of this extraordinary ride up Sierra road. And I just want to say thank you to Carl for jumping in in a time of crisis, certainly, because we knew we had a huge hole to fill that we couldn't fill with public dollars. And Carl came to the rescue by reaching out to our private sector partners, and they jumped in, recognizing that with a long list of

companies like this, no one's going to get the whole stage. But they're doing it because they care about supporting this community and making this happen so thank you Carl.

>> Thank you, Councilmember Liccardo and his colleagues, I would just say he's only gracious because he always beats me up the mountain. Otherwise he would be less so. In my apologizes I'm barefoot because I'm on my bike and I didn't want to scratch your beautiful floor with my bike shoes on. Thank you.

>> Mayor Reed: We just want to note, the direct revenues to the city will be an estimated in excess of \$100,000, and I'm glad we don't have to lose that because we can use the money. Is there a motion to approve? We have a motion to approve, yes, we do. All in favor? Opposed? None opposed, that's approved. Item 2.12 is a park trust fund annual report. I have some questions of staff. First is of the \$170 million we have in our trust fund, I'd be interested in ways that we could spend that money and build some parks instead of just accumulating the money. I know we've given you some previous direction to defer park construction unless operating and maintenance dollars are in, are identified, but I'm interested in the concept of some of the private sector developments, that will build parks, that we need to look at additional ways to try to make sure we can hit them build those parks and operate them and maintain them. And I would like to get your thoughts on what additional things we could do with the funds that we have and the private sector developers who want to build parks beyond what we've already explored. So you can just address that Matt.

>> Sure thank you Matt Cano division manager Parks, Recreation, and Neighborhood Services in November, mayor and council had an action that helped gave us a few mechanisms to help move new parks forward. There have been some developers that have approached us since then that don't qualify under that mechanism that we sent another potentialal memo on about last week. We are in discussion to see if we can get their projects to move forward. In addition we are taking a look at the whole trust fund balance as part of the budget process and allocating money to the Greenprint approved priorities such as infrastructure backlog projects trails and sports fields. We're definitely taking a look at a way to get a few of these new parks moving forward.

>> Mayor Reed: Well one of the ideas that I've heard in the past and I don't think we're doing its is the concept of a privately paid for park that is open for public accessing, along the lines of ways sometimes streets and roads are done. There's an offer of dedication, to the government entity which the government entity can accept sometime in the future. But until it's accepted the maintenance is paid for by the creator of the street, in this case could we do that with a park, it would be one of those that ultimately could come in public control whenever we wanted it to, whenever we could afford it, but until then they would have to maintained in some way. So an offer of dedication approach, which I don't think we've tried, and I'd like for staff to take a look at that and see if there's a way to do that.

>> We'll definitely take a look at that.

>> Mayor Reed: And then the other piece of this, I know that Irvine company is trying to build a park as part of a new project and we have a couple of other parks that are likely to be built with the new housing projects in North San José and I think they're in the category they don't quite fit the criteria that we previously outlined. I think it would be helpful if you would look at that and figure out a way that it could be made to happen, and bring it back to us and let us decide if we want to modify our criteria.

>> We'll do that.

>> Mayor Reed: Okay. Any other questions or comments on this parks report? Motion is to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks. I just wanted to add, you know, I'm grateful my council colleagues supported the effort last year to experiment with this effort to essentially create in lieu of fees, a fund to pay for maintenance for new parks that developers would contribute to. I hope that as we move forward at Newhall that this can become a model for other parks in the city and that we can actually get moving on more construction. Matt, did you have any insights about how that's working at this point, or if we are close to closing that deal?

>> Sure, with Newhall we have already closed the deal with the developer. We are just finalizing the execution of the contract, so we're just putting funds away for 20 years worth of maintenance at Newhall park and we will be proceeding to the bid and construction in the next couple of weeks.

>> Councilmember Liccardo: It's great news, thank you.

>> Mayor Reed: And my final comment is the developers that are going to build parks have an extra incentive because typically like with Irvine company they're going to rent and they're going to be in the rental market for a long time so they have a high incentive to build the parks and keep them well maintained. If we can facilitate that, we ought to see if we can do that in some other creative ways. I think probably Irvine is going to put about \$25 million into a park there and we'd like to have them do that and if they can maintain it for some period of time so much the better. Okay, so the motion we have a motion to approve, I would assume that rears to staff to do some further work. That is included in the motion. Any further discussion? All in favor, opposed, none opposed, that's approved. Next on the calendar would be item 2.14, that's related to the Cal cars program. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, mayor Reed. I would just like to thank councilmembers Kalra and Rocha for bringing this resolution to the council's attention. The California clean cars campaign isn't just about environmental preservation, but it's also about taking care of our health and creating a green economy that provides a new perspective of clean tech jobs. In supporting this resolution we also join 29 other cities in California in an effort to create cleaner and safer cities across the state and by California standards we continual to be the leader in adopting new green and efficient technology. That I'd like to move for approval.

>> Second.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I'd also like to thank the Vice Mayor and councilmember Rocha. I think it's certainly consistent with the message San José is trying to send as a global leader in terms of trying to ramp up the opportunity for people to be able to drive conveniently electric cars. It's certainly consistent with our state as well as regional clean air goals and I'd like to thank Jenny Bart from the American lung association of California who approached me on this as my role on the air quality air district and I just wanted to thank her for her leadership and helping advise the office on the best way to get this across the goal line, thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, Councilmember Kalra, for your leadership on this and for including me and Vice Mayor Nguyen as well. Thank you both.

>> Mayor Reed: Request to speak, Jenny Bard.

>> Thank you so much. I'm so proud to be here on behalf of the American lung association of California, thanking the City of San José, for the critical need to reduce vehicle emissions in California. The city of San José joins not only the many local governments that you mentioned but the Santa Clara County health department, the Santa Clara County medical association, the Santa Clara family health foundation, Coulomb technologies green vehicles and many other companies and organizations that recognize that these are the key strategies, these clean car regulations are key strategies to help us achieve our greenhouse gas reduction goals and to reduce the burden of air pollution. In California over 90% of residents live in areas that fail to meet productive air quality standards. And our children and elderly and those with asthma and other respiratory diseases are most vulnerable to the impacts of ozone and particle pollution. More tragically we know that infants and children who are even exposed to low levels of pollution suffer permanent lung damage and are high risk for disease and premature death and those who live next to roadways and busy freeways where these traffic emissions are generating huge amounts of pollution are at greatest risk. I wanted to just point out that I do serve on the Bay Area air quality management district, advisory council, and the research we heard is that in order to achieve California's greenhouse gas reduction goals of 80% reduction by 20 50, we're going to need a fleet vehicle average of 80 miles a gallon. That's

on top of a 20% reduction in vehicle miles traveled and a 45% reduction in the carbon content of fuel. Strong regulations are going to be needed to get us there. We know that they drive innovation andists probably going to happen right here in the City of San José. We would love your help in reaching out to businesses and other organizations to join us in urging the California air resources board to adopt the strongest possible regulations to protect Public Health and to reduce greenhouse gasses. Thank you.

>> Mayor Reed: Sorry your time is up.

>> Thank you so much for your support. I greatly appreciate it and thank you so much.

>> Mayor Reed: That concludes the testimony on this item. There's a motion. All in favor, opposed, none opposed, that's approved. Item 2.17 is a report from the retirement board liaison that would be Councilmember Constant. We've added this as a standing item on our consent calendar so if there are meetings or things that Councilmember Constant needs to bring to our attention he may do that. You may recall when we restructured retirement boards we had some concerns about losing touch of what's going on there. So this is one of the ways that will keep us up to speed. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I appreciate this opportunity to have this regular forum to keep the council up to date on what's happening on our retirement boards. As you know we've had a lot of discussions over the past several years about not only the challenges that our pension systems have, and the current time with our funding and otherwise, but also the transition of the governance that we have instituted. On both boards we have the new members that have been seated that have been appointed by the city council. The Federated board additionally has selected the final member, the seventh member of the board and all those members are seated and getting ready to go full steam ahead. The Police and Fire board has yet to -- I don't even think they scheduled the meeting yet to interview and appoint the final, ninth board member. It's been a challenge situation for the Police and Fire board on a number of issues. One is the retiree member had not yet been seated which it was necessary for that to happen, and as you know we recently made that appointment so that will help. Police and Fire board has also had some difficulty in scheduling meetings particularly special meetings due to the out of

town nature of some of the members of the board, in fact, last month, there was -- they were unable to reach a quorum, to hear retirement hearings for people who were due not only their service retirements, but to approve survivorship benefits for people who unfortunately had passed away. They required a special meeting to be called which was held, so that they could approve those benefits. The -- I should point out that while it's not directly a result of our retirement boards, of particular note is a little Hoover commission report on pensions that came out second half of last week. I think it has a lot of information in there that is pertinent not only to our retirement boards and I highly encourage all the board members to review that but also I think it would be an incredible benefit for everybody here on the city council to take the time to read. While it's a lengthy report I think it's very timely given the decisions we have in front of us as we move into implementing second tier pensions. I think today is an interesting day for us to have the first report for the council liaison since today is March 1, the day that the annual 3% cola goes into effect for all of our retirees. And as we know from previous reports from our City Auditor, and from the actuarial reports, that 3% cola is a significant driver of cost for our pension systems. One of the things that makes it curious and I know I have mentioned this before, is that that applies immediately to people. So people who just retired at the last board meeting or the previous board meeting, people who retired this year receive their 3% cost of living increase. And I just want to remind us that it's situations like that that cause a considerable amount of cost to our retirement system. So it's important that we keep that in mind as we address our future issues here. So with that I want to thank the council for allowing me the opportunity to provide this report on a regular basis and I will keep you informed as we progress.

>> Mayor Reed: Is there a motion to approve? Motion is to approve the report. All in favor? Opposed, none opposed, that is approved. Next item would be 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. One report, and that is I want to let you know that I expect to release today the five-year General Fund forecast. As you know, our estimate has been roughly \$110 million shortfall projected for 11-12. However the budget office has now completed a detailed analysis of all General Fund revenues and expenditures and based on that work, we're now projecting the shortfall will be about \$105.4 million. However this does not assume any impacts from the fiscal issues that our Redevelopment Agency is facing and so likely this number will increase. As you know, this will be the straight --

10th straight year of General Fund shortfalls, following last year's \$118 million deficit. And so this obviously presents a substantial challenge to the city. And just as a point of note, and I think it bears repeating, over the last nine years, the city has addressed General Fund shortfalls totaling \$565 million. And has eliminated roughly 1600 positions which obviously results in reduced service to our community. So as we've discussed previously, revenue growth is not keeping space with expenditure growth and currently the main drivers for this shortfall are increased cost for retirement, for benefits, for bringing new facilities online, as well as additional costs of significant such as the replacement of Public Safety vehicles. Additionally, we should be reminded that we did carry over a shortfall from 10-11 of about \$20.5 million. So throughout the five-year forecast period as you will see we do continue to show deficits although they do diminish in the outyears, assuming we deal with the problem that confronts us each year. So in closing, the -- again the forecast will be issued later today. And as we work on the next year's budget we will continue to monitor our projections and to the extent we have more information, those will be included in the updated numbers reflected in the 11-12 proposed operating budget.

>> Mayor Reed: Thank you. Our next item is item 3.3, our Team San José management agreement modifications. There will be a staff presentation on this.

>> Ed Shikada: Thank you, Mr. Mayor, members of the council. Ed Shikada assistant City Manager. I'll just kick us off and turn it over to Lee Wilcox who will do the majority of the presentation. A couple of notes to introduce the folks here at the table. We've got Brian Doyle representing the city attorney's office and Mike Fox representing the Team San José board. What I suspect you will hear and hopefully in the discussion section we have the opportunity to elaborate on what I really believe is a new chapter in the relationship and partnership between Team San José and the City of San José. We are really appreciative of the work that Team San José staff and the board have put in to bringing forward the amendments that you'll see and Mr. Wilcox will elaborate on. This does follow a prior council action in December, that set much of the specific actions in motion. And I certainly also want to thank the City Auditor and the Santa Clara County civil grand jury for the work that they did to get us to that point as well. So clearly, the agreement that we are presenting to you today is significantly better for the City of San José. It provides clarity as well as some certainty for us and it is in all cases a positive move forward. So with that let me turn it over to Mr. Wilcox.

>> Thank Ed. As Ed mentioned in December of last year the city council directed the City Manager to prepare a report for council review on proposed amendments to the management agreement with Team San José. That were outlined in the City Manager's supplemental memo and the City Auditor's report. Today's actions coupled with 3.4 today implement 11 of the 13 City Auditor representation recommendations. Since December of last year Team San José staff and board of directors have met with the city several times and developed business terms. Staff focused on three major principles in the development of these business terms and negotiations, first that the specific direction council gave to the manager in December, second, the City Auditor's recommendations, from the December audit, and lastly, the administration's original proposal to the council in December of 2008. Staff would like to briefly walk through those business terms. First related to performance measures. The current management agreement states that the city and Team San José need to mutually agree on performance and incentive measures annually. This has caused an annual negotiation process between the two entities which often has not met the city's desired outcomes and has caused targets to be set below the adopted budget. The amendments in front of you today reflect that the City Manager will now be the lead in the annual development of these targets and Team San José will assist in providing any information necessary to develop these targets. The performance audit also pointed out that the performance and incentive targets need to better incorporate the financial reality of the city and Team San José goals. Staff agrees, and while trying to recognize the importance of the convention center and cultural facilities in supporting our local economy, staff also believes that we need to equally illustrate the importance of adhering to the budget. For this reason for us operating profit and revenue and economic impact will be equally weighed. Previously economic impact have been the highest weight in the management agreement. Second, the amendments in front of you today state that targets must align to the budget at a minimum. So this will ensure that targets can't be easier to achieve than the adopted budget. Regarding the executive management fee, the original management agreement intended to pay for half of the Team San José executive team but was unclear on the actual composition and salaries and also was unclear about salary increases. For instance, last year the city paid roughly \$663,000 under this to Team San José. Moving forward this will be capped at \$600,000 and as Team San José board or the Team San José executive team has any changes or increases related to salaries those will be absorbed by Team San José. In addition a \$150,000 fixed management fee has been added to this section. This was originally housed under the

incentive measure as a base level no matter what type of performance was achieved, the money is intended for Team San José overhead cost for their corporation. Lastly regarding the incentive fee, per the City Auditor's recommendations, 911 payments are intended to be incentives to performance that exceed expectations. The new structure in front of you today ensures that Team San José will not receive an incentive payment unless they exceed expectations. Moving forward, the auditor made a recommendation in her December report that the management agreement was not clear whether the City's hotel business improvement district and convention and visitors bureau funds should be used in the calculation for gross operating revenue profit and return on investment. As stated, in the December 7th memorandum from the City Manager, the administration agrees with this proposal, moving -- that CVB funds should not be used in any calculation for performance measures. The amendments before you today achieve that and we will be working with an industry advisor in the future to take a better look at the city's hotel business improvement district funds. Second, as recommended by the City Auditor Team San José management and its board needs to improve transparency, government process so that its board is made aware of key decisions, according to Team San José a number of changes have been implemented thus far and they are continuing to make changes in the short and long term. In addition the new management agreement now specifies that there's two official liaison positions from the city, one from the city council and one from the City Manager's office. And Team San José is now required to notify the city of any budgetary or key business decisions likely to result in a fiscal impact of \$250,000 or more and any contractual obligation lasting longer than one year or \$100,000. Fourth, Team San José is now required to develop a third quarter report that shows Team San José spending versus the adopted budget. As stated in the City Auditor's report in December this is something that Team San José has been doing already and is has missile implemented however, staff is still recommending that this be memorialized in the agreement with you today. And lastly related to Team San José disclosure Team San José has agreed to provide first a list of all of Team San José's current and former executives with salary, benefits and any other compensation and finally a copy of the Team San José-oal chart income reflecting lines of communication and authority. Staff recommends these changes and is here for any questions you may have.

>> Mayor Reed: I think I'll have a few questions. First I just want to disclose that in preparation for this meeting and along the way I've talked to several Team San José board members including Chuck Tennisketter, John

Southwell, Rob Thomas, Rob DiNapoli and Lew Wolff, who is not a member of the board, but certainly has an interest. Councilmember Constant.

>> Councilmember Constant: Thank you mayor. First off, in the line of disclosure, as a liaison to Team San José I've spoken to everyone that I think you mentioned plus other boards members, and I do so on a regular basis. I think we have made quite a bit of progress in this management agreement. I think that it addresses several of the areas of concern, that many members of the council have had over the past year. I do support those. And I make a motion for their approval.

>> Second.

>> Mayor Reed: We have a motion to approve their recommendations. Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just wanted to give kudos to you. This is a refreshing change, and it's much more understandable, and transparent, which I appreciate tremendously. Just wanted to thank you for your hard work. Thanks.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just also want to join the chorus and thanks. You know, I wanted to see this happen three years ago so I'm thrilled we finally got here. I know it was a tough road to get here but I'm glad to see that the city is now really an equal partner in many are cases, really driving what happens in terms of decision making with its own assets and I think this is a great step forward. So I'm glad to see how the board of Team San José has evolved to point now where we're in a partnership that's maybe much more productive for our city. So I just wanted to say thank you to certainly Mike and all the board members and all the staff that worked so hard on this.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Yeah, I also want to join my colleagues and say I think this is much improved and I like the fact that the incentives are now going to be for exceeding performance. I think that's where it should be. I just had one question more curious here, how we got to \$663,000 down to \$600,000. What were the material changes or how did we arrive at that 6,000 number I'm just more curious about that.

>> That's an excellent question. The \$663,000 from 09-10 or from 2009-2010 was from the Team San José executive team salary. In discussions with them the number had always intended to be at 6,000 to 620,000. So we capped it to 600,000 and Team San José agreed. We went back to the original intent.

>> Councilmember Herrera: So that's based on the compensation for all the folks working there?

>> Yes.

>> Councilmember Herrera: Okay.

>> Mayor Reed: I'm going to support the motion. I appreciate the collaboration we have between our staff and Team San José. Board members have really gotten engaged and I think that's all to the good with a lot of positive opportunities, especially with the economy improving a little bit, we can sell some of our hotel nights and everybody benefits when we do that. I think we've incorporated almost all the recommendations from the City Auditor. That's a good thing. I think it's a contract that will be good for Team San José, fair to the city and hopefully we will see things improving dramatically on the revenue side as the economy improves. I know the numbers are trending upward and that's a really good thing. It's taken a lot of work by our City Manager and Ed Shikada and Lee and Brian to make this all happen. This is very difficult and complicated for most of its lifetime but I think we're entering a phase where we'll have more collaboration, more cooperation. It will be easier for everybody and better for everybody. I think that's really a milestone here. So with that I'm certainly going to support the motion. Any further comments on the motion? I know at least Councilmember Liccardo's lights aren't working so if I don't recognize your request to speak, just wave. Okay, on the motion, all in favor, opposed none

opposed, that's approved. Our next item, another Team San José item 3.4 is the spending reduction plan for the convention center expansion.

>> Ed Shikada: Thank you, mayor, members of the council, once again let me kick it off and immediately pass it over to Lee. The one contribution perhaps I could make for the discussion might be to apologize for the confusion for the supplemental memo that we sent out yesterday that attempted to clarify distinctions between the forecast used for budgetary purposes and the documents we'll be using for the bond documents that will be coming back to the city council in a couple of weeks related to the convention center expansion. So were it not for us, our staff currently and actively talking to the financial markets about disclosures and the prospects of the bonds and the expansion project itself we probably wouldn't have issued that supplemental. But in the interest of an abundance of disclosure to put as much information in the public as possible we wanted to make sure that information was available to the council. So with that let me pass it along to Lee.

>> Lee Wilcox: Thank you, Ed. Operating revenue and expenditures related to Team San José operations are accounted for in fund 536. As pointed out by the City Manager and City Auditor in December the important considerations surrounding the financial feasibility of the convention center expansion and renovation centers upon the ability of the T.O.T. and fund 536 to support operations through the construction period. In 2009 in January and again in May the city council accepted a status report on the plan to ensure fund 536 would not require a General Fund subsidy during the convention center expansion and renovation. This is previously known as the glide path for fund 536, but we are now speaking about it in the terms of a forecast. The forecast presented in 2009, in January and February, included an ending fund balance at the end of the expansion period roughly around \$1.5 million. After completion of the audit in December the city council directed the City Manager to review its estimate on how much funding would be needed to support operations of the convention center through this expansion period and today, is an update on that. As part of this forecast staff used the same methodology from 2009. The impacts are anticipated to include a decline in occupied room nights, a reduction in Team San José's operating revenues due to fewer than -- fewer events at the convention center and a spending decrease by event participants. To help outline TSJ operating expenses reductions and align to key projections, I'd like to introduce the assistant director of the budget office, Walter Rossmann.

>> Walter Rossmann: Thank you, Lee. As discussed, or as Lee mentioned, I will talk about two items. One is the operating expense reductions for Team San José for the current fiscal year. This is in response to the December city council direction to make spending cuts in Team San José forecast that the nonpersonal equipment appropriation will realize about \$340,000 in savings. Primarily due to lower than anticipated contract labor expenses and other TSJ cost monitoring initiatives. For 2011-2012 the revised forecast assumes about \$2 million in savings, and this really ties together with the convention center expansion project which means, as Lee just mentioned, a reduction of activity. So through that, those are the primary reasons for the cost savings for 2011-2012. Looking at the transient occupancy tax protections, as Lee mentioned this is a revenue source for the the fund and based on the actual transient occupancy receipts or T.O.T. receipts, as Ed mentioned in the supplemental memorandum we've revised our projections slightly in the original memorandum. The projections go for the next three years through the expansion phase of the project at the convention center and the time that the business cycle behavior which we usually have with transient occupancy tax. The average growth during the three year period is approximately 7% ranging from 1 or 2% to about 12% as mentioned on the slide. The city's cyclical T.O.T. projections are a little bit more conservative than the ones produced by the consult who assisted us as mentioned as part of the convention center bond issuance which is forthcoming in March. As part of this action today, going into the next item, quickly, we have recommendations to appropriate funding for certain urgent fiscal needs which Lee will detail. Also, the forecast for this fund assumes certain allocations of dollars for ongoing methods and reserves which we will bring forth to the city council as part of the 2011-2012 budget process.

>> Lee Wilcox: As Walter mentioned in addition to the impacts of expansions, TSJ operating revenues and T.O.T. projections there are a number of projects that need the assistance of fund 536. The first being the center for performing arts improvements. Earlier, in 2010, the city and Team San José became aware that the fire monitoring system needed improvements. The cost for this is roughly \$700,000 and has been budgeted. Second as we mentioned in December when we came before you, the city would be exploring the possibility of using a consultant or industry advisor to help with industry specific being as a resource and monitoring and analysis of convention center finances operations and marketing. The city is currently in the process of developing an RFQ and hopes to offer that RFQ within the next two weeks. Miscellaneous improvements. Over time, the

miscellaneous improvements allocations and Fund 536 which supports critical repairs to the convention center have been reduced in response to higher-than-anticipated operating revenues from Team San José and lower T.O.T. projections. This allocation for this year is budgeted at \$125,000. And during the last few years the Redevelopment Agency has provided funding for some of the urgent needs. The administration recommends increasing this allocation, especially considering the uncertainty around state actions with the Redevelopment Agency, as such the forecast assumes a recommendation to council in the amount of \$500,000 for 11-12 budget cycle. In addition, the city will be implementing capital replacement reserve in contrast to the miscellaneous improvements, this is for smaller needs, the staff will be recommending this as part of the 11-12 budget cycle similar to what staff does at the Hayes mansion and staff will be recommending a 2.5% of gross operating revenue be set aside for such improvements. And lastly, per the City Auditor's recommendation that an economic uncertainty reserve be created, as part of the 11-12 budget process staff will be recommending establishing a revenue stabilization reserve to assure that funding is available in the future in the event that revenues do not perform as projected. Therefore, given the same methodology in the exercise we just went through fund 536 ends the expansion period with a balance between 1.5 and 2 million dollars. This was actually a more positive improvement from the time we're before you in May of 2009. And lastly, per council's last actions regarding amendments to the management agreement, and because we're changing the budget, the staff is recommending that we adjust Team San José performance measures to align to the budget, therefore we are recommending that the return on investment be changed from \$2.08 to \$2.21, the gross operating profit be changed from a loss of \$7.1 million to a loss of \$5.1 million and that the gross operating revenue be changed from \$13.1 million to \$13.9 million. With that we're available for any questions you may have.

>> Mayor Reed: We'll have a few questions I think. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor and thanks for the report, Lee and Walter. Question about the projections. I understand we're more conservative than the consultant. But according to the report we're looking at an annual growth rate of about 7.3% over the next three years even with these revised downward projections obviously the facility will be under construction, obviously we're hearing soon, obviously the impact of gas prices on air travel might be significant. Nobody's predicting a run away recovery, and the economy, and so I'm a little

concerned about the projections. And so question I had was, really, around any sensitivity analysis that might have been done around that residual. The \$1.5 million to \$2 million that we have at the end of I believe three years if our numbers end up being significantly less than 7.3% in annual growth what does that do, do we have any sense about what that does to our residual and what's left?

>> Walter Rossmann: In order to balance and adjust for that we do recommend, we will recommend as part of the 10-11, 11-12 budget process the establishment of the revenue stabilization reserve. That's 10% of T.O.T. revenue right now.

>> Councilmember Liccardo: Right.

>> As we move forward, during the next two months we will see how T.O.T. behaves you should adjust our model and this may come forward with a representation to council for a higher or lower reserve. But right now we have 10%.

>> Councilmember Liccardo: When we are counting the 536 reserve we are not including the economic uncertainty reserve that will be created?

>> Walter Rossmann: That is the economic uncertainty reserve. That is what the auditor's report labeled and call it, we just call it the revenue stabilization reserve, said the same thing.

>> Councilmember Liccardo: Okay, so the 1.5 to \$2 million you're referring to --

>> I beg your pardon?

>> Councilmember Liccardo: I'm trying to understand, the 1.5 to \$2 million you anticipate at the end of the day, is that going to be the balance of fund 536 or is that going to be part of a separate economic --

>> Separate that's an unrestricted fund balance which is in addition to the revenue stabilization reserve as well as the reserve for future improvements.

>> Councilmember Liccardo: Okay, great, thanks.

>> Capital reserve provision.

>> Councilmember Liccardo: Wonderful.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor, and Sam thanks for those clarification questions. I think it's important that we keep in mind the end balance. Our project, one of our first weeks here four or five years ago, seems like we've been continually talking about the expansion and how things will go forward. We've always talked about how important it is that we know the impact to fund 536 and that we really look at that glide path as you called it and make sure that we have the room to do what we need to do. And I know that when we talked about the timing of this project it was really critical that we coincided the construction phase while we were still in a down economy so that we could be complete as the economy hopefully rebounds. And I think that we're still on target to do that. I think it's important that we have kept the figures as conservative as we have. I think if we get any surprises I want them to be in the positive direction, not the negative direction. And I think that having that reserve established is important and as I've said many times on many things that we've done here the importance of reserve funds and sinking funds as we look at things is just of critical importance. So I'm happy with where we're going with this and I'd like to make a motion to approve.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you very much. I just have one quick question, and that has to do with the revenue stabilization reserve. What would that revenue stabilization reserve look like in reference to amount?

>> Walter Rossmann: (inaudible) thank you. 10% is the total transient occupancy tax projection. So for instance for 11-12 we're projecting now T.O.T. will be about \$5.5 million so it would be about \$500,000.

>> Councilmember Pyle: Okay, thank you. That's it.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. Let me catch up what I had in my notes. One question I had was on the industry advisor or the -- help me, yes, industry advisor item. Can you talk a little bit about that and the function of that and the relationship with the city or with Team San José or generally where that's resided or housed?

>> Lee Wilcox: Absolutely. The city uses Horvath to do its T.O.T. projections in a similar role for the Hayes Mansion and to help staff oversee Dolce. It became abundantly clear, earlier in the year, through the City Auditor's process, that we would benefit from a similar resource for our convention and cultural facilities. There is a number of firms that do that. I think through the forecast that is in front of you today we've budgeted a little on the high side and we expect proposals through the respectfully process to come in quite a bit lower than that. But I think since the city has gotten out of the business of overseeing the convention center that we would benefit from expertise related to hospitality industry and convention center finances. And the industry advisor would be reporting to the City Manager's office.

>> Councilmember Rocha: Okay. And the funds would be coming out of --

>> They would be coming out of fund 536.

>> Councilmember Rocha: Thank you. Now in terms of staffing at Team San José. How does this factor into that or are they completely unrelated and are they trying to mirror each other in any manner?

>> Lee Wilcox: I wouldn't say they are completely unrelated. Team San José just did go through a round of layoffs to help with some of the spending reductions on their side. I think one of the things we would like the industry advisor to do first is looking at staffing capacities at Team San José and help the city better judge moving forward what type of conventions and what type of business that we want in the convention center, what type of staffing resources are important over there.

>> Councilmember Rocha: So in terms of our work and our putting out an RFI or RFP I'm sorry that predates me, how would we use that industry advisor that we just sent out as a consultant in weighing those and looking at those?

>> Lee Wilcox: I think we would look at the industry advisor to first be prepared to do a benchmarking study to judge Team San José's performance and our convention center performance off of related markets throughout the United States and second on an ongoing purpose whether it be monthly, quarterly, biannually, help us look through the financials, look at operational issues that exist, and come back to the city with proposals and changes.

>> Councilmember Rocha: Okay, thank you very much.

>> Mayor Reed: I have no cards to speak on this, correct? Any further council discussion, there is a motion made by Councilmember Constant to approve. Just want to thank Team San José and our staff for getting here. This is a critical piece to being able to move forward with the financing for the expansion and the renovation, which is coming to the council probably in about two weeks. So this is a really important piece. So thanks for getting it done. Appreciate the work that everybody put in on both sides of this equation. On the motion? All in favor? Opposed? None opposed, that's approved. Our next item is item 4.1, that is a public hearing on the appeal of the planning director's environmental determination. I don't think there's anybody here who would like to speak to it and staff here wants to continue this to March 8th. Anybody here to speak on this, right? We have a motion to defer this item to March 8th. All in favor, opposed, none opposed, that's approved. Item 5.1, library materials and services council policy update. Councilmember Oliverio.

>> Councilmember Oliverio: I saw Jane Light was in the audience. I just wanted to ask one question. Is she still here? Hi, Jane. Pertaining to the policy, I just out of curiosity, is it about half a million dollars we spend each year on nonenglish material for the library?

>> Jane Light: Approximately, yes.

>> Councilmember Oliverio: Okay.

>> Jane Light: Including English as second language material.

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: Have no cards, no questions. We have a motion to approve. All in favor? Opposed? None opposed, that's approved. 80 8.1, actions related to the automated field reporting and records management project. There will be a presentation on that. Chief Moore is coming down.

>> Chief Moore: Mayor Reed, members of the council, Chris Moore Chief of Police. First of all I want to thank you all for last week, and the ceremonial swearing-in. Why we're here today is the culmination of roughly four and a half years of work in order for the police department to plan and implement a new automated field reporting and records management system. Before I begin my brief remarks I'm going to introduce those staff that are with me here today. Next to me is acting deputy chief Dave Honda from the Bureau of Technical Services. Immediately to his right is Tamera Becker, the division manager in the operations supportive services division of the police department and is the project manager of the AFR RMS. Next to her is Melanie Jiminez who is our UASI planner and has done yeoman's work on this particular project. And I want to identify a couple of other folks who have really over the last four and a half years have made this a reality. This is a grant-funded project that has taken us that long to be able to assemble the millions in grant dollars that were required to bring it before you today. It starts with Deanna Santana from the City Manager's office, Johnny Pham from the city attorney's office, and

certainly from the I.T. department who had been exceptionally helpful, and that's our former CIO, Randy Murphy, including our current CIO Steve Ferguson. But most of all certainly is Vijay Sammeta, who over the last several years has helped us push through a number of initiatives that allowed us to be here today. And finally, Maria Contreras-Tanori from the finance department, particularly on procurement, has spent a tremendous amount of time helping us get through the maze that is sometimes procurement, particularly on a multimillion dollar project. When we first presented this to council in concept in November of 2009 the estimated cost was over \$14 million for something that -- for phases 1 and 2 of this project without maintenance costs associated. Through apportionate market timing as well as some great staff work to bring down the cost of this project, right now it's estimated for all three phases to be at roughly \$7 million to include six years of maintenance, which is a significant reduction. I thank the staff for putting forth that work and whittling it down to where it needs to be. Why this is important? I just wanted to share just a couple of things before I turn it over to staff. Again we have been operating on a paper-based system for police records for far too long. I mean, this is something that should have been done ten years ago. We tried it, we failed, we are in a no-fail mode. We have all the staff that's appropriate for this project. We have the funding, we have the support. This will work, we will make sure it works. We thank you for the support. We will have the ability to do real time crime analysis from the patrol car which is something very few agencies in the country have the ability to do. Our data quality will far surpass what it is today. Our timeliness of entry will be immediate, as opposed to waiting three and four weeks before we can actually enter a report into the system, really important. And lastly, certainly improve not only the experience for the police officers and staff that have to operate it, but also, the customers who will rely upon us, our residents who are looking to us to be able to provide them timely information. One other issue that's become more and more critical in the post-9/11 era is our ability to share information with other law enforcement agencies across the country. This allows us to do a direct dump into the local and national system so that other agencies can utilize our data to help them solve real time problems. And with that I'm going to go ahead and turn it over to Tamera Becker to give further commentary.

>> Tamera Becker: The chief has actually provided the highlights of my presentation. What's in front of you is an example of our current paper-driven system. It kind of sets home the urgency of the need to get through this project. Additionally we have a process where staff have to hand-enter these reports and route them throughout

the various organizations that use the information. The paper documents involve storage facilities that impact both the department and city warehouses. We process approximately 100,000 reports a year. And with the disparate databases that have grown out of the insufficient current RMS and the paper files it's very hard to locate data when we are trying to respond to public requests for information. So to get you up to date. In November 2006, we did begin an analysis of the business need for a new RMS. As we stated, the current RMS as a paper-driven system acts as nothing more than a pointer to let us know that a paper file exists. At the time it was created it was highly customized. It has not been updated since it was implemented in 1997, and we are no longer able to sustain this system either through upgrades or the current management needs for such a labor-intense system. With the new system, we do expect to have full report entry capability, standardized quality controls and efficient report management processes. These systems will enable information to move throughout the entire organization in a highly efficient way. While it seems like this project's taken a long time to come before you to this point, there has been a lot of work going on behind the scenes to get it to you today. We've met significant milestones which obviously could not have been accomplished without the support of I.T., the City Manager's office and finance. Included in these milestones is the active pursuit of grant funding, which has allowed us to cover the entire cost of the project. We've engaged in ongoing infrastructure upgrades to prepare for the implementation of this system. We've conducted an extensive needs analysis. We've worked significantly with the vendor community to identify the system that will be absolutely perfect for meeting our needs. And as a result of our ongoing RFP process, we have made a notice of intent to award based on the unanimous recommendations of staff after significant proposal review. This notice goes without saying, was issued without protest and so we stand in front of you today with the opportunity to negotiate a contract with the selected company, Versaterm. And their proposal scored highest, meeting or exceeding all of our RFP specifications. It was not the least expensive proposal, and that's important because what we know is that cost is not usually the best indicator of success. This particular product comes with very high references, the site visits, the proposal that was presented, indicates to us that we have the highest probability of success with this implementation. We also believe that the system that's selected will make sure that we can gain the efficiencies that are needed as a result of the ongoing staffing restriction and the problems that we're having with our current paper-driven system. And with that I'd like to introduce to you Melanie Jiminez.

>> Melanie Jiminez: Good afternoon. Just to let you know, this is a quickover view of the project, and what we have learned with our conversations with Versaterm is that this solution is going to completely automate our work flow. That is going to be huge for the police department because we will not only gain efficiencies, but we will be able to reduce our current backlog in reports. We checked just the other day and we're running 14 days behind in entry of crime reports and 74 in vehicle reports. So that is definitely an area where we need to improve. As we move forward we've been working with a vendor not only to ensure that we phase the project in a way that meets our grant funding, because we are being funded by 13 different grants, but also in a way that our PD workforce will be able to adjust to. We're going to be completely changing the way that we do business. And we know that this is a priority for our department so we have aggressively pursued grants. This project is going to be over \$11 million because there is cost just more than just what's associated to the Versaterm contract. We have had to upgrade our networks, we've had to purchase laptops in our car. I know that seems years behind, but we're finally there. And those laptops will allow our officers actually to be able to create reports in the field. We've already secured \$8.7 million in grant funding and we know this is a very high-cost project. If you look at our phasing, that's to accommodate the grants. And our strategy, phase 1 will be where we do the most of the work. We'll have to train our entire force how to create reports in the field with the computer, not doing it actually on a paper process. So we expect that will take 14 months. The second phase is for our records management system. We will lay the foundation in phase 1 but we will not completely switch over until phase 2. So that is a smaller amount estimated at \$715,000. But because we're waiting for grants to come in we'll issue a notice to proceed when we do secure them. Phase 3 is really where PD will be able to change the way we do business. This will be additional interfaces that allow us to integrate databases that we're current utilizing, but these are also subsequent grants so when we receive final notification we'll issue a contract amendment.

>> Tamera Becker: Melanie's briefly described for you phase 1, which is the automated field report writing. In this phase, again officers will be able to submit reports from the field or work on them from their work stations within the department. The benefit of the field report writing system is that reports will follow a consistent format. Data will be automatically stored and available for use throughout the department. Some of the highlights of this particular phase is that we do have interfaces where we will be able to prepopulate information from the CAD system so that eliminates some of the officer's data entry requirements. We will do the same with new RMS

information. So once the new RMS gets a good database going behind it, officers will be able to pull information from that database to prepopulate fields. We have also purchased magnet stripe readers which will allow officers to prepopulate the RMS system with driver's license information from the magnastripe reader. And as is necessary in many databases, what you want to do is ensure that your database information is consistent, and that is done through things like geovalidation. So we will have a GIS system working behind the scenes to ensure that our address data is consistent, consistently formatted for easy queries. The only conversion of data in this project will be in phase 1 where we intend to convert mugshot data. We decided to do this, number one for cost, and number 2 because of the state of the current RMS. The mugshot data is information that has been verified by fingerprints and it will begin to populate our master name index which provides early functionality for officers as they again use the tools like prepopulating their report systems. In phase 2 we begin the case management phase. This allows for the automatic routing of reports. And ensures that the end user has the ability to track their caseload, update their cases and manage the report through its entire life cycle. The highlights of phase 2 will be the ability to electronically submit the uniform crime report. To date we have staff that manually reviews every report in the department, and adjusts those particular documents based on the criteria outlined by the state. And so we will be able not only to get the information from the data because the structure of the report-writing system will enable us to ensure that the reports are written in a consistent format, but will also be able to electronically submit that data to the state. And we currently run several months behind when we're reporting that. That does impact the city's safest city designation. Lastly we'll be able as the chief mentioned to manage our contributions to regional and national data sharing initiatives. Cop link is a system that is currently working with our existing RMS. However because the data is so old, the information available to the regional users becomes not very useful. Finally, in phase 2, we do have a portal that will be available for officers to use and is configurable to their needs so they can manage and track information real time. They can configure this to be specifically related to their beat, to look at adjoining beats within this particular portal which you have an example on your screen now, you can drill down to the information that's included so if you want to see a particular report that's listed up there you merely click on that report and can see the narrative of that document. Within this project which is called My Versadex, we also have the ability to use higher level crime analysis tools and create more sophisticated visuals related to the data running in the database. And this would be part of the phase 3, and it's called Cognos. It's an omega dashboard and takes the data and allows end users to create graphics, present community information,

and really use the data that's being collect in the report-writing system. Phase 3 is not specifically defined at this time, and we are doing this because because as we are going through the design phase of this project we are learning that the product is so robust, managed within the base product. However one of the highlights for phase 3 is the plan to utilize a third party software called cop logic. This is an online citizen reporting tool which does interface directly with the records management system. And this is an example of the Sacramento Website, which is currently using both the Versaterm product and the Cop Logic product.

>> Melanie Jiminez: Moving forward, we know we have a lot more work to do. and that's going to be really determined by how much support we get from other departments. To date as the chief already mentioned, I.T. and the city attorney's office and purchasing have really gone above and beyond to make this a priority. And we're going to continue to rely on I.T. because we're not quite where we need to be yet. We need to continue to upgrade our network and infrastructure. We already have started that with our MDC project. It's our mobile data computers in the cars. And we are now going to need to actually put up a lab so our officers have somewhere where they can complete their reports. And we have been stockpiling computers as vacancies have come about because we have been looking ahead and knowing that this is coming. So we're utilizing all of our existing resources to make this happen. We are also utilizing grant funding to upgrade our networks and we know we're going to continue to work with our existing vendors to ensure that their products interface with our existing projects moving forward. However, the biggest step that we have moving forward is managing change within our department. We will now be moving to a stage where all reports will be subject to supervisor approval. Right now, it's a long process to get reports approved. It will automatically be built into the system for every report. And we have engaged our workforce very early on. As we were going through the RFP process we not only had the vendors come on side on two different occasions we opened it up to a trade show where we had 115 department members not only come and test the two different solutions that were top ranked, but they filled out questionnaires and really gave us some strong feedback in what they needed in a new system. As we evaluated the RFP we had an implementation team of over 27 members and that was represented by not only every unit in PD but representatives from the City Manager's office, city attorney's office, city budget office finance and I.T. We really wanted to make sure we had everybody's input upfront and so we know that our solution will work for the city as we move forward. The biggest steps now moving forward is to be sure that we update our grants and that

becomes very important because we have \$2 million in grant funding that we need to spend by June 30th and another \$955,000 that needs to be encumbered by June 30th. So the city attorney's office has been working with us very closely to get our contract negotiated and we've been in constant conversations with the vendor. And as you can see part of those conversations were a project design phase where they did come down and spend a week with our sustainment team, making sure they understood how we did business and what the gaps are between what we're doing now and where we want to be. This is just a quick overview of the budget. I know we've been talking a lot so I'll go very quickly. This is all funded through grants. We are using them for phase 1 and for phase 2. As you can see, they have given us a discount and they really have taken a good look at what we're doing and made sure there's no extra fluff in there. What isn't on here is phase 3. That's a \$966,000 amount and that is grants that we will be applying for within this fiscal year. Here's a breakdown of all those grants. As you can see they're grants that come from the county, the state and the federal level. So we have been very close partners with the budget office and our fiscal team. The pending class that you see are both a UASI grant and a SLES grant that have already been approved, but we are waiting for new funds to come in. And we -- that's why we have the separate structure of the notice to proceed for phase 2 and then phase 3 will be a contract amendment once we receive final notification of grants. What we really looked for in our new solution is a maintenance plan with our existing vendor that gave us regular updates as needed, had a strong user community that allowed us to provide feedback and gave us 24-7 support. So these costs are a little bit higher than what we're currently budgeted at. We are budgeted for \$236,000 for our current RMS. However, this new expense will cover not only an RMS but also an AFR and we will be redeploying our current budgeted maintenance amount to this project. But we will keep the current RMS standing for three years so that we're able to get information out of the system.

>> Tamera Becker: This will not be an easy project to finalize. As you can see, it requires a lot of coordination. The project is being managed internally in partnership with the selected vendor Versaterm. And we will have a sustainment team. In that sustainment team as Melanie mentioned we have several subject area experts to ensure that we have met the needs of all the users of the organization. The function of the sustainment team will be not only to identify business plans and work flows but to ensure that the system is maintained over the long term. As we know systems have a tendency to be implemented and then kinds of left to run on their

own. So we do have a long term plan of being able to manage this, updates how we are using the system to ensure it is a maximum return on our investment.

>> Chief Moore: With all that said I'd like to open it up to any questions that mayor or members of the council may have, and would like to make a motion to approve the project as presented.

>> Mayor Reed: Thank you chief. I have been here ten years actually a little more than ten years and I think this is one of the first things we talked about when I was a new councilmember. So I've been through the ups and the downs and I always thought this day would never come that it was just a mythical thing that you could do this. So I'm really pleased see the work that's gotten us here. It's a big thing the kind of prep work you've already done really I think is important and based on some friar experiences I know that engaging the end user is critical. And you seem to have done that very well. So that's very good. That bodes well for the implementation and the success of it. It couldn't come at a better time when we are stressed for not having enough officers, it just is awful to see them just struggling with so much paper, just buried with paper. So this should be good news for everybody to get rid of that carbon paper and three-part paper and whatever it is we're using to manage the current system which is essentially unmanageable except without a great deal of effort so very pleased to be able to support this. And somebody who's probably been looking for this longer than me is former officer constant.

>> Councilmember Constant: Thank you, mayor. Yeah, ten years is a long time but 19 years ago last Tuesday on February 22nd, 1992, there was a front page of the local section of the Mercury News had a headline about the San José police department launching an automated field reporting system. And they had a picture of this 20-year, much thinner version of me, holding the laptop computer saying how great this is going to be, as soon as it's implemented. So 19 years ago last week. That's a long time. So really, really glad to see that, that it's coming. I think it's timely as the mayor said, given not only the reductions that we've seen in the workforce on the sworn side but quite frankly the nonsworn side that has seen reductions over quite a number of years. I know that it was just a few years ago when I remember stopping by the police department, and saw lines of sworn officers typing in field interview cards into the computer because the backlog had gotten so big that there were actually people taken off the street just to try and catch up on the reporting. So this is definitely way overdue. And I think the only

thing that made it worth the wait is the fact that someone else is paying for it. I guess that's good which leads me to my next point. It is obviously very, very important and time sensitive that this gets done by June 30th. And we don't want to let any one of these dollars from these grant sources go unused because the project is just too far important and we have to get it done. So whatever we need to expedite anywhere in the organization, outside of - - whether it's inside the police department or outside the police department to make sure this happens, I think you can feel confident that the whole council here is going to support that, because we know how important this system is, and how critically important it is going to be for years to come. So given that I've been waiting 19 years, I'd love to make the motion to approve the recommendations.

>> Mayor Reed: You got the motion, I think Councilmember Liccardo got the second. Councilmember Liccardo do you want to speak to the motion?

>> Councilmember Liccardo: Thank you, mayor. I might be the second happiest person on this council to see this happen. After some really painful episodes of trying to get records. Not to say that the records department wasn't doing their best but to manually produce paper reports, when we had you know a rape suspect, we were facing a bail hearing and we need to find out what other prior arrests, what were happening in the prior arrests was just really challenging and to see this move forward is just fantastic. Chief, congratulations, congratulations Melanie and others for putting us over the goal line. I had a couple of questions about what exactly comes in. I understand the UCR the crime reports will come in. What about the cards that officers fill out and they're just having casual contacts with people in the field?

>> Tamera Becker: The FI interface, with the -- FIs are currently taken electronically through the e-site system, and the interface for that is expected in phase 3. That's one of those things that we don't think it's going to be a real interface, it might just be a data port so that we can get all that information central and use it within all the other information that we've got in the data system.

>> Councilmember Liccardo: That would be great just to have it in the system because I know that those cards are sitting in a big stack somewhere, nobody has time to input them. I know it's really relevant particularly in our

organic unit to track those people and what they're doing, that's very important. I'm glad that's incorporated in a significant way. The other question I had was around the question of who has access to change reports or data, that is, once a report has been filled out by an officer in the field, does that officer have the ability to go back a couple days later to change anything? Or does the computer system simply require them to add? And I know this may not sound that relevant but for folks on the judicial side I know it's very important.

>> That actually is a significant part of the business process discussion. Because officers do want to be able to correct their work. But there is a point in the system once it's been reviewed and accepted in the RMS where it no longer can be changed.

>> Councilmember Liccardo: Okay.

>> So there will be a trigger saying this is a final report and no further report can be done on it without making it a supplemental.

>> Councilmember Liccardo: I'm sure you are talking with the D.A.'s office and public defenders and other folks too about that, and I'm hopeful there will be a good solution because I know there will be a lot of concern if there was a lot of revision to reports between the time they are inputted and the time they become final. So anyway, this is fantastic as somebody who works with a lot of different law enforcement agencies in the country and was very jealous because Sunnyvale and Palo Alto had these automated reports and we didn't. Thank you.

>> Mayor Reed: Councilmember Kalra, a different perspective, same problem viewed from a different angle?

>> Councilmember Kalra: Yes, similar problem. First of all, I think it's desperately needed, this system. I know it's something that's been discussed for many years, and it will make it a lot easier for lawyers to read police reports, I think. And more importantly, the officers will have more time, I think, to do their work in the field rather than spending so much of their time hand-writing out those police reports and adding supplementals you somehow have to track down and get attached to reports. Those were always issues in discovery trying to track down all the

appropriate reports. And so a question on efficiency, Councilmember Liccardo raised a question of the courts and D.A. public defenders office. Is this, that's kind of been the talk for many years, is really to cut down on paper and to increase efficiency to get electronic reports available to get from the police department to the D.A.'s office, and ultimately, once the D.A.'s office clears it, to get it to the court or the defense attorney, particularly the public defender's office. Will this software allow for that to happen?

>> Tamera Becker: We've actually been in discussion quite a bit with the D.A.'s office. They are going through revisions in their processes. Ultimately there's two decisions to be made and they're technology decisions. One is the path for the report to get to the D.A.'s office, the other is the decision on whether or not the D.A.'s office is provided direct access to the DMS. So there is a technical solution to that particular issue. We haven't had in depth discussions with them as far as how that might occur. For the early phases of the project, paper will still be needed. For filings and things like that with the D.A. but ultimately they have an interest in either being able to get into the RMS and see the reports that have been assigned out to them or in some way being able to interface with their system to download that information.

>> Councilmember Kalra: Yeah, I think it's just, from my experience would probably be better if they didn't have access, in terms of being able to amend them, maybe a view-only kind of access, in a way that the information can flow, I agree with Councilmember Liccardo in terms if there are any revisions to police reports that can cause a legal issue. So any older versions if they're still in the system or any revisions are clearly labeled as such, as is the case now. Now a supplemental has to be written that will revise a prior police report. So just in terms of making sure that the information is accurate and that the police officers ultimately aren't caught in the situation where they have to explain or justify why a report may look different in the courtroom than it did out in the field when they first wrote it up and so that can cause issues certainly. Another issue is -- so I do hope that it can be reconciled the days off and ultimately the court system and the public defenders office. One way or the other, whether we're city or county, the taxpayers are paying for this. I think the more efficiency we can add, and certainly it will help the defense community in making sure they have the informational. I know that when I was with the Public Defender's office, the police department would say well, it's the D.A.'s fault. The D.A.'s office would say no, the police department didn't give us the information. This way we'll finally figure out what's really going

on. And the other issue is, you know especially during this time when we are facing almost certain layoffs in police officers, the cost is really something that is significant here. And I'm glad to hear that it looks like the lease for \$4 million that grants are covering that. And in terms of the remaining about million, \$996,000, for -- at least Versaterm contract, what is the likelihood that we'll get grants to cover that cost?

>> We are applying for both a UASI grant and a SLES grant. And those are grants that we have been receiving in the past, so we are very hopeful we will receive them.

>> Councilmember Kalra: But the maintenance simply has to be out of the General Fund?

>> Melanie Jiminez: We are working with our grantors and looking to see if there are new grants available to look for something that could be used for plenty. It looks like it's an impact to the general fund, end that it's approximately \$276,000 a year.

>> Councilmember Kalra: \$276,000 a year, and that's for the ongoing maintenance?

>> Melanie Jiminez: That's for the ongoing maintenance and that's taking off the amount that we're reallocating from our existing system.

>> Councilmember Kalra: Okay, but that doesn't incorporate the \$2.2 million for initial maintenance to get the system up and running?

>> Melanie Jiminez: There's no initial maintenance to get the system up and running. The \$4 million includes to get the system up and running and the one-year warranty phase. The maintenance cost for 2.26 are all starting in fiscal year 13.

>> Councilmember Kalra: Okay.

>> Chief Moore: If I may, we are already paying maintenance on existing systems. We are reallocating maintenance for the current system over to a new system. We have an overlap period, but we also some of that maintenance covered in a warranty. The idea is just to transfer the cost, cost to the general fund that we are paying today over to the new system and there will be a net of what did we say, 270 -- whatever that number was.

>> Melanie Jiminez: There will be a net of \$880,000 spread over five years. So the impact will only be \$276,000 a year.

>> Councilmember Kalra: Is it 276 over the next five years and ongoing?

>> Melanie Jiminez: Yes.

>> Councilmember Kalra: And then the last question I have is regarding the selection of Versaterm, it may seem like a good company that is going to provide what we need. However, when I look at page 7 table 2 and I see that the technical points of Versaterm and New World are the same, and then I see that the cost is over \$2 million more for Versaterm versus New World, how can we justify paying another \$2 million for it looks like similarly comparable at least from the technical aspect of software?

>> Tamera Becker: From an operational standpoint the products, actually all the products we looked at were very similar. So the difference between Versaterm and New World was really in the success of the company and dealing with a large-size agency like San José. You have a lot of mid tier markets in this industry that can deal with smaller agencies, and as you add size and complexity to the project the vendors tend to tricking off in their success. When we did our site visit and our reference checks, that became the key swing vote towards Versaterm. We do have a successful implementation with an agency our size with the various components that we're looking at. Whereas the other vendor's references were not able to sustain that their implementations were actually successful.

>> Melanie Jiminez: And -- sorry -- just to add to that. Also when we did reference checks on the other companies they might have come in at a lower cost. But by the time the project was actually done they had added on multiple interfaces and they had extended out the time lines. So the \$2 million actually is kind of a moot point when we look at it.

>> Councilmember Kalra: Well, look, for New World, you went to San Francisco, and that's a customer there. So did they have cost overruns over the original estimate?

>> Melanie Jiminez: Yes, significant cost overruns.

>> Councilmember Kalra: And Versaterm in Sacramento, Sacramento didn't experience that?

>> Melanie Jiminez: No.

>> Tamera Becker: I might add, too, that the success, Sacramento is a system that is up and running, whereas San Francisco has not successfully deployed as of this date.

>> Councilmember Kalra: And how many years ago did they initiate?

>> Tamera Becker: They began the project I want to say in 2003. It's been quite a long time.

>> Councilmember Kalra: In Sacramento how long did it take to get up and running, do you know?

>> Melanie Jiminez: They have been up since 2007. I don't know how long the implementation took, but they stayed on time.

>> Councilmember Kalra: Okay. Well, in that case I'll trust the judgment, but it's hard to -- it's hard to both spend an extra \$2 million.

>> Chief Moore: Councilmember, if I may just in speaking to the chiefs of Denver and Austin, you know, we put a high value on where it actually has been successful just because we've had a bad deployment ourselves, and the taste that it leaves in your mouth and the trouble that it leads to in the organization, something very seriously looked at in San Francisco, talked to people in San Francisco were they happy how did the company perform and quite frankly at the end of the day, this is no disrespect to the company, just not prepared to take on the big cities, like Versaterm has, we are very comfortable with Versaterm as a company and willingness to stick through the tough times. This is not easy, in these tough times you have to have somebody that's going to stick with you.

>> Councilmember Kalra: We desperately need this updated system. It's just that number was pretty glaring. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Before I say congratulations I want to say good luck because you have a huge huge endeavor on your hand with this implementation and what you are trying to change on the business processes there and to Councilmember Kalra's point that can be one of the issues that would lead to a cost overrun and having to come back to council for a change order. But you've been looking at it for a long time. My discussions with you off line are very focused, you are going to make it work and because of the efficiencies that are going to be gained, I know this is something that we could have done earlier, but with that said, at least we're getting the benefit of a lower-cost software product because the market is as it is, and you're having people that have gone through it. Because you can be at the leading edge but then have all the problems of implementation. So it is what it is and we'll go forward but clearly sitting on this council for a brief time I can think of all the times councilmembers or the public wanted certain data but we really couldn't pull it, or if it was done, someone did it manually, so imagine the Excel spreadsheet and who knows how much overtime was taken off by sworn and nonsworn staff to pull that report. So eventually when this is done when the phased approach one and two years we're going to have a great system and you know there will be some cost, exposure to the General Fund in future years. For the maintenance. Is what it is. But I think that will be money even though in that

future year we might still be having a deficit it will probably be a good tradeoff to be spending that money on that purpose. I know it has Vijay's signoff so I'm good there on the technical standpoint. I could go in and try to micromanage your decision but I'm not. You guys, the team went through the process and I'm very happy that you know the vendors came in, used our forms, presented the data the way we wanted it to be, versus yeah, I can do that, but I'll do that once you buy it. No, you did it up front, you brought in this whole team of people to pick at it, and people have a variety of views on any system. Regardless of the color of the screen, sometimes it's people prefer I don't want to select all those fields. Well, we need to select those fields that way we can provide accurate data for either the council, the public, our other partners in government those types of things. So that's really important. I think that pretty much covered it so I really wanted to say congrats on juggling the amount of grants to get this forward, congratulations and good luck.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. First of all, excuse me -- that was not intended -- to congratulate all of you. What a superteam you are, this is very impressive. You brought us from the paper and pen society to the digital community and that is no easy task. I want to point out the fact that the Canadians beat out the Minnesotans. That doesn't happen too often, either. I wanted to -- I'm going to be seeing some seniors tomorrow, and they watch these hearings, so I wanted to give them some ideas here, or check on some -- my understanding. This will in many ways decrease crime, will it not, in that in the sense that you can catch perpetrators more quickly because more data will be available, to track what they're doing or trend or whatever? Could you expand on that a little more?

>> Chief Moore: Let me give you an example of something like that. Let's say you had a serial burglar in a neighborhood. An officer goes out and takes a report and enters it on line. Let's say that person was out burglarizing three homes that afternoon. Where in the past, those three reports may be handwritten and maybe take a week or maybe longer actually to make it into the system, so somebody can pull it up. Well if there's a descriptor say a clothing description on the report, the day shift took the report, swing shift got called out, they are able to pull up information right then and say that person's there, they're driving down the street, they see

somebody, that person, that officer is likely to stop and be able to put that case together, so that serial burglar now has only committed two instead of committing ten. It's not unheard of for some of the burglars, during the course of the day, do four five six, and then, to feed a habit or whatever they have to do. This is just one example of many of the things the system can do realtime.

>> Councilmember Pyle: That would also create more of a safety net for victims and I'm not just talking about the people who are being burgled but other victims as well.

>> Chief Moore: If you look at surveys of people not being victims but for people being taken into custody at an earlier stage. This goes across all sexual assault, burglary all kinds of crime, the sooner you bring them into custody the victimization rates go down.

>> Councilmember Pyle: Would this also show trends which would help you to establish when and if you need more officers in a particular situation?

>> Tamera Becker: This particular system will allow us the able to see where crime is occurring and deploy resources more effectively. Where now we don't really, you know we have to kind of rely on CAD and maybe CAD doesn't have the complete picture. We will be able to pull up real time maps, know that we have a problem in this particular area so we need to have our resources go there. So it will give us an opportunity to be more flexible and more appropriately staffed.

>> Councilmember Pyle: I really like the fact that this will be so helpful in emergency preparation. Or any kind of emergency situation. What about gun registration? Is that something that could eventually be segued into your system?

>> Tamera Becker: The system can take in any information we want. Basically, a gun registration would be a matter of a property record and a person record that's linked together. Again we have to go through a business process kind of review, to see how the system can be used for the different things that we need to do. One of the

things that I'm excited about is, I manage the sex arson and narcotics registrants so it's similar to the gun registration in that we need to know where people are and what they have access to. And so there are tools in this system that will allow us to do things that we have not been able to do in the past because it is a well structured database. So the short answer is yes there is a potential, if we begin the process of registering guns, it is a matter of linking people and property and there's a lot more functionality that's yet to be explored with this.

>> Councilmember Pyle: And then also I'm very impressed by the fact that you are going to have trainers which is so very important. I think this is a great way to kick off your new term, chief and boy you couldn't start with a better project. So thank you all, really well-done.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Councilmember Kalra asked a lot of questions that I was going to ask regarding maintenance. But just so that I'm clear we will have a total of six years of this system being covered under warranty, including the 12 -- the 12 months that it comes with and then the five years that we're buying?

>> Melanie Jiminez: Six years will be discovered in this contract. It is a one year warranty and then costs we showed were for five years. After that we'll just build it into our regular budget for the police department.

>> Councilmember Campos: So will we build in again maybe another five year warranty, would we get a break on that or is it year after year that we have to buy into the warranty?

>> Tamera Becker: When we negotiated this particular contract, we asked for five years. At the end of that term we will be able to negotiate whatever terms we want.

>> Councilmember Campos: Okay.

>> Tamera Becker: As products get older though the costs go up so we want to maintain it in a highly functional way which means we do want to look at maintenance but it might be cost effective to do it year after year as opposed to multi-year.

>> Councilmember Campos: Okay. And last question on this I did see that you factored in \$635,000 contingent reserve. What types of unforeseeable issues might you see that would you know cause you to come back to us for a change order?

>> One of the things that we might have to do is look at the network infrastructure. It is a work in progress. So there is something that we know that we do need to do and that's in that motion policy piece and that helps us manage log-ins and the remote user access to the system. We do have other mechanisms to deploy that particular technology but if for some reason they don't follow through we have that mechanism to do that. This is an area where we address some unforeseen issue. Perhaps we have an interface that we did not foresee We want to be sure we don't have to come back to council to ask for additional funds.

>> Councilmember Campos: Okay so this is capped and if there are more unforeseen issues beyond what we might have thought originally they're going to have to do it with the 635,000? I mean we're basically saying don't come back after you get to this threshold?

>> Melanie Jiminez: Yes, and just so you know those contingency are grant amounts that we're holding. So they know that we can't go back for more, that's it.

>> Councilmember Campos: Okay. I'll be supporting the motion. I think one benefit that you know I heard I'm very pleased with is, yeah, it gives our officers the ability to bring up that information while they're on the field and I could imagine what a benefit that will be while they're out there. Especially, if they -- if they're not going to be able to expect backup as soon as we would like, knowing that you know, they're you know, working you know with what they have right now. I think this ability to provide officers also with photos and criminal history is you know while on the field is -- I'm sure it's going to provide them a great benefit. And, you know, congratulations.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. Can you walk me through the RFP process I understand the eight bids you received and then the two finalists. My experience maybe this is not the same type of contract but you then go back and try to negotiate a lower bid amount. And maybe that is part of process here. I didn't see the original amount, all I saw was the second. Again I might have missed it. As part of that best and final offer if you wouldn't mind explaining a little bit.

>> Tamera Becker: With the RFP process the sealed bit was received and the implementation team did not know what those costs were and they made the selection without those costs. When the costs were revealed we did go back through the proposal, and request a best and final offer. At which time both finalists responded. Versaterm was still higher overall. As we went through the different things that we've already talked about as to why we picked them, we did get to the point where we were doing the design phase, the zero cost design phase. And what we noted in Versaterm's proposal is they were very cautious. They know by past experience that councils do not want the departments to come back and ask for more money. So they tended to go high on their costs and they used their reputation in order to get the agencies to look at them for actually signing a contract. So as we went through that negotiations process we realized there were things that we asked for that we didn't specifically need that there were other ways to deal with the functionality and that is how the price got down to where it is. It could be as we get into phase 3 that there are components of phase 3 that we absolutely do not need. Or we may find that there's other functionality that would be really good for the system to have, and that funding that's set aside for phase 3 could either be unused for this particular project or redeployed for another portion of the project.

>> Councilmember Rocha: Thank you. So I do have one final question, and not having the experience with this that some of my colleagues, is there any opportunities here or relationship or collaboration with IPA on some of the reporting and tracking as far as these reports? Has that not been discussed? Or completely unrelated issues?

>> Chief Moore: Unrelated but not completely. I will say this is that our records management system is functioning for the police department, and the records systems that we have, IA pro, that the IPA actually has joint access to that's more appropriate. IA pro could be plugged into the system but we've decided to make it a completely separate thing. That's not to say if there is some need that the judge wanted to have, that we'd certainly work with her. I trust her completely. It's just a matter of maintaining those two separately, the IA database and the RMS database separately. But the opportunity is there.

>> Tamera Becker: If I may add though, that the functionality exists within the RMS to do a lot of the early warning stuff that the auditor's office would be interested in seeing. So for example as we electronically track the use of force in a particular officer's history, those reports can be generated from an electronic system and that information could be used either through our internal affairs office or the IPA to address issues before they become problems.

>> Councilmember Rocha: Perfect, thank you, that's where I was going, thanks.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. My colleagues have done a good job in stating most of it and asking all the questions. I just wondered in terms of productivity is there any way to quantify that in terms of hours saved, person hours saved, it seems like it's going to make everyone more productive in doing these prevention things and moving more quickly in catching the bad guys. So have we quantified any kind of savings that we're going to see with this?

>> Tamera Becker: We actually did in a returns analysis that was presented back to council in I'm sorry I don't know that -- I'm sorry, 2009. But we do know that a lot of the functions that move paper throughout our organization are done on an overtime basis. So strictly from a support services perspective we're talking about overtime being needed to do the data entry that keeps information flowing throughout the organization. So if we

have reports being entered into the system electronically there is a savings in staff time related to the manual keying of reports into the system. From an officer perspective, obviously the time we gave an example of an extreme report, a drunk accident and they fill out the same information in multiple reports time and time again. There are definite savings early on. I can pull the report and it's got significant numbers in it.

>> Councilmember Herrera: I'm thinking, if an officer expense, what time do they spent now doing the manual reports, that's going to be way compressed, you're doing that in an automated fashion. It sounds like we're saving overtime as well, the way they are done now. The other question I had was I thought I remembered hearing safest city. Did somebody mention it?

>> Chief Moore: Certainly, a lot of the safe city designation is determined by I think what they're calling themselves now the company. They rely on the FBI's ECR data. We do a very good job of scrubbing our ECR data, to make sure it's absolutely accurate so we get a true picture. I'm not going to say wjat cities aren't, but a lot of cities that might be providing that data in order to move their way up that particular line, we were first for a long period of time now we're fourth. We want to be true to our data. This is a way to capture it, and rather than having to go through it and manually scrub it, the system does that for you. It's forced choice so you can't make the errors that typically would be done with a hand-written report and need to be submitted. It will still get reviewed before it's submitted electronically but that data is very, very important to serving our information to the state to the federal government so we can get a determination compared where we are to the other cities.

>> Councilmember Herrera: Well I just want to again congratulate all of you. This is a very impressive process that you've completed. I was very impressed with it. I used to work in a software company, been through on both sides of it, and I was very impressed with the process you went through and in your involvement of the vendors. Your involvement of the workforce, in looking at the business processes, and your continued involvement with that because -- and I've seen situations where companies will implement a system and they don't really figure out exactly how the work's being done and it could lead to disaster so I really can't find any fault on anything you've done in here that I've read. It is very thorough very impressive and that makes me think that you're obviously going to have -- there's obviously bumps in the road because it's a huge undertaking that you're

planning to do here, but I think you've done all the things so we've optimized the chance for a smooth implementation so congratulations.

>> Thank you.

>> Mayor Reed: That's all the council questions. I continue have any requests from the milk to speak. We do have a request from Councilmember Constant. One more card, come on down. If you don't turn in the cards I don't know you want to speak. But I will accept waving.

>> Thank you, mayor, I don't know I'd be available at the time to speak on this but I want to congratulate police chief and go in favor of this particular thing. Myself, my history is I'm electronics engineer and computer scientist and been working in the valley here for 45 years and had a lot of experience with the systems and the deployment of such things like this. And one of my big concerns is: What happens if there's a system failure? And my experience, there's usually two types of systems, one that have failed and ones that will fail. So having a backup is always a big concern a major catastrophe or something of having that to go back to the handwriting way of doing it rather than rely on the computers. Another concern I have is public accessibility to some of the information. For example if I was to have a burglary or a traffic accident, would I have access to the police reports that I need to get to the insurance company? Other things, incident maps and so forth that's a great bit of data and if the public can have access to it I think it would be a very good thing to have. My third thing would be, the hackers. Every system that's ever been used by the government has always had access by hackers. And the security of that system is important, be it a simple system that you have at a company or if you're defense department or the space agency they've had break-ins and the protection of that data is of concern to me as a citizen. So even though I'm very much in favor of it and I know the job ahead of you is going to be hazard I did have a few concerns I wanted to express. Thank you for your time.

>> Mayor Reed: That concludes the testimony. We have a motion to approve with a great deal of enthusiasm. All in favor, opposed, none opposed, that's approved. Congratulations chief, good luck on the hard

part. We now have one item left. Item 3.5, actions related to seniority rules for layoffs. We'll have the comments from the City Manager or Ed Shikada one or the other. I'll turn it over to Deb.

>> City Manager Figone: Thank you, mayor. Actually I'll kick it off, and staff is making their way to the presentation box. What you have in front of you are two reports, one that came through the Rules Committee on seniority rules for layoffs and then a supplemental report issued which has more detail about the recommendations in front of you which are two. First is to authorize the administration to initiate the process to change bumping for certain classifications with the staff will go through in a moment. And then also to do further research and analysis on including performance as a factor in selecting employees for layoff and whether any changes to the layoff process could be in effect for fiscal year 12-13. So just a few comments about why these changes are needed and then I'll turn it over to the staff. First of all the work of the new realities task force which was initiated in 1996 resulted in civil service reforms. One of the major initiatives was position-specific hiring to better meet the needs of city departments in order to serve the public. This initiative was fully implemented in 2003, which eliminated as much of the more traditional approaches to testing in the civil service world, and that was specifically eliminating eligible lists except for sworn and certain entry level citywide classifications. The work of city close in some classifications has evolved over time to be increasingly more technical and specialized and so hiring by position which was the change that was made did respond to this need. However, what didn't change was the back end of the process, and unfortunately, we've been in that mode and that is the layoff process. And so that did not evolve or change and has consequently presented us with significant problems. The layoff and reassignment policies were amended in 2004 to attempt to respond by including a process for bumping exemptions. With the loss of backup and redundancy in departments as a result of continuing layoffs and based on our experience last year with the very difficult issues that bumping presented us in these classifications that we're going to be talking about, that has led us to this point where certain classifications are being proposed to be eliminated from the bumping process. So the staff presentation will outline criteria for classifications recommended to be exempted from bumping, as well as a recommendation to create additional specialties in the associate and engineering series, to be able to respond to the needs of our service delivery systems to the community. And the next steps will also be described for the process in order to implement these changes. So with that I think I'll turn it over to Kay to get us started.

>> Kay Winer: Thank you Deb. Kay Winer acting director of human resources. Just following up on what the City Manager has stated the redundancies and the lack of backup positions in our departments as we continue to streamline our staffing has caused great problems in terms of bumping people in broad classifications into very highly specialized work. So as a result of that, we have looked at how do we identify criteria where we would find it really a recommendation to eliminate certain classifications from the whole bumping process. And so we looked at four criteria. First of all, that is classification would be broad in nature, citywide. In other words. It would be a classification that would be shared by a number of departments. Secondly, that there would be a sizable number of incumbents. So it wouldn't be a classification where you would have three or four people, it would be ten, more, maybe as many as 50 incumbents in the citywide classification. Thirdly, that as HR looking at these incumbents in these classifications, these broad classifications, that they do very, very different work. And I can go into that in a few minutes and give you some vivid examples of classifications that are the same but the work is distinctly different. Which then causes a problem when you bump somebody by seniority into the same classification where they really do not have the skills the technical expertise or experience to fulfill the positions of the duty, in a reasonable period of time. And by reasonable we usually talk about a six-month period of time. And finally, that over the past few years we have received a high number of exemptions from departments to exempt this particular position from bumping, and where in HR's view and in working sometimes with OER also that we have approved these exemptions. So when we go through this process of using these four criteria we came up with really only three major classifications that we have recommended -- we are recommending to be exempted from bumping. The first is division manager. And the division manager, is a key management position and we have about 40 authorized FTEs in the cities. And it really is highly unlikely that a division manager can be transferred and successfully do the work in a different position in a period of six months. I'll give you an example. The procurement manager. In other words you were talking about the RFP process with the police system. That person who manages the whole procurement, RFP and the bidding process, is a division manager. If you look at the expertise that's required to fulfill the job duties there and then you compare that with the code enforcement administrator who is in the same classification, you can see there suspect a fit. There isn't a way of transitioning successfully those duties. Then the second classification we looked at is a program manager. We have program managers one and program managers two. We have 18 ones and we have 24 currently as program managers

twos. These are represented -- let me go back. The division manager is a unit 99 classification. But the program managers are represented by CAMP. Which of course will cause it to go into a different kind of review process. So if you look at that level of position with the 40 or so positions that we have in both classes, if you look at the return to work coordinator which is a position in the HR department, that is in the same classification as the person who runs and manages the city's call center. So here again I'm giving this as two examples of two very, very different positions and you can see they're not interchangeable. Then finally in our discussions when I came here in the latter part of October we were starting discussions with our departments that have engineers. Not the entry level engineers, because we -- I think that when we are talking about engineers 1 and 2, they're broad enough that they are interchangeable. Although there are some broad specialties for those engineers. But when we get into more highly technical upper level positions such as the associate and the senior engineers and we have almost 130 of them, those specialties were not working out. We were moving people for example somebody in land survey over into the water utility to do hydraulics engineering. That fit is just not there. And it was a highly unusual to be able to find somebody with the skill set and the experience in both of those areas to be interchangeable. So in meeting with Public Works, ESD, D.O.T, the airport and Planning, Building, and Code Enforcement, we have developed 16 new specialties and we have had round table meetings and we have all agreed as a matter of fact as of yesterday morning, we came to agreement that these are the specialties that we move and we actually define all of our incumbents into those specialties and they will stay in those specialties and they will bump within that specialty. Now, one of the things that we were concerned about weighs to make sure that we don't end up with an unintended consequence, that a person who is in a highly specialized area can never get out of it will be siloed forever, that is not what we want. So in terms of career development we will make sure that our promotion policy makes it possible to move out of that highly specialized specialty into another one if it's demonstrated that the person either has education, or experience, that warrants consideration into a different specialty. So in addition to these three classifications, the division manager, program manager 1, program manager 2 and the additional engineering subspecialties for associate and senior engineer, we took a look at are there any other classifications that would meet these four criteria, being broad classifications where there are a large number of incumbents where we've had a large number of exemption requests that actually pass muster with the HR department, we found that there were three others but we're not recommending that we proceed with those and I'll tell you why. The first is analyst and senior analyst. We may have more than 100 of those. What we

are going to be doing in the HR department is actually be doing a classification study so we will actually define specific specialties -- not define specialties but define a particular analyst like an HR analyst or an analyst that deals with retirement issues, rather than actually trying to move them around without the specialized education and experience that's required. And the other one was administrative officer, and that has actually been in my experience for us in the past. We have roughly 15 of them, and they used to be sort of mid level management staff that did a host of different things. So when it scale to bumping there were -- they were each different. In the last several years, we have defined the administrative officer as the business manager for the department, i.e., the position that deals with the budget and the HR functions for that department. And so now out of the 17 or so that we have, we only have two that do not meet that description. And those two, we can deal with on an exemption basis, and if and when those two positions be vacated and we fill them, we will not just the administrative officer classification any further. So those are our recommendations right now, to proceed with discussions with unit 99, I had an opportunity last week to just broach the topic with them about exempting them from the bumping process. And then, if we proceed with AEA with regard to the engineering specialties and with program manager 1 and 2 then we will work through CAMP. And there will necessarily be changes to the civil service rules and we will engage the civil service commission and keep them informed about what they do. And I did meet with them about a month or so ago to let them know that we were starting this work. So with that I will conclude and we will take any questions you have.

>> Mayor Reed: We have some questions. Anything else though in presentation? Let's turn to councilmember questions. Then Councilmember Constant.

>> Councilmember Constant: Thank you. First I wanted to thank Pierluigi since he was the one who kind of got this whole ball rolling so we can have this discussion and I think it's an important topic for us to tackle in light of what potentially could be a significant number of layoffs in front of us shortly. I think that the pumping issues are serious issues we have in the city and it deserves this critical review so that we can make sure any transitions we have are the smoothest transitions possible given their circumstances. We didn't hear a lot about the other portion, and that's the performance factors in layoffs. Was there anything you were going to address related to that?

>> I think Alex will do that.

>> Alex Gurza: Yes, councilmember, Alex Gurza, Director of Employee Relations our recommendation would be if the council directs us to pursue that, there is lot of work and study and coordination with our bargaining units that would need to be done. And one of the things that we identified that there simply isn't the realistic time frame in order to accomplish a change in the layoff process where we could factor in performance in time to affect the unfortunate layoffs that may need to occur in the next few months. So it really would be a process that would take a longer period of time. So if the council directs us to move forward, we would do research, researching best practices, other public sector and private sector entities, and clearly need to engage in discussions with our bargaining units and our workforce about how that would work.

>> Councilmember Constant: Okay, thank you. I just think measuring performance is critical and evaluating persons on their performance and their job is critical. It's something as I've said before in the other committee discussions that it is simply what happens in the real world, and that is you have a defined set of performance that is expected of you and I think it is appropriate not only to evaluate on a yearly basis, how you're doing in relation to that performance, but also, when it comes time to -- when we're faced with unfortunate layoffs that we were last year, that we are this year and perhaps could be in future years, it's important that we keep the best and the brightest here. And I think that it's also very good for the employees, as well, that all the employees of the technology want everyone working hard and doing their job because those who don't have such a significant adverse impact to those other employees that are performing at their best. And I think that what's really important, and we've heard this in the rules committee, is that performance evaluations occur. They occur regularly, thoroughly and that people can count on them. And I know I've said it a couple times in the Rules Committee but I just want to make sure I repeat it here. Is I think it's going to be imperative that we hold all of our supervisors from first level supervisors all the way up through the organization, that we hold them accountable for evaluating, honest evaluations of employee performance for all of their subordinates. Because it is only fair that if you are going to have ramifications for someone's performance that they get their appraisals on a regular basis and they're not just window-dressing. They are thrown out there with boxes checked, that they're actually well done

and I think in order to do that you have to evaluate supervisors on their ability to evaluate those that they supervise and that has to become institutionalized throughout the city. People have to be accountable for being supervisors. So I am very supportive of this. I'll probably let Mr. Oliverio make the motion when it gets down to him.

>> Mayor Reed: It is down to him. You are next on the list, Councilmember Oliverio: You are down to him.

>> Councilmember Oliverio: Thank you, Mayor Reed. As we as the council and the city painfully know, we have had years and years of decreased revenues and years and years of increased expenses. Therefore it has had us to eliminate neither every vacancy we have in this city. Eliminating the vacancy therefore creates a much larger bumping situation when unfortunately we have to have layoffs. And the bumping is exasperated my opinion by the seniority system. I appreciate the staff proposal and I'd make a motion to approve that.

>> Second.

>> Mayor Reed: We have a motion on the floor to approve.

>> Councilmember Oliverio: And I appreciate that, because it's taking a pragmatic approach to it. We had two Rules Committee hearings where we had a variety of speakers from union members that -- who shared their concerns and the memo talks to those things, A, there's got to be a meet-and-confer process, that's acknowledged. Two, we have to have the civil service commission input as laid out in the city charter and we ourselves need to be sure that performance evaluations are being done on a regular basis. So it's really I think a very thoughtful approach. And also the understanding that, you know, it takes time, and so there's nothing that will be done in this fiscal year. But looking in 12-13, there will be the opportunity to gather more information, you know, go through the process that the city charter has, of the civil service commission and then come back to council based on the civil service commission input. In actuality, this council can't do anything on the topic unless the civil service commission is allowed to give their input. So I look forward to that and obviously then it will be sometime in the future. But just on the topic of performance in itself, I just want to make sure that you know

there was some fear from some people that you know this was really about age discrimination. And in reality it's not. Because you can be a city employee, that's 40 years old with ten years of experience and you can also be a city employee that's 50 years old with five years of experience. We have people coming in arounds out of the city for second careers and third careers much like everyone else outside of municipal government, has multiple careers in multiple companies. The reality is, it's not about that. Inversely if you're looking to bring out the fear cart of prejudice, you could easily say that demographically populations of workforces in the Bay Area, the younger they are tend to be more people of color and the older they are tend to be more Caucasian. So in the other way you could lay it out the other way that the current process is discriminatory in that respect. We know in recent court cases the ACLU took the Los Angeles school district to court and won, and the verdict was that the school district could not lay off based on seniority but had to do other measurements. Things are changing, we know that in the citywide poll survey we did that 79% of residents agreed that performance should be a measurement when it comes to layoffs and unfortunately it's layoffs but that's what we're faced with now in municipal government the next few years. So with that set I look forward to going the meet-and-confer process to manage the bumping process this next year and to coming back to council with what we learned through studying the topic. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I look at this, the bumping issue kind of taking something that's been handled up until now as kinds of a one-off situation and now we're putting a global rule to it is how I looked at it. Because from my understanding in was something like what, 110 situations, I don't know if I've got the numbers exactly right where we had this issue and we worked it out individually so that 100 of those technical persons stayed in their positions. But that took a whole big process to try to accomplish that and now we are simply memorializing that on a global resume on the bumping right?

>> That's true. All you have to do is the mathematics of it, and figured out the number we did. The hours it takes to go through one exemption process It is not one but a group of four or five, it could be as many as a thousand hours that are spent on for the classifications that I mentioned. It doesn't mean that we won't continue to have exceptions, we will for the smaller classifications. We are only looking at the ones that are really labor intensive

and we know very well now, after several years of dealing with these classifications that the exemption process is really not necessary. The exemption from bumping is really not a necessary process because we know what those jobs are. But there still be classifications where we will still get exemption requests from the departments when there are positions that are eliminated. It doesn't all go away but these major ones would.

>> Councilmember Herrera: It's going to save money, which I think is really important. We're not doing something different, we're just making it less expensive to do it. Because we were already doing it. I also wanted to comment: I really think that the idea -- I certainly think that seniority, throwing out seniority or the suggestion that seniority is not important is sort of throwing the baby out with the bath water. The real key here is looking for performance, making sure, which we have a process in the city to do performance evaluation. And I think that should be the underpinning in the system, and as other people have already said, we need to make sure that that's implemented, that we're doing that. Because even if we had gone to the commission on -- you know and implemented something like Councilmember Oliverio was asking for, and use performance, they're going to have to go back to what? To some performance evaluations. So if we have no track record, if we have nothing to base it on, how is a commissioner or an arbitrator or anybody going to make a decision on somebody's performance? So we have to have that history. We have to have the supervisors and the employees and everybody buying into this idea of having a performance evaluation measures and making sure that it's a fair process, that it's a fair process everybody can buy into so we have some record of that performance. I think that ultimately should be used in terms of who stays, who gets some additional credit, you know, in terms of maybe in the future additional pay for merit. I mean, I think that's the way to help the city employees really become rewarded for those who are doing exceptional work, and I think that's really needed. So I want to ask the maker of the motion if you would accept an amendment to the motion to ask the City Manager to come back with how current is the city with performance evaluations. I'd like to get a data point on who's doing them, just generally are they being done and give us some information on that so we can move forward with some understanding. I think that either go back three years or you pick the number, I want to know who's doing them, we need to figure out how to move forward to get these things done on a regular basis so we're not -- we have some information to work with.

>> Mayor Reed: City Manager.

>> City Manager Figone: If I could that is something under the purview of the manager and I'm happy to issue an info memo. To tell you where we're at. I can tell you I think we have very good track records and in areas that need improvement I have asked Alex to make it his mission over these next six months to help get us back on track and this will be the highest priority of our organization.

>> Councilmember Herrera: I would ask the bargaining units to take the lead on this too. I was very impressed by one of the national teachers association who has taken the lead, stressing this looking at evaluations, taking a lead in this process that it actually in some ways makes seniority mute about on this issue because you are really hooking at the idea of doing that evaluation. I think it's a way forward for most of us.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. Thank you Councilmember Herrera. I completely agree with you that as we're moving forward and doing the research on this issue, I think we need to get down to whether or not we're actually conducting these annual performance evaluations, that's something that I've stated at the Rules Committee weeks ago. We all agree in this tough time there is really no room for employees who are not carrying the weight. No one can disagree with that. At the same time, as we talk about annual evaluations and how important that is I think loyalty and dedication to an employee whether public or private is just as critically important. And I think that as we're studying this issue I think that staff needs to take that into consideration. I really don't want us to move in a direction where we're unintentionally lowering the morale of the workforce, and I think that using the annual performance evaluation, which is employees evaluation of performance alone as the soul factor in terms of whether or not they're going to get laid off, I think that's where we're moving and decreasing the morale of the workforce. And I really don't want to see our city headed toward that direction. So my interest is that if we can include seniority as a factor or even employee performance as one of the factors in terms of whether or not we decide to lay someone off, it's something that I would probably can support for using performance as the sole factor in terms of laying people off is not something that I can support at this point.

>> Alex Gurza: Vice Mayor if I may, I think what we're going to look at is using it as a factor and we're not going to approach it and looking at it as the sole factor. So -- and I think, separate and apart of that, even if we weren't given this mission, the mission of making sure employees are getting timely appraisals is important at any time. I know in my past discussion with bargaining units I know they share the interest of wanting employees to get timely you know evaluations and so as the City Manager mentioned we're going to make it a priority to make sure that they're being provided -- you know in some areas employees do get them and in some areas we're not as good as we need to be. So we think apart from this particular project it is something we're going to work on very hard.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: City Manager.

>> City Manager Figone: Let me just say there is another important piece of this and certainly the perform appraisal framework and how consistent it is or not across the city is an important part as well as the training of our supervisors on the best way to use performance appraisal. So we really need a total look-see at the system to ensure that it's at its optimum from the different perspectives.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. So no one's asked the question. How often are people being evaluated. Are there percentages off the top of your head that you can share with us? You know, even managers, how often are managers being evaluated on how well they evaluate?

>> Alex Gurza: Yes, Councilmember Campos, I know -- I don't know off the top of my head, but we will do the information memo to give you some numbers. But I think the important thing to point out is that we have two -- primarily two systems in the city, one is that applies to our management and professional employees both

organized and not. And it is a pay for performance program. Unfortunately remit we haven't been able to provide that but that system has done more to ensure that the appraisals are done because performance is any increase that they receive apart from gem increases is completely tied to performance. And that's almost a thousand of our employees are in that program. So I'm saying that percentage then of receipt of a performance appraisal for those employees is higher probably than the rest of the workforce where there isn't necessarily any pay or performance based to those appraisals so I don't have an answer to your question but we clearly do have access to the data and we'll include that in an info memo to give you a sense of our on-time percentage is across the city.

>> City Manager Figone: But typical it is annual so the perform appraisals are annual.

>> Alex Gurza: Yes.

>> Councilmember Campos: But are they on time? Is there a percentage that we know, okay, 80% of our staff are being evaluated on time? I mean, is there anything you can share with us?

>> Alex Gurza: Yes, I wouldn't want to just give you a number off the top of my head. Again, it's going to vary by departments. To be honest with you, there are some departments that have a very high percentage, and others that need a little bit of work to do. And so we will provide the council with that information in an info memo.

>> Councilmember Campos: So given that I means this important information. And we're being asked to make a decision, or you know, make a recommendation, based on information that we don't have. Performance evaluation should be the main tool to let employees know where they're at, where they can improve. It's not a gotcha type system and a system that, you know, separates, you know, good performers from okay, well, how do we move you along the career path. I -- I think -- I'm concerned that you know, if -- if this is only used as a main tool, you know, to retain people, or you know, or lay them off, and just completely eliminate seniority, we do open ourselves up for inherent bias. And it's not just age and gender. You know, I mean all bargaining units are bargaining right now. Everyone's being you know staff still has to go back and do their work and be managed. How do we make sure that you know if feelings are hurt during this time period, that you know,

employees are protected? I just have -- I just have a lot of concerns that that protection is going to be taken away, and that we -- we have employees that are vulnerable to, again, biases. You know, I really have some issues with the proposal. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. In regards to the bumping, there is a comment made about folks that are in specialized, in a silo that you don't want them, for development and for the needs of the city you don't want them stuck in that position. But creating these specialized positions or silos so to speak, is there a risk that someone could get laid off because they're in that narrow specialty? That prevents them or because they're now these narrow specialties for certain classifications that present someone that may have more seniority that otherwise is performing well, from being able to stay in city service?

>> You know, as long as our layoff process is based on seniority, if for example, you have six associate engineers in one of our new specialties called development engineer as an example, the least senior development engineer would be the one subject to layoff. Now, if that person actually had a position with the city as either an engineer 1 or 2, or an engineering tech, that person would then bump into that lower position. That doesn't change the civil service rules in terms of their ability to bump into a lower position. What I was more concerned about was that when we create these very highly specialized areas that people don't get stuck from a promotional standpoint, that an associate engineer as a control systems engineer for example can never move out of that. That if a person goes to school, gets some other experience or even has past experience can then be considered for promotion. Because I don't think we want a static workforce either. But in terms of the layoffs, they don't change any, they get back to bump back into that lower classification.

>> Councilmember Kalra: Well, what if the seniority rules are changed and they get bumped into a lower classification, but in a specialty area that someone else that has less seniority happens to be in. So they clearly have performance reviews in that specialty, and this person being bumped doesn't have any performance reviews in that specialty?

>> Well, I think if we are going to apply performance, it has to apply to all of the workforce not just part of the workforce.

>> Councilmember Kalra: Well, yeah, and thank you. As Councilmember Constant indicated, it's important to bring this forward to have this discussion. But I'm -- appearing that we're going forward with the presumption that adding these performance reviews as a component of layoffs is the right thing to do without having the discussion. It's somewhat backwards. And so if this recommendation is approved today, Alex, does this include as part of going forward, meeting with the bargaining units as well as getting input from the civil service commission?

>> Alex Gurza: Yes, absolutely Councilmember Kalra. That's an integral piece of the time that we need, doing our own internal research, meeting and conferring with the bargaining units, getting their thoughts and ideas, going to the civil service commission. That's why we're suggesting that this is going to take a little bit longer in order to do all of those things.

>> Councilmember Kalra: And I appreciate that and I think that with that, it seems like we're skipping a step, and the step is to make -- to get the analysis done first for the council to make the determination that this is the direction we want to go, both in terms of some of the questions raised as to what our current standards are for performance evaluations. Are all departments doing them? Do we have a system set up or are we pushing forward on a policy without the system set up and then have an evaluation and maybe some portions of some departments that is created or at least now followed through on that hasn't been previously or at least again there has to be consistency among the whole organization. And although there may be some departments doing it, some not, or some doing it more consistently than the others, there is certainly not a uniform evaluation that would be essential if we're going to be using evaluation as part -- especially if people are being bumped into different areas as part of the decision making process. We don't have that information, in terms of other analysis, analysis as to what the private sector might be doing, what other private agencies are doing, we don't have any of that, we have a presumption that it works better because they have performance evaluation as part of the

discussion you know, and we certainly have more work and study to do. What happens in the real world certainly is relevant but again we can't presuppose that our employees are underperforming or that the quote real world is somehow an ideal outcome or there's age discrimination or gender discrimination in the real world, because there is. A study -- today the White House released the report indicating a woman makes 75 cents to to the dollar of a man. Now look, Councilmember Oliverio raised the issue of oh, there's you know you get a younger workforce that assumes that you're going to have more diversity. That's not true. Unfortunately and unfortunately it also does not factor into the average pay for a woman or especially women of color, to a white male counterpart or a male counterpart in general. So yes, there may be a more diverse younger workforce, it's not reflected in Silicon Valley proportionally to our population. So the reason I bring these things up is you cannot presume that by adding workforce performance evaluations you're going to end up with a equitable outcome especially when you put in these other factors such as issues regarding favoritism, we're all human beings and what that does is open us up to litigation. So that is another piece that we don't have is, how much in litigation cost can we presume are going to come by implementing this type of performance standard? Especially since we don't know exactly what that standard is going to look like and since we haven't gone to the bargaining units yet, and can very well assume that they are going to have their own opinions as to whether performance evaluations should be considered or not but that's another factor that I'd like to have some sense of, what's happening with the private and public sector agencies before we go ahead and make the decision to go forward and start meeting, conferring and go to our civil service commission. It just seems that are we're doing things backward, assuming that a particular policy is the right way to go while, rather than doing the analysis first, amongst our staff, going out and seeing what else is out there coming back to us and saying, okay, based upon analysis we feel that these are the best models to go forward with. Now let's go forward with these models or based upon analysis at the end of the day it's not worth the effort or the litigation cost or what have you but we're going forward with this presumption that somehow this is going to make our workforce better, it's going to improve morale it's going to make sure that our agency organization works more efficiently and we just don't have that information to assume any of that. And so I -- my hesitation is based certainly on equity, it's certainly based on litigation cost as well as the presumptions that are being made here that we just don't have data to back up.

>> Mayor Reed: I any the City Manager would like to respond to that in terms of the sequencing of the work.

>> City Manager Figone: Thank you, mayor. Yes, it is my intent to go through the research and the analysis phase, come to council as a point of a check-in before taking those next steps. I think that's important. There's a lot of dimensions to this and we certainly want to advance something to the bargaining units that we understand and that from a policy perspective, that council understands, and also, the bottom line for me at least is, I, whatever we do, I want it to work. Because something that's very good about the current system, it's very predictable. And so when we bring in the idea of performance appraisals I want to ensure that we have a system that can work. So I don't disagree with you and so that would be kind of a check-in point before taking those next steps.

>> Councilmember Kalra: And I appreciate -- I appreciate that. I think that certainly helps. I think that again, the problem that exists in going forward today with it is the presumption that we're somehow going in the direction that is appropriate for an organization before we -- the check-in, the point at which you're referring to which is the check in point should not be today literally but the point that we're making this decision as to whether to move forward or not, already has the position as to we're going to go forward and get the information on the way to going to the bargaining units and implementing a performance evaluation, as opposed to saying let's do an evaluation to see if it's something you want to do and then make a decision that this is the right way to go forward.

>> Alex Gurza: If it's okay City Manager if I could add, we want to make sure we clarify what the recommendation actually is. We're a little concerned that maybe there's a misunderstanding of our recommendation. The recommendation is twofold it's on the screen A is to pursue the exemption from the bumping process of the specific classifications. But B is very important. We're not seeking your direction to implement performance as part of the layoffs but to do the further research and analysis of all the questions that you're asking here today that's in the memo. Before we really do it. So it's not saying that we will do it. It's saying that there is a lot of analysis and research meeting and conferring that has to be done before actually doing it including in our memo we mention the importance of a performance evaluation importance that's up to date and current so those are all factors and we'll have many opportunities to check back in with the council along the way.

>> Councilmember Kalra: And I appreciate that and I presumed, I presumed that would be the case. My initial question with going forward with this, would it be heading towards going to the bargaining units and the civil service commission indicated yes in fact the analysis on here indicates the same thing, its implies that's the case. So that's a big part of my concern is that we're making these broad based assumptions and moving forward with this, as opposed to doing the analysis first. I know Alex what you just said right now but it's not necessarily consistent with the way the memo's written or what you said earlier about the way we're going and frankly Deb with your indication we'll have a check-in and move forward, those all concern me. And another question and this I guess would be, both Alex and to Kay regarding the bumping that is also something that is not -- has that also something that has been taken to the bargaining units or --

>> Kay Winer: This is what has been recommended to take to the bargaining units with regard to program manager 1 and 2 that are represented by CAMP and the engineering specialties going to AEA. Unit 99 positions, of course, is a different issue we need to go and have a discussion with them. That is actually the specific recommendation for initiating actions so that we can actually do that, hopefully, by this budget year because we're going to have to do bumping this year. And it would be preferable if the recommendations that were outlined in the staff report, those positions could be exempted from bumping that would actually gain us a lot of ground and cause us a lot of less lost time within the number of hours that we have to spend on this. So that would be a recommendation. But it has nothing to do with performance evaluation.

>> Councilmember Kalra: Yeah, no, the bumping one I see is different. But again, especially since time is of the essence, I'm curious as to -- or does the evaluation have to be done first before going to the bargaining unit, or is there something that could have been done in parallel, in that knowing that now that you have to go to the bargaining unit, that could be another holdup in trying to get this bumping issue which actually has much more of a timeliness issue than --

>> Kay Winer: We have -- I'm sorry excuse me. We have already -- HR has already given OER the proposal for program manager 1 and 2 with the analysis that was done. And we are going to be giving them, giving OER the

engineering specifications which we -- the specialties rather than we just completed yesterday. So all of that will be going forward so that Alex and his staff can be discussing that with the appropriate bargaining units.

>> Councilmember Kalra: All right, thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor. I thank staff for taking a step approach to this layoff process, including the performance review. My big question, if we were to take a step approach, I think if first step is to define the standard of our performance review. This is talking about real world experience. I probably the only councilmember here that ever got laid off by a Silicon Valley company and still today, I don't think it was because of my performance. It was just because of the function got eliminated when I was working at IBM for 18 years. So talking about a real experience, I can tell you, I can share some of them with you here, what IBM was doing in 1996, that was the last year I was with IBM. We have performance review twice a year. So every six months -- every six months we will have a performance review. And we have tried it many different ways. We have step, what you call it, skip-level review. So your second line manager will come down and also review your performance. On top of your first-line manager. And then we have peer review. So each councilmember will review each other for how well of their job is doing. And then we have the review with the other department that we are associated with. So the other department engineers will review my performance, and also, we have the 360 degree review. So people report to me, will also have a right to do my performance review. So I don't know if the city, you know, have a standard of review process. I mean, that should be the step number 1, when we move toward that direction of using performance as a factor in laying off an employee. In IBM, you know, if you are a bad performer, will give you six months to kind of increase your performance level to a 3, otherwise, you're out. So so lay off is very, very different than let go of people for bad performance. And I think today, I mean, all of private sector for many years. I believe today, they're still using the performance to get rid of the nonperformer, and not to wait until the next layoff to let go of people. I mean, sounds like we're trying to say well, we really haven't, you know, done a very good I don't know of evaluating our employees. Here comes -- here is a budget situation, there's a chance we'll lay off people, let's get rid of those people you know that we feel that they're a low

performer. And also, I think and back then in IBM to let you go because you're a poor performer, you have to at least have two consecutive low performance grades. So it's not like this, you know, one time, you were down from a problem, number one performer that can walk on the water, and you're down to number four, then they will let you go. Because you know, life going to cycles. Sometimes for whatever reason you may be not performing to the satisfactory of your peer, of your immediate supervisor, and or your supervisor's supervisor. But they give you a chance to kind of recover from that term, and then you have to have two consecutive years of low performance before we let people go. So I think the step number one is to set the standard. We have to decide what are we going to do just a very subjective, one supervisor reviewing their employee, or are we going to include some skip level interview? So I got to interview, I got to set of performance of appointees or are we going to do some across the department review, we going to do some -- so I think that should be defined before we can even talking about using the performance review for the layoff process.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. A lot of my questions have been asked and I think some my colleagues shared a lot of the same concerns that I have. I'm going to ask I guess the City Manager, you made a mention of an info memo. In your mind what was that info memo going to contain if you don't mind clarifying?

>> City Manager Figone: I reserve the right to change my mind and add to it. In response to Councilmember Herrera's question about what's our track record like. As we develop it, it might be interesting in isolation but it could also lead to other questions about how much reforming the system needs. What I don't have a good handle on is some of the standards and how they might differ between disciplines. You can imagine in the analytical ranks the performance appraisals probably have a heavy emphasis on analytical skills, ability to write, communication, whereas out at the plant there's a different set of standards based on the needs of the work. So I don't want us thinking this is a one size fits all sort of approach so even in responding to your questions we need to drill down deeply enough to make sure you have the complete picture of what's going on in the system and how much retooling it might need in order to position us to bring back to you a recommendation on how to proceed.

>> Councilmember Rocha: Thank you. So I've heard mention has staff time to work on this, and then I've also heard on other days hour buried you are other than doing anything else other than what you are doing between now and June. Again, I'm going to go back to some of the points I made earlier in terms of process and timing and why we wouldn't wait for a civil service commission referral, why we wouldn't wait for us to do an analysis of what we're currently doing in terms of performance evaluations. I have a document here from HR department, performance and resource review, that talked about percentage of employee performance reviews completed on schedule and it shows 40% so we know just based upon this document that we're only at 40% or at least that's the target. So given that we have that I can share that with you if you want. So given that we have this, for me before we spend time working on this analysis, I'd like to have some sense of what's our civil service commission thinks about this, I'd like to have a sense of either our performance evaluation is working or not working or that we have an item of a model that's going to work. Because without having benchmarks for an employee's performance, when we -- if we're going to use this tool to lay off employees which is a significant action how do we know that that one year is not just an anomaly? I'm going to use an analogy of sports which I probably often will, every player has had a bad season. I honestly don't want to lay off an employee that has had a bad season. I'd rather have two or three years of measurement that gives me a feeling of what their work is like and until I have that assurance moving forward on this analysis is just a big concern of mine and I'm going to go to Councilmember Kalra's point in terms of process or timing, I don't know if you would like to weigh in on that because there's a few more comments I have but for the most part I'm concerned about the order.

>> Alex Gurza: Councilmember Rocha, clearly trying to accomplish all the analysis that it would take to consider whether to use performance, it is a big time commitment and that is part of the reason why we're recommending the slower approach in B. Because the time we know that it takes, whether we could get over the goal line, the careful thought and analysis that would be required. So again I think it's important to emphasize that I know that the City Manager and the administration believes electronically in the performance appraisal process regardless of this. Even if you didn't go forward we need to make sure. I also don't want you to get the impression that we don't use performance appraisals to give feedback to employees. I know that one of my office's responsibilities is to help departments when there are performance problems. And when we have performance-related discipline cases before the civil service commission one of the most important things that is submitted either by us or by the

employee is their appraisals and how have they been and to your point have they gotten them, have they not those are issues that are done and when we are successful in performance related issues there is a record here that's important to track that record and more than one year if that employee has been here a long time. Just to emphasize we believe that's important and we are going to work on that under the City Manager's direction either way just to make sure we're improving as we go along in a process. We also don't want you to think that we don't have a standardized process. Several years ago, I don't remember how many years ago now, I worked with a nonmanagement bargaining unit to standardize the key elements on which the employees were based, because it was widely different. Now we have standardized key elements for nonmanagement. We even added an element for nonmanagement employees can still be supervisors so we actually have a key element called supervision where supervisors are evaluated on that so again don't want you to get the impression that we don't have a system, does it need work, does it need to make sure we're consistent? Absolutely. I don't know that I've ever heard of the perfect appraisal process, where everybody's happy with it, but we could always better and we want to make sure you know, we're going to work on that no matter whether or not performance is used in the layoff process. To Councilmember Chu's point we don't want to wait until the very unfortunate circumstances of layoff to deal with performance. We don't want to give you that impression that we think that. We think performance people should be given feedback when they're doing a good job or where they need improvement at any time whether we have a fiscal problem or we don't.

>> Councilmember Rocha: Thank you and I'm also going to reiterate my concern about biases. I'm not going to be naive to say they don't exist I hope none of us up here would say that because there's plenty of that that exists, and without a performance evaluation that shows me that we can have some safeguards that don't allow for that going forward again I'm not comfortable. Personally I'd rather see an amendment to the motion or I'd like to make a substitute motion that accept item A, defers item B to return to council with a presentation on the current evaluation, along with -- what is the second, third point? I think I'd leave it at that. Oh, and so return on the same date also with a referral from the civil service commission. So it would be those that you'd return to council with. Because honestly we just went through an exercise about prioritizing our workload and actions and referrals from the council. And until we do the two that we should have the information on and that aren't going to cost us a

lot on staff time I'd prefer to wait until we have staff time to complete those two. That's my substitute notion. Thank you.

>> Mayor Reed: All right we have a substitute motion and a second on the floor. Councilmember Herrera.

>> Councilmember Herrera: Can someone -- can you explain what the difference is between the motion on the floor and your substitute motion? In terms of the -- because it seems like there's research, they're going to do research and not necessarily move forward on the layoffs. I was planning to say some other comments before the motion and maybe I'll say those first here.

>> Councilmember Rocha: It would be just accept item A, continue Y B to refer to council, with the referral from the civil service commission, and also, how do I keep losing that last one? Anybody help me? What was the third point I made?

>> Mayor Reed: Performance appraisals.

>> Councilmember Rocha: Oh and a presentation from staff on the performance appraisals. So I'd like that item to return with those two components and then move ahead with directing staff to invest time on it. Thank you.

>> Councilmember Herrera: I think some of the concern with this thing recommendation A and B, it seems like they're bolted together and they're very different. They kind of don't fit together, and so I'm inclined to support the second motion that came up. Because I think it's just adding another layer of complexity and kind of concern for folks and I really don't think that we can include performance in a layoff process until we get performance measures in place and it's unfortunate that we're talking about performance evaluations just in the context of layoffs. As Councilmember Chu pointed out and we look at the private sector as a benchmark you try not to do that during layoffs. You want performance measures going all the time so people if it doesn't work out and they've been through an improvement program and they fail to meet those things they leave the organization and so you don't really want to use layoffs as that kind of gating measure although that does happen in the private sector. I'm

sure that happens all the time where people will use it as a way of getting rid of somebody, in an unfair manner, too. So there's a lot of that unfairness that goes on in the private sector. Age discrimination, you know, gender discrimination all kinds of things happen. So I totally agree with folks up here that say there's no perfect process out there but I think at the end of the day how do we evaluate employees? I think performance is one of the best ways to do that. But again, I think it should be brought up separately on its own and we need to really look at, including the employees in this process too, it's a very beneficial thing for employees because they think everybody wants to know where do I stand? Am I doing what I am supposed to be doing? Am I exceeding? That's a natural thing for human beings in a work environment to want to know that you are doing a good job and that you are meeting a standard. So I think we do a disservice to our employees by not having performance measures. So when I look at this, I don't look at this as a way of getting rid of employees. I look at it as a way for them to know where they stand for us to build in things that will encourage people to exceed those standards and to create more efficient and more productive workforce and a more satisfied workforce. So that also includes, yes, looking when there is a problem or when somebody's not meeting those expectations over time, and that's going to give, those kind of standards are going to differ between the different types of jobs we have. We're not just doing one job. We're not a private company that does one thing. We encompass so many different kind of skills and everything in here that it's going to take a lot of work to put this thing together but I think ultimately we include a lot of things that Councilmember Chu was talking about but also the employee's self-evaluation, that's part of it. It should even start with that. You have measures where the employee evaluates themselves, the supervisor evaluates, and then you take it from there. So they need to be integrally part of this. So even if we included performance, I mean, just the whole idea of the way this is written, I know it's a response partially to frustration that we're not using performance. So at the end of the day when we have layoffs, we're asking is that included you know up until now is that reflected? I think it's more of a general concern so I'm going to support the substitute motion.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Well the more I listen to things the more I've been getting frustrated up here because I keep hearing people say we don't have performance measures and we don't have performance

evaluations but we do and we've had them for decades. So to say we can't go forward because we don't have those in place I just think is inaccurate and we've heard that it shouldn't go forward as a sole criteria for layoffs but we don't have that in front of us and we've never had that in front of us. I think it's important to set some context. Originally the initial memo that came out by Councilmember Oliverio was to send this to the civil service commission. And when we heard this at Rules we heard that the administration wanted to do some research and analysis before sending it to the civil service commission so that there could be an informed proposal. And now we have a motion on the table that says we don't really care what the administration wants just send it to the civil service commission. And I think we have to take it in context. And nobody has said, verbally or in the reports that we have, that we're rushing this through to get it done for this year. In fact the memo is very clear the recommendations are very clear, let's start doing the thoughtful analysis so that we can come up with a recommendation so we actually have something to give to the civil service commission. We don't have anything to give to the civil service commission right now. Voting yes on this motion would put us in the middle of quicksand. And I know I have the benefit of having sat through the Rules Committee discussion on this. But I think it's really important that we remember that that's why we are here now, with the recommendations that are in front of us. Is because we didn't want to just send this thing to the civil service commission. So I implore my colleagues to not support the substitute motion, support the original motion, because it does some very good things. One is, it establishes the bumping issue and helps us get to the bargaining units and identify the areas where we're having trouble with bumping. And we'll come with a resolution in a timely manner that we need and I think there are people in the bargaining units that agree with that and we need to do that. Second, it sets the foundation for the administration to do the research, to come up and formulate some ideas, to have the opportunity to talk to people to find out what we need, because we do have an evaluation system. I can't emphasize that enough. Because I've heard at least three times that we don't have one. We do have one. And the City Manager -- that is definitely a City Manager's job, to be worrying about what type of evaluation she has. It's really not a council priority or prerogative. And I don't even think we should be discussing what type of evaluations she does. I think that's solely her responsibility and it's pretty clear in the charter that we shouldn't even get involved in those type of administrative duties. What we are saying is go out and look at how you might be able to use employee performance as one of multiple factors in the event of layoffs. It doesn't say that you can't go through a process like Councilmember Chu said, or explained, where we weed out employees who aren't performing. We have that

process. It's not saying, take seniority and throw it out the window. It's saying, look for alternatives. And that's why we have this recommendation from our administration how to proceed. I think it's a reasonable thing to do. It gives us a year to talk about it, to work on it so they can prioritize, get it to the civil service commission when it's ready, work with the bargaining units and then set something for the future. That's what the original motion is and I think we should get back to the original motion. I urge you to vote against the substitute motion so we can proceed forward in a more thoughtful manner.

>> Alex Gurza: Mayor is it possible if I clarify? One of the reasons that we proposed the timing the way that we did is we went and looked at the charter section that Councilmember Oliverio mentioned. And it talked about that the council could adopt a repeal of civil service rule provided it first receives from the civil service commission a report or recommendation with respect to the proposed new rule. So we thought it would be helpful for them to know what is the proposed new rule? Because we don't know exactly, are we suggesting that performance be the sole criteria, a criteria, how much of a criteria --

>> Councilmember Rocha: I'm sorry, please repeat that. I'm sorry to interrupt, but probably pretty important.

>> Alex Gurza: From the beginning?

>> Councilmember Rocha: Yes.

>> Alex Gurza: Okay. So we looked at charter section 1103, which is the charter section that Councilmember Oliverio mentioned about the need to have the civil service commission provide a report. What it says is the council can adopt repeal or amend any civil service rule, I'm paraphrasing quickly, provide it it receives from the civil service commission a report or recommendation with respect to the proposed new rule and then it goes on. So the thought in our minds was, wouldn't it be more helpful for the commission if they understood in a little more detail what proposal it is rather than simply saying performance is going to be used, we thought it would be helpful for us to have done a lot more of the research to know is it a criteria, how much of a criteria, is it one year of performance appraisals or three years, like you mentioned? So we thought again rather than sending it to them

without specificity what rule we are asking them to comment on without giving them a little more benefit of what the proposed rule might be.

>> Councilmember Rocha: You don't think you've gotten enough in the context of that referral you could capture a staff report some of the issues they consider to do an analysis?

>> Mayor Reed: I believe the City Attorney had a comment on that.

>> City Attorney Doyle: Let me propose I think this is probably in the spirit of the motion but I'm going to let the councilmember speak to that. But I think what you're asking the civil service commission to do is to chime in on what are mayor -- what's their opinion on having performance as a factor in layoff decisions. And I think that's sort of the general concept, how specific you want them to address that or in terms of as Alex indicated the sole factor how they would weight that? I mean that's something you could ask them to do. The difference as I understand your motion councilmember is you're asking for more information on the performance evaluation from the City Manager and that data as well as the civil service to give some kind of point on using the performance as a factor in layoffs. You're not asking staff to go out and do a lot of research at this point although I think the civil service commission may need support in that way in terms of helping to formulate that. And then separately you don't want the staff I understand to go forward with meet-and-confer at this point that's how I understand your motion.

>> Councilmember Rocha: On the performance, yes. On the bumping I'm comfortable going forward.

>> City Attorney Doyle: I'm speaking only on item B.

>> Councilmember Rocha: Okay, thanks.

>> Mayor Reed: I'm not going to support the substitute motion. I think the original motion was sufficient to do the analysis. We're sort of at the point of trying to do the analysis before we do the analysis. Well you have to do the analysis and I think that was the thrust of the original motion to do the analysis, not to make the decision. The

policy decision is not in front of us. The only question is sort of how we move forward and I view this as the motion that's on the floor, the substitute motion would have us go to the civil service commission twice, that is not next a bad thing but first ask them in concept what they think about it and then when we get to analysis of a policy decision I believe that would have to go back to them with the specific thing we wanted to change which is sort of the language in the charter. But the charter didn't send we couldn't send a more general question to them. Which if I understand the maker of the motion it was a more general question. What do you think about using performance?

>> Councilmember Rocha: That is generally it, kind of using commissions for that role, generally bouncing ideas off of, thank you.

>> Mayor Reed: Well, I know what my view of performance is. A good performance ought to be rewarded and bad performance ought to be dealt with. It ought to be a factor in promotions, it ought to be a factor in pay and it ought to be a factor in layoffs. How to do that I don't know. It is part of the analysis to be done. It is a factor, it is not the only factor and good questions have been raised about the quality of performance evaluations. Ayes decisions that we make and so I'm anxious to see the analysis of what it is we can do to improve the performance review that is done, and the staff has already said no matter what we do on layoffs we need to look at our system and do that. I think the original motion contemplates doing the analysis and do it slowly and not jumping into meet-and-confer, until we have a better idea what it is we want to do and that needs to come back to us. So I think we're talking about getting the same work in different sequences. But ultimately you have to do the analysis. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I'm taking in the concerns of the councilmembers and Councilmember Rocha with the substitute motion but with that said, it's -- you know, having been here three years now I've sort of learned that you just can't do things as fast as you can do in the private sector and you have to move in an incremental method that's thoughtful. And in this case the staff proposal is that one. It's capsulating what was heard at the rules committee, making sure we have the right questions that were raised at rules and the questions of the councilmembers and then bring that to the civil service commission and also back to the

council. But staying with the substitute motion I don't think is going to be as packaged as well, that takes everyone's concerns into effect. And we've heard a lot about different things like you know, seniority will be taken away. This is so not the case you know again and thank you Councilmember Constant on my original memo I proposed a certain percentage will be performance. Because today what we have 0% performance. So for our colleagues in the private sector that are based 100% on performance, here at the city it's 0%. Now, what that percentage of performance is in the evaluation of employees remains to be determined. It might be 5%, it might be 10%. But that process needs to start, and I believe in the original motion, the staff proposals would do that. I think it's imperative. And in addition, if whatever it's 5%, 10%, and then seniority is another percentage there also has to be the idea of employee evaluations of education, certification, awards, training, all those different factors that we don't care don't do 1% today. So the idea is, whether it's rewarding employees with merit pay, whether it's rewarding employees with step increases, or sadly and unfortunately for local government whether it's layoffs, there has to be some measurement of percentages, some measurement, not zero. I think if the intention is good, your substitute motion I can't support it. I think the first motion that contains the staff recommendation is best.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I agree with Councilmember Oliverio. I'm puzzled to understand why it is we want this to go to a commission without staff analysis and research. The motion as contemplated by the staff is simply for further research and analysis. Why would we want a commission that is as ignorant as we are on this decision to give us information based on their views before either one of us have had any benefit of additional questions or answers? We're really -- I think staff is looking for the ability to ask intelligent questions, to present that information to the commission and then to have the benefit of an informed commission come back to the council. That's how we do it in every other commission in this city. The Planning Commission, parking board, wherever it may be gets a staff memorandum that reflects certain analysis and research. I don't understand why we would want to shield this commissioner from information. And I'm not sure what information we're concerned about that might get to them if we do the analysis and research first. You know what's contemplated by staff is research and analysis that wouldn't even result in any action in the coming fiscal year, not till fiscal year 12. You know I know there are a lot of substantive issues that we could debate about equitable results or not that would

result from a change in how we do layoffs, whether or not performance as a consideration would result in equitable results. But I think we should ask ourselves is it really self-evident that the current status quo gives us equitable results? Either for the employees who get laid off, the employees that are left behind or most importantly for our residents. It is not evident to me that we should somehow or other cling so steadfastly to the status quo that we don't allow staff to ask the questions that need to be asked before we ask commissions to weigh in. So I'm not going to support the substantive motion. I think the staff recommendation was the proper one and I'm hoping that we'll actually move forward and ask sensible questions before we make decisions.

>> Mayor Reed: Before we go through the council again, I do have some requests from the public to speak. I'd like to take that now and then finish up the council discussion. Ben Field, David Wall and Robert Ludlum. Come on down, I see at least David Wall is here. Go ahead, you're closest to the microphone.

>> David Wall: I just got back from Morgan hill and Gilroy. My condolences to everybody here, it's God's country, it's great. First of all, you're presupposing that staff is competent. Staff is highly incompetent in the performance appraisal issue, because you wouldn't be in the situation had they paid any attention to it. From the day they've been hired. Performance appraisals are supervisor 101 stuff. The mere fact city employees haven't had them for years, they're actually a tool where they can -- people can falsify them, intentionally falsify them or one way or the other to get rid of reward people. So you have a complete management breakdown on this issue and some people have to lose their jobs over this, management jobs. You can't lay people off on this particular issue because you're going to cause incredible amount of problems for the City Attorney. You're also presupposing that the civil service commission is honorable. Let me tell you something. Any city employee that's been around for ten or 15 years will tell you employee relations is nothing more than spin doctors for the City Manager's office to cover up bad management and the civil service commission is known as the rubber stamp commission because they work in concert with one another. And above all the attorneys have to solve all of these problems because these conflicting incompetent inputs bring you to the position that you're in. But what is really needed, in this city, is a way to streamline replacing councilmembers and mayors instead of having to go through an extraordinary petition-gathering things. If you can't figure this stuff out we need to excuse you from service. With vulgarities or politeness depending on the matter at hand. But when it comes down to laying off people I would like to see

this. Military service, veterans, those that shouldered a rifle in defense of the nation should be the last ones to loss their jobs. Thank you.

>> Mayor Reed: Robert Ludlum or Ben Field. Robert.

>> I'm sorry for my hurried scrawl. I'm Robert Lindley.

>> Mayor Reed: Sorry for my bad eyes.

>> Honorable mayor, members of the council. I have some letters for each of you which contain, in more extent, my thoughts. Basically, I'm speaking on part B of agenda item 3.5. Employee performance evaluations as an instrument to be used in the layoff procedure. I read carefully Councilmember Oliverio's memo. I also testified at the Rules Committee in January. I want to say, as simply as I can, just two adjectives about describing Mr. Oliverio's memo. First, it's ill-timed and also, it's incomplete. Ill-timed because the council I think is already or at least in the newspapers we are already considering layoffs. And in effect, you would be changing the rules in the middle of the procedure. I'm not unalterably proposed to employee performance evaluations. I think evaluations are a valuable tool, along with employee counseling, a clear statement of standards and time limited goals for unsatisfactory employees. These can be used at any time. Preferably before the layoffs occur. So I hope you'll consider the remarks in my letter. And I hope you will consider not changing the layoff procedures prior to any soon layoff being enacted. Thank you.

>> Mayor Reed: John wolfram and Ben. Field.

>> Hello, John wolfram, senior engineer. I think what I would like to see here on item B, for morale purposes, that the city morale here is very low. A lot of it has to do with compensation. We don't need another hit on something new that will create what may be a more hostile work environment, especially for prospective employees coming from outside. So on item B, I think it should be distinguished between people with disciplinary problems, people with low performance versus a rating system. A rating system will cause nothing but negatives. This is not the

private sector. We don't have an HP San José and an Apple San José where customers can go and pick what their best values are. It is a very politicized operations, promotions are politicized. I'd like to read something from Mr. Demming, who has talked to Japanese about quality and took them from a place of cheap consumer goods to passing us up with Toyota and Sony. The fundamental problem of American management is that we are systematically destroying the people who work in the system both hourly workers and alike. Our reward system destroys any possibility of teamwork by incorrectly distinguishing the above average from the below average. When the difference is due to chance. Now I wouldn't say chance but one thing that's been important in my career here is that my evaluations are more dependent on who my supervisor and who -- what my assignments are more than the way I perform for the last 20 years. So you have to consider a lot of different things when you're talking about it's just not the quality of the evaluation but it's also these other factors that will scare people and cause -- one guy at work said you know at Oracle they have this competitive system that shows this is a good idea. They have two teams that work with each other and they compete. I said no that proves the opposite. There are two teams not individuals. The teams allow the individuals to work freely with their strengths and weaknesses and not pit against each other. If I this a second I want to read --

>> Mayor Reed: Sorry your time is up.

>> Anyway I think you get the idea.

>> Mayor Reed: We did. That concludes the public testimony. There are some councilmembers who want to speak on this item. We still have -- the substitute motion is on the floor. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. I really appreciated Councilmember Rocha's motion but I don't think I could support this. I think it's just creating more work for staff. This is my understanding if I understand this correctly. If we're taking this to the civil service commission whatever they come one whatever recommendation they come up with, we're not going to stop there. Staff will take the analysis and conduct more research and then come back to them and then bring it back to us for a more thorough discussion. I think we're just going around it. I think the original motion gives staff the flexibility to go out there and spend as much time as you can to study the

issue, take it to the civil service commission and then bring it back to council for discussion. That to me is more efficient and so I just can't support the substitute motion. I think it would just -- we're trying to create more work for staff and the substitute motion is creating more work for staff so thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Yeah when I said I was going to support the substitute motion, I somehow missed the point where it going to the civil service commission before coming back here. I can't support the substitute motion, I think that's the wrong direction to go first. I think we need to have staff make the analysis.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Councilmember Rocha.

>> Supervisor Shirakawa: Going to the civil service commission does that also contemplate, and this is what I heard when you were discussing it initially, some evaluation, I know as a commission they can certainly request the information but evaluation of what current performance evaluations exist and how often they're being used and so on? In addition to looking at options for performance evaluation?

>> Councilmember Rocha: Well yes, that's again the whole context that I'd like to have and part of that I would expect from the civil service commission.

>> Councilmember Kalra: Because I think that's part of the piece of information that at least seems to be troubling some of us up here, we don't know what -- we don't know what performance evaluations are done across the board and how consistently they are being done as well as -- and I understand a comment that was made about the performance evaluations being solely under their purview of the City Manager and that there are currently ways to weed out employees that aren't performing which is good to have. But as soon as the performance evaluations are even contemplated being part of a process which lays people off then it does

become something that we need to evaluate as a whole, as a council with of course the assistance of the City Manager and her staff. I do think it's important for employees to know where they stand, and to -- it can improve quality of performance to have these evaluations. However, the question is to what extent, if any, are those evaluations going to be taken into account or should be taken into account in regards to layoffs. So I am comfortable with getting more information on this because as you know the -- going to the civil service commission in part of the motion is also to get more information on the evaluations that are being done and so that we have -- that was my concern initially is some of the background information that doesn't seem to be here yet we're going forward, we're going forward with the analysis, again I mean the analysis of the work is contemplated in the original motion anyway. So that's not in any way -- that's allowing it to go forward, now, with that same analysis being done but also with the civil service commission chiming in at least on how well if at all we're doing our performance evaluations now which is critically important if you're going to add a new element that is being used for performance evaluation. Additionally Councilmember Rocha, one of the other questions I raised and it is actually mentioned in the staff report under number 4, the other analysis, and I was wondering if this could be included in the motion which is also the analysis of what other public entities and private sector but more importantly I think public entities are doing because I think the public entities certainly have to look at the litigation component different than private entities. Si I was going to see if that could be part of the analysis also that's brought before us, so again we have that information before we go to the bargaining units or go a place where actually we're actually going to move forward on this?

>> Councilmember Rocha: Yes, again, that for me is work to be done, at the end game. What I'm trying to avoid here honestly is a lot of work up front. And that is work up front which is necessary and needed. My point was trying to get some feedback from our commission, which we established to provide feedback on the policies and make recommendations before we spent a lot of significant staff time. So I'm not -- I heard some of the comments and criticisms and I'm not sure how -- asking for more information before we ask staff to spends considerable time on something is shielding. But for me that was really important before we invest more time, given all the other priorities that are going on. I do have a question so when you're done --

>> Councilmember Kalra: I appreciate that and I just hope that since it's contemplated in the memorandum, the staff memorandum, then we've had some discussion about it, that it is going forward as staff is able to, if they do have other examples or other information to bring into the fold going forward whether it's something that's presented to the civil service commission or at some point be gathered together as we go forward because I think that some of that information should be readily available, especially if some of those changes have been done relatively recently by other agencies.

>> Alex Gurza: Councilmember Kalra just to clarify. All the issues that have been coming up that we need to do are all in the staff report. For example, if the need to -- if we're going to use performance as our criteria, the need to make sure that we get performance appraisals on an up to date basis. The issue of neatening research from both public entities and private sector entities. Really needs to be done before we proceed and do further steps.

>> Councilmember Kalra: Yes and I appreciate that being referred to and as part of the process. But at this point, I appreciate Councilmember Rocha's suggestion of at least getting further input as well as information on the current setup with the performance evaluations before we go forward and use that as part of our criteria for laying people off.

>> Councilmember Constant: I'd like to call the question.

>> Mayor Reed: All right. Question's been called. We still have some people that wanted to speak. But when we call the question, first we vote on whether to call off debate. I mean, that's essentially the motion, to call the question, so -- and there's no debate on the motion to call off debate, right, City Attorney?

>> City Attorney Doyle: That's correct. And you need a two-thirds vote.

>> Mayor Reed: We need a two-thirds vote on cutting off the debate, to call the question. On cutting off the debate, one opposed, all in favor, opposed, one opposed so two opposed, three opposed, so we have eight in favor three opposed so -- I'm sorry, let me count the opposition again. Okay. That would be Kalra. Chu, Campos

and Rocha so the motion to call the question fails because we need a two-thirds on that, right? So back to the debate. Councilmember Rocha was next in line. In terms of staff time for the civil service work that was an issue brought up, what do you expect on terms of that?

>> Alex Gurza: Well I think Kay Winer when she spoke to them actually mentioned before we brought back we envisioned doing a lot of that staff analysis and I think Kay if you wanted to add to that they thought that might be a good approach. You might want to comment on that.

>> That's correct. I actually met with the commission shortly after the first rules committee to let them know there was this proposal from Councilmember Oliverio. The comment was they realize they can input now or they can input when there is actually something to respond to and they would prefer the latter. So I think that what I got from all the commissioners was they would prefer that we bring something substantive to them rather than go to them now.

>> Councilmember Rocha: Was that somewhere that I missed or was that the first time, was that listed in the memo and I --

>> No it was not.

>> Councilmember Rocha: Okay.

>> The whole issue from the commission and the input in the commission was not the topic today so I did not have it in the staff report.

>> Councilmember Rocha: Okay, I was just hoping I didn't miss that. That's kind of an important for me.

>> Kay Winer: No, you did not.

>> City Manager Figone: Actually, councilmember, It was presented at rules. So Kay reported on that when we presented this memo to Rules.

>> Councilmember Rocha: And to Pier's point -- I'm sorry -- councilmember Pierluigi Oliverio, there was I guess a lot of discussion at rules, and not being on the Rules Committee, that's privy only to poor people, I understand, I could be watching it on the TV or at the computer, but --

>> Mayor Reed: You could, but we don't recommend it.

>> Councilmember Rocha: Thank you. A ringing endorsement. So let me understand one thing that brought a little concern to myself and that was the meet-and-confer process and would action today and I didn't get that impression that action today would then bring that into the contract negotiations that we're currently engaged in.

>> Alex Gurza: Well, the research itself does not require meeting and conferring. Again as we move along.

>> Councilmember Rocha: I am on the topic of using performance evaluation. Will we introduce that now as a guiding principle point?

>> Alex Gurza: Well, I think -- what I'm trying to say is, the research itself doesn't require the meet-and-confer process. The question is if we are going to leave the opportunity open to use performance in any way for 12-13 we do have to keep in mind the ability to keep that window open. So we will continue to update the council either in open or closed session about how to leave that option open if we were to do that.

>> Councilmember Rocha: But not 11-12?

>> Alex Gurza: There is nothing here in any of our staff report that does anything that affects the unfortunate decisions to lay off in 11-12. What we are suggesting is leave the opportunity open for the possibility of using performance in 12-13. Now why I mention the meet-and-confer process lets say we settle the contract and it went

past 12-13 as an example we may not have that window open unless we had that discussion with the bargaining units. We would updating you what we need to do in the meet-and-confer process to keep that possibility open. We're not going to go to the table, we don't have any direction as to what to propose to the bargaining units. The meet-and-confer step is an important step but not until we know what direction the council wants us to go in and we understand that that analysis needs to be done before you are able to provide us any more specific direction on that item.

>> Councilmember Rocha: Okay, thank you. I think that's it. Clearly, tut motion brought a lot of debate and concern on some cases and I think a lot of my concerns have been alleviated. And thank you for talking about how this would be incorporated or not incorporated, I guess into future contract negotiations. Let me first be clear though, not first maybe last at this point clear that I consider including performance evaluation important and valuable, I'm glad we're having this debate, would be a good tool going forwards so I would like to withdraw my tut motion. Thank you.

>> Mayor Reed: I don't know who had the second. I think Councilmember Campos had the second. Are you willing to withdraw the second? Okay, so the substitute motion is withdrawn. Councilmember Chu.

>> Councilmember Chu: Well I was going to support it, the substitute motion, I thought this is a very complicated issue and to just get another set of eyes to look at it I think it is a good approach. And also, I realize that how the performance is done to our city employees is spelled out in charter, the responsibility of our City Manager but I also want to point out that, what to be included in the layoff process is also a civil service rule that is in the city charter as well.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. If the City Manager earlier indicated that you would come back to us for a check-in. Now my concern of course with the underlying motion that we're now discussing was that we're going forward with the presumption that this policy is something that is -- that would be implemented and we just

need to go forward with the analysis what have you and my concern is the lack of analysis prior to making that decision. What do you contemplate in terms of that check-in? Would that check-in give us the opportunity to change course or I guess we would all like to change course at the council but is that what you're going to contemplate is we come back with the analysis and the analysis say pro-con, these are the positives, these are the negative, these are what public sector folks are doing, these are the litigation risks, if we go forward, those are the kind of things bargaining units, and even from what you indicated earlier before going to the civil service as well so at least we know what package is being taken to them.

>> City Manager Figone: Yes, I would envision, probably not before the fall, quite frankly, we would have our hands full, having done the research and through that research, bring you back a concept with enough specificity to it, we may get the input from the bargaining units before moving to a meet-and-confer direction, so that we kind of test our thinking and get the input of those who might be affected so I think that that could be a reasonable way to engage the bargaining units before actually meeting and conferring. So that's what I was contemplating. And so that we would then all know what we were bringing to the commission and certainly before we actually meet and confer you'd have a pretty firm idea of what the framework could look like.

>> Councilmember Kalra: And I appreciate that I think the time line is appropriately slowed. My concern is something that was raised by Vice Mayor Nguyen is certainly the morale issue. I think that especially because of the daunting task we have before us in getting the budget fixed and the pension issues I don't -- I think it's a very real issue to happen now, also discuss this when there isn't a system in place. That's where all my concern has been, we don't have a system that's worthwhile to go forward and expend a tremendous amount of staff resources. So I would hope that we at least understand that if it comes down to choices of staff resources that this is something, again, we don't know where it is on the priority list, we just had big discussion on priorities, this isn't something we could have very easily discussed in terms of prioritizing. All of us were there we had staff department heads there and yet there wasn't an in depth discussion on this as to where it stood in terms of our priorities. Now we are going forward with something that is going to be incredibly labor intensive, and that's where I think -- labor enintensive without having a sense of what performance evaluations are being done and what the

end results will be. That's where my concern continues to be and I just hope we are very cautious moving forward on this because it can have some serious unintended consequences if we don't move so.

>> Mayor Reed: Okay, I think that concludes the council debate for a moment there I thought we were going to get done early and we wouldn't have anything to do. So somehow work expands to fill the available time. But it is only 5:15 so there's good news and there's no meeting tonight. So on this item I think we're done with the debate on the motion. Substitute motion was withdrawn. On the motion made by Councilmember Constant or Councilmember Oliverio I believe, all in favor? Opposed? We have none opposed, so staff, a little more work to do but not in a big hurry. Because we have plenty of other things to work on as well. Open forum is the last item on our agenda for this afternoon. Mr. Wall.

>> David Wall: Good afternoon. This deals with the City Manager employment agreement, between the City of San José and Debra Figone. This is nothing new. However, city employees, particularly, our valiant firefighters and our police officers have been vilified and excoriated in the news considering sick time payouts. Well, in this contract, item H, reinstatement of sick leave balance to the level accrued as of December 22nd, 2001, which is equal to 872.9870 sick time hours. This is after our honorable City Manager has been gone from city service for many years. Out of the ether this figure is arrived at. Sick leave payout between the range of 800 to 1200 hours is 75% of the hourly rate. Now if you accrued it as an assistant City Manager and took off for any reason, another job somewhere else and then came back as the City Manager this is better than a bank account when you do the math. Now, here's where we get to the pot calling the kettle black. The people that sit before me that are present who signed this agreement, Your Honor, Councilmember Liccardo, although she's a Vice Mayor now she just was a councilmember then, Councilmember Nguyen, Councilmember Oliverio. And let's see, oh, Councilmember Constant, who's left already. I guess we know why. And of course, the greatest of all the honors, Mayor Reed. Now, this is not to embarrass or to cause any problems. This is all forthcoming. It's a public record document. But I'm sick and tired of police officers and city employees especially firefighters getting excoriated for these contracts that were made in good faith --

>> Mayor Reed: Sorry your time is up. Stephen Solseth.

>> Thank you Mayor Reed and councilmembers. What I came to speak to you about today is the enforcement of vehicle code 22507A and B which will raise revenue for the City of San José. This specifically deals with the violation of disabled parking violation which is now a \$976 fine. This program has been successfully employed once already although it was 20 years ago up in Sacramento county. I don't know what happened to it after then. It was called a handicapped parking patrol. We have a lot of disabled American veterans seniors and handicapped people that are more than willing to and are looking for jobs that would like to work and can't find them. I've been in contact with disabled Veterans Administration in Tennessee and the Veterans Administration they've told me there are tons of people here that would be interested in working. The benefits basically if this can be done, we would be able to employ disabled veterans, handicapped people and seniors. We would raise a ton of money for the City of San José. And we could raise awareness to the San José citizens and stop illegal parking in handicapped places and allow people that really do seriously need those spaces to go ahead and use them rather than driving home because there was no place to sit. I went to Westgate shopping center on Saturday, I spent an hour and 15 minutes, I found eight violations in that period of time. I was only looking at six parking places. By myself, one hour 15 minutes, eight violations. That would bring in a revenue.\$7,808. While you were having your meeting I had to go out and stretch. I walked downstairs in the parking garage and walked around. Right next to the elevator there was a car parked there in the disabled parking place. 30 feet away there were four open spaces. They parked there because they wanted to. What I would like to know basically and I'm almost done.

>> Mayor Reed: Sorry your time is up. But Ed Shikada there would talk to you about what other information you might have. That's all the cards I have on the open forum. Yes, it is, that's all so we're done, we're adjourned.