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>> Mayor Reed: We have a quorum, no labor update, no one here to speak, so we're adjourning into closed session.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for October 30th, 2012. Start with introduction of the invocator. Councilmember Rocha will do that.

>> Councilmember Rocha: Thank you mayor. Today we're closing out our District 9 invocation tour, so to speak, and from me, I approach these invocations as an opportunity to showcase the uniqueness and the complexities that our neighborhoods hold. In District 9 everything finds its place, and in our neighborhoods many hobbies and lifestyles have found a home. And this is what I wanted to show you this month. Before we finish today I'd like to refresh your memory of our previous invocations, if you don't mind. We have heard from a self-proclaimed lifelong lesbian who gave a lesson in history in equality. We were entertained by square dancers who keep a western tradition alive, we were reminded of the impacts that being mindful of our behavior is critical by a family impacted forever by bullying. And today we'll sound off with an acoustic solo from Jerry Snyder, who is the artistic director for the South Bay Acoustic Guitar Society. His group is actually housed on fifth street just across the way from our employee garage in one of our most active guitar societies in the world. They promote classical guitar skills, often giving demonstrations and hosting concerts. I'm very thankful for their work in the community in San José and also for showing up today, and I really appreciate their dedication to the arts. They have some brochures here at the bottom of the stairs if anyone is interested, and with that, Jerry, could you please start us off with a song. ~-~- ~-~- ~-~- [ Guitar ] [ "do you know the way to San José" ~-~- ] [applause] [applause]

>> Thank you.

>> Mayor Reed: Now we'll have the pledge of allegiance. Leading today in the pledge of allegiance will be Franklin elementary school third grade students from District 7. Please stand. [ pledge of allegiance ]

>> Mayor Reed: The pledge always sounds better when you have a whole bunch of third graders helping out. Thank you Franklin McKinley third graders, appreciate that. First item of business are the orders of the day. Are this 30 changes to the printed agenda? We have no changes. The motion is to

approve. On the motion, all in favor? Opposed, none opposed, that's approved. Please note that we will adjourn this meeting in memory of Ike White, retired chief master sergeant, United States Air Force who died October 13th, after a lifetime of public service to the residents of Evergreen, the City of San José and the country. Councilmember Herrera has some additional comments.

>> Councilmember Herrera: Thank you, mayor. We're joined by Jan White, Ike's widow, and her friends Carol and Tom Shivers and Barbara O'Brien. Thank you for being here. Our community suffered a tremendous loss last week with the passing of a local icon. Isaiah Ike White, Jr. Retired master sergeant, United States Air Force, who contributed decades of public service to the residents of Evergreen, the city of San José, and our nation. Over 200 family friends and community leaders crowded the East Valley Church on Saturday and spoke about how Ike made a difference in their lives by providing an uplifting influence and encouraged them to do their best whether on the sports field, in school, or in life. And even in the face of difficult circumstances. Over the past 12 years he worked with and gave advice to two District 8 councilmembers and I can still recall vividly when I came into office, Ike was not shy in sitting me down and giving me advice of what the priorities should be for Evergreen. I appreciated his candor and I knew I was being guided by a wise and faithful man. Ike was a man of conscience who remained true to his principles in all circumstances. He left an indelible mark on his community through his active participation in many volunteer organizations. Ike had a heart for the youth of our city and worked tirelessly to help improve educational and sports opportunities for our kids. He saw the potential of every student and athlete envisioning a world where the focus was on the whole person, socially, emotionally and academically. He was president and vice president of East Hills youth football program, a member of the District 8 community round table and a member of the education subcommittee. He went to Sacramento with Dave Cortese every year that he was involved in that. In the Mountain Pleasant elementary school district he served as member of school site councils at Valley Vista, Foothill, and August Boger schools. He was also a member of the parent district advisory committee as well as a member of the Measure H partial tax oversight committee. At Mountain Pleasant high school he worked with administrators to design and build the snack shack for the track football field and worked to get the football field resurfaced. Ike had a love for our community, and these times when we see a lot of short

term thinking Ike saw down the road and worked with his neighbors and fellow community members to plan for the future. He always answered the call to serve his community. He organized the Pleasant Hills neighborhood association and was a member of city of San José's project diversity screening committee. Ike was the recipient of the City of San José's 2004 good neighbor award, a member loyal order of the moose lodge 401, and a member of the Serb Ranch 39 seniors in retirement. Ike's service to community started early with his military career in the United States Air Force which spanned 27 years. Ike took service to his community and his country seriously. And even in his final days, under hospice care at home, he was still determined to fulfill his responsibility to participate in the democratic process. In the last weeks of his life, one of Ike's last requests was to vote in the upcoming election. He wanted to make sure that his voice was heard. His voice counted. He requested early voting and was able to cast his ballot. I salute you, Ike White. Thank you for caring. Our deepest sympathy thoughts and prayers go out to Ike's wife Janet, son Corey and daughter Kayla. Thank you.

>> Mayor Reed: Next item is the closed session report. City attorney's office.

>> No report.

>> Mayor Reed: No closed session report. Ceremonial items would be our next action. I'd like to start by inviting Councilmember Campos and Erica Diaz, general manager of Telemundo California to join me at the podium. Today we're commending Telemundo of Northern California for providing more than \$400,000 of scholarships to our youth over the past 17 years. Councilmember Campos has some of the details.

>> Councilmember Campos: Thank you, mayor. Good afternoon. Today we have the special privilege to recognize the major television network known as Telemundo. Telemundo was founded by Angel Ramos with a television station in San Juan, Puerto Rico, in 1954. Today the network is the second largest Spanish language content producer in the world and the second largest Spanish language network in the United States. Given its success, Telemundo has made it a point to give back to the

community. Telemundo of Northern California has had a dedicated hand in supporting the efforts to help Latino students reach their goals of attending a four-year university and receive a quality education. Telemundo of Northern California recently celebrated its seventh annual Hispanic business salute, recognizing top business leaders in the Bay Area while also awarding seven students with scholarships to attend a four-year university. For the last 17 years Telemundo of Northern California has awarded more than 400,000 dollars to hundreds of Latino students across the Bay Area. Helping them reach their academic goals while also motivating them to become the leaders of tomorrow. Here representing Telemundo and accept this honor for her outstanding work with Telemundo and staying committed to giving back to the Latino youth. Mui Graciaa and now I invite Mayor Reed to present the commendation to Ms. Diaz.

>> Thank you, mayor, thank you. On behalf of Telemundo I'm honored to accept this recognition by the City of San José. Telemundo has been part of the San José Hispanic community for 25 years. And during this time we have supported our community towards local newscasts, community outreach events, support of nonprofit organizations, and through our Hispanic business salute which is not only -- which not only gives the scholarships to the serving Hispanic students but also recognizes local Hispanic businesses. Thank you. Gracias. [applause]

>> Just also hi my name is Blanca Garza. I'm the news anchor for Telemundo. I have been part of the organization for 12 years. This is one of the proudest moments of my career with them. On behalf of Freddy Aldenberg our news director and on behalf of all of Telemundo we thank you so much. [applause]

>> Mayor Reed: I'd like to invite Councilmember Pyle and Councilmember Liccardo to join Councilmember Campos and me as we invite representatives of Viva fest and Los Lupenos dance company to join us at the podium. They were declaring October 30th as Los Lupenos day in the City of San José. Councilmember Pyle has some of the details.

>> Councilmember Pyle: Thank you, mayor. It is such a pleasure to be able to announce that Los Lupenos day, was founded in San José in 1969. And by Dr. Susan Cashion and Ramon Morones to promote the awareness, appreciation, and understanding of the rich and passionate culture of Mexico through dance. The Los Lupenos organization has significantly expanded over the last 43 years by participating extensively in Mexican community activities throughout the Bay Area, and the world. The organization has grown to support a three-pronged structure of performing company, Esquela, and community outreach. Viva fest is San José's annual Mexican heritage festival that celebrates la vida Latino, which includes the heritage, music, cuisine, arts and beauty of Mexico. Viva fest closes its 2012 season by joining forces with the San Francisco symphony choir and youth orchestra, Los Lupenos de San José, mariachi nuevo Tacaletlan, and the legendary Latino icon of the theater Luis Valdez to stage a day of the dead concert, featuring both classical and traditional Mexican music, dancing and narration created for the program. So Mayor Reed if you would give Marcel Daves the proclamation and I'm sure she would like to say a few words.

>> I would like to on behalf of Viva fest and Los Lupenos I would like to thank Councilmember Pyle, Mayor Reed, Councilmember Liccardo, Councilmember Campos and the entire city council for this tremendous honor for what I called the little company that could. 25 members strong, Los Lupenos who have been with us and being a wonderful cultural ambassador for San José and for our heritage here in the region in San José at Viva fest, but also as Saturday's activity will be taking what's the best and most beautiful and vibrant and celebratory about San José and letting everyone know about it. And what better place to learn about artistic leadership and beauty than the citizens of San Francisco. We're delighted to be partnering with the San Francisco symphony and taking our message of San José's heritage to the rest of the Bay Area. And we're very proud to say that we've just found out that that concert is sold out. And so we're very proud of Los Lupenos, and if I could say thank you to the office of cultural affairs and to a couple of funders who helped make it possible. The Castellano family foundation, the Tomcat Charitable Trust, formed by Tom Styre and Cat Taylor, Mi Pueblo supermarkets, the family foundation of Emerson and Peggy Knowles and earned revenue from Viva fest so thank you so much. [applause]

>> Mayor Reed: I'd like to invite Councilmember Herrera and members of the cancer point as we declare the month of October as breast cancer awareness month in the City of San José. Councilmember Herrera has the details.

>> Councilmember Herrera: Thank you, mayor. And we're having -- today we're recognizing the month of October as breast cancer awareness. And I want to introduce and thank those who are joined us here today. Judy Chirco, a friend, form he council colleague, and prior City of San José vice mayor. [applause]

>> Councilmember Herrera: And cancer care point board member. Miss you a lot, Judy. And cancer care point board president Gay Crawford. Cancer care point was formerly known as the samaritan cancer foundation and is an incedable resource for cancer patients in our community. The care in care point stands for counseling assistance resources and education. And reflects the growth of the organization, which now directly provides shelter services and counseling for cancer patients. And from the American cancer society we have Elizabeth Vargas, community mission director. Clarissa Magno Quay and Donna Spagna, and Clarissa and Donna are residents of San José, breast cancer survivors and American cancer society volunteers. [applause]

>> Councilmember Herrera: The American cancer so it serves more than 5100 communities nationwide and has over 3 million dedicated volunteers helping individuals and their families fight cancer by providing them the resources they need. This organization raises money to find cures, by hosting the making strides against breast cancer and relay for life event in our communities. These events help celebrate the lives of people who have battled cancer. Remember loved ones lost and unite the community to fight back against this disease. Breast cancer is the second leading cause of cancer deaths among women in the United States with over 226,000 women and 2,000 men expected to be diagnosed and over 39,000 lives lost this year alone. With improved treatment there are now over 2.9 breast cancer survivors in the United States but more work needs to be done and that is why I want to thank cancer care point and the

American cancer society for their ongoing efforts to raise awareness and provide support programs for patients and their families. And at this time I'm honored to ask Mayor Reed to present the cancer care point and the American cancer society with a proclamation declaring the month of October as breast cancer awareness month in the City of San José. And I want to invite Vice Mayor Chirco and Gay Crawford to speak on behalf of Cancer Care Point and Clarissa Magno Quay to speak on behalf of the American cancer society and Judy Chirco of course is also a breast cancer survivor.

>> Councilwoman Rose Herrera thank you so much and Mayor Reed, it's a great pleasure to be here as president of the board and our board member now Judy Chirco. This is our first commendation so it means a great deal to us. I had breast cancer 38 years ago in November. And it was a very different time for breast cancer patients. I think I stand on the shoulders of research that the American cancer society has done, and less treatment and more survivors. So when I was asked to design a program for patient services, I used what is commonly known as Gay's vast network of sort of cancer survivors to say what is it we need in our community. I'm a founder of hospice of the valley. I founded a cancer program for colon cancer patients for courageous kids and hospice of the valley and the cancer registry for the State of California. So when it came to what cancer patients need it's very clear to me that while it's not a medical emergency all the time, it's always an emotional emergency. This this program, cancer care point, strives to meet those needs with care, C-a-r-e, counseling, education, resources, and what's the A? I forgot.

>> Assistance.

>> It's a grass roots program and we are so proud to be independent and to be unique in a one to one counseling program. Thank you for recognition, the service and Judy has a quick message.

>> I know the timing here so I'll try and be succinct. But what I want to say is the American cancer society focuses on helping people stay well, get well, work to find cures, and fight back. Cancer care point works to provide counseling, assistance, resources and education. But every one of them comes down to the individual, so we can have more and I want you to read the back of my shirt. Survivors! [applause]

>> On behalf of the American cancer society, I would like to thank Mayor Reed and Councilmember Herrera for recognize the work of the American cancer society in reaching out to the community and helping people with more information and more cancer research, to find the cure against cancer. I'm a ten-year cancer survivor and I work with women in relay for life and other programs. And as a legislative ambassador for the American cancer society can in Washington and in Sacramento to work with other organizations of, find the cure for cancer, thank you so much.

>> Mayor Reed: Next item of business is the consent calendar. I have some requests to speak on the consent calendar. We'll take those up front. Mr. Wall. Ross Signorino.

>> Yes. Item 2.4, your excused absence to San Diego. You missed a document that was the only public record. This is produced by myself, with reference to the San José Police Officers Association and San José firefighters need councilmembers to expose Rose and to give money often and generously, to look at this councilmember's business dealings. The police officer Website and firefighter Website speak for themselves. Also I am not a spokesperson or agent of the principal of the Police Officers Association or the fire department. But there is some very significant questions that they find on their Websites pertaining to Councilmember Herrera's financial dealings with reference to her previous company. Item 2.7, the settlement with Guerrero, et al. I don't support whatsoever. I don't think people that are drunk and fight with police should get a payoff. Item 2.8 agreement with HVR engineering, incorporated should be looked at. If this is coming out of the integrated waste fund people should be looking at this integrated waste fund more closely because people pay for garbage disposal and yet this fund has a lot of extra money for experimentation purposes with reference to this particular issue. Item 2.9, the increase in funding for EHC life builders downtown homeless outreach and engagement program is an incredible waste of money. And I think when taxpayers find out that you're giving out this money, so vagrants, derelicts Winos and drunks can get a section 8 voucher to live in your neighborhood and then cause more possible mayhem this is an incredible waste of money and I do not support it. Thank you ever so much.

>> Mayor Reed: Requested to pull 2.11 off of the consent calendar. Anything others Councilmember Chu? 2.12. Any others to come off the agenda for further discussion? We have a motion to approve the balance of the consent calendar. I'm sorry, Ross Signorino wanted to speak. On the consent calendar.

>> Thank you, Mr. Mayor, members of the council. This homeless situation has been with us for the longest time. And it's good to see that conscience is raised to bring this awareness to the people, no matter what city, what part of the country you're in it is there. And it's been there since time in eternity. We have to do what we can for the homeless. Not to mention homeless, there are a lot of children I'm sure involved in this and this is very serious. And then at the same time, we have what? One out of every four children go to bed hungry in this country? That is shameful, really shameful. And you can't study when you're on an empty stomach. Then the other thing is this: That maybe this is for -- maybe this is part of the 47% that Mitt Romney was talking about, the throw-away people. There are no throw-away people. No matter what status they have. They very important, San Francisco is trying hard to get the homeless out of the streets and put them in hotel rooms and things that we could do and make an effort to do it, very important to do this, this homeless situation has to be attended to because it brings other maladies along with it, crime, not that they're criminals or anything but it happens out of necessity sometimes that you will commit a crime. And this is something that we should look at that it's important. Also at the same time since I mentioned San Francisco here a moment ago, what they're doing with the homeless I would also like to take a moment if I may to congratulate the World Series Giants, what they did there and I think that was an amazing thing, four straight in a row towards the end who gave them that chance, I don't know. But they did it. [applause]

>> Mayor Reed: We have request to pull 2.11 and 2.12 off the consent calendar and a motion to approve the balance. On that motion, all in favor? Opposed? None opposed, the balance is approved. 2.11, Councilmember Liccardo. You wanted to discuss that one.

>> Councilmember Liccardo: Thank you, mayor. I know that we discussed this at length, this regards the neighborhood commission. I'd like to ask that along with the recommendation that we amend it to include

a requirement that either the chair designate or the chair of the neighborhoods commission provide a summary to the council of whatever matters are decided by that commission, so that they could be included, either attached to a staff report or included within the staff report on whatever item we happen to consider. I'd ask that that be included as part of the recommendation. That would be my motion.

>> Councilmember Herrera: Second.

>> Mayor Reed: Okay, we have a motion to approve the ordinance with this change, like a minor change. Could that be done before the second reading City Attorney?

>> Yes, it can.

>> Mayor Reed: Okay. On the motion, all in favor? Opposed? None opposed, that's approved. 2.12, council district 4 community activities. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to thank the San José PD and the fire department for co-hosting the public safety community meeting held on Tuesday, October 11th, but most importantly I want to announce to all the audience that there's spaces still available for the first aid and CPR training on Saturday, November 3rd at the Red Cross headquartered on North First Street. Because of the sponsorship you will get a significant discount. I believe their regular fee for that class is \$75. But you will be only paying for about \$15. So please sign up. There's still space available. Thank you. I move to approve 2.12.

>> Mayor Reed: Okay I have a motion to approve 2.12. On the motion, all in favor? Opposed, none opposed, that's approved. Concluding the consent calendar, 3.1, report of City Manager.

>> City Manager Figone: No report today, Mr. Mayor, thank you.

>> Mayor Reed: 3.4, is a report on fire department injuries, we'll take that one ahead of 3.3, the workers' compensation matters. So we'll start with a presentation from our City Auditor, Sharon Erickson.

>> Sharon Erickson: Good afternoon, mayor and members of the council. Our report concluded that fire department injuries require a more coordinated response and better follow up. The fire department remains a primary source of workplace injuries within this city, with at least 82,000 hours of disability leave or 30 full time equivalent to firefighters off duty in the given year. The most common types of injuries occurring in the fire department are strains. This is one of a series of audits of workers compensation and disability including our previous audit of disability retirement that found two out of three firefighters were retiring out permanently disabled while working for San Jose's fire. Is this audit therefore followed up on that audit focusing on the handling of workplace injuries and the timeliness of treatment and recovery. Our first finding was that better coordination of physicians is needed to ensure timely treatment to effectively manage time off and to get employees back to work in a timely manner. Although the City's approval process appears to meet legal requirements for timeliness, delays may be affecting treatment. The city may be able to improve treatments during the first 30 days as allowed by state law. And as will be proposed in the next item on your agenda this afternoon. In our opinion, the fire department needs to develop a formal and much more aggressive modified work -- modified duty work program and it needs to review and update job descriptions that could needlessly limit getting employees back to work. We also recommend that the fire department's wellness programs be better coordinated, to ensure appropriate follow-up and efficient use of resources. We further recommend that sworn employees returning to the line after long absences be assessed by employee health services for their physical capability. Finally, the cost of back-filling for employees who are out on disability on their backfill is significant. We conservatively estimate it at \$5.2 million a year in the fire department. We believe this number should be tracked to show the costs and benefits of early comprehensive treatment and a more aggressive modified duty program. Our second finding was that the fire department's follow-up on injuries and accidents is inadequate. The city is required by state law to maintain an illness and injury prevention program. Under that program a majority -- we found that a majority of state mandated supervisor accident investigation reports had not been filed, and that safety committee meetings appeared to be ineffective at

monitoring injuries. In contrast we found that the city does know how to do this right. The Department of Transportation follow-up process with its supervisors is comprehensive. At the time of our review we found the department did not regularly review injury trends, particularly since the elimination of a department's safety officer. We recommend that the fire department prioritize improving its safety culture by dedicating the appropriate personnel with the right authority to enforce and coordinate changes, and to raise awareness about injuries and injury prevention. Our third finding was that premium pays to Police and Fire employees who are out on a disability cost the city about \$600,000 a year. And that the California state law requires payment of up to one full year of disability leave to qualified sworn employees who are injured on the job. However, it does not require the city to pay premium pays to police and fire employees while they are out on disability. A report includes a total of 15 recommendations to improve the City's management of fire injuries, and injuries and costs. I'm sorry. The administration that reviewed the information in this report, and their response has shown on the attached yellow pages. With that I'll turn it over to the -- would the department like to respond?

>> Alex Gurza: Deputy City Manager Alex Gurza. As Sharon indicated, the city administration in coordination with the fire department, did respond, and we concur with the recommendations and will be following up.

>> Mayor Reed: Time for questions. All right. I had a question for chief McDonald. First, we should not be surprised that people respond to economic incentives. And we're paying them more, take home pay, when they don't work, than when they do work. And we shouldn't be surprised that that increases the amount of disability. Leave taken a number of people are out on disability. That's just a fact of life. But recommendation number 2, about developing a comprehensive and aggressive time limit and modified duty program I think is a good one and the administration agrees. But I think the chief is ahead of us on this. He didn't wait for this meeting to get working on it so I'd like for Chief McDonald to talk about how he's getting people back to work. Because I know for years now we haven't had really enough people in the fire department to do a lot of different things. And the chief has been understaffed in many ways. So I

think this could be of value to operation of the department and getting people back to work. So chief could you talk about that.

>> Thank you, mayor. Recently we began the focus on making sure we were contacting our employees that were out on modified duty or workers comp duty to try to connect them or make sure they were staying connected with the organization. For those that had been out for a period of time we did an effort to understand the limitations that those folks had and we've begun to bring many of our folks back to work so that we can connect them with the organization as well as having them support some of the operations that we have operating in the department. As you say, we've had some challenges with the administrative support in our department and we find that our folks are very good at filling in some of those areas, and providing work for them to keep them connected as well as help get them back on the line more quickly. The combination of pure contact with our folks at home as well as bringing them back to the department so that they can be connected and doing work for the department in administrative and support several activities have been very beneficial for the organization as well as our employees.

>> Mayor Reed: Do you have any quantitative data on what difference that's made in the total number that are out or you know hours or dollars or anything else or is it too early to tell?

>> We can tell you, I'm sorry, Ron Dacioli, deputy director bureau of administrative services fire department. I can tell you that in the last week, two weeks since we've become more aggressive in the peer to peer reachout that between seven to ten people have actually returned to work and more than that have returned to limited duty capacity which is the roadway to get back to work.

>> Mayor Reed: Okay, well that's good, that's promising and chief thanks for getting ahead on this and implementing it. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Just had a question about a chart, that's early on in the report, pie chart I believe it's on page -- well, page 1. About the top 10 causes of injury. I guess you know,

we often, when you think about the work that firefighters do, I think we're all cognizant that there's a lot of heavy lifting involved. Particularly on the medical side, you often have a lot of heavy patients that you're carrying, a lot of people be responding to heart attacks and that means you might have heavy individuals and lot of heavy equipment to carry and so forth. When we identify the top 10 causes of injury, miscellaneous at 14% and generalized strain as 41%, lifting carrying tools some of the other categories you see there. It feels as though we don't really have a very good idea about what 60% of these injuries are really caused by. Strain is such a generalized term. Is that because the accident reports aren't getting filed? Why don't we know more about why people are getting injured?

>> Councilmember, it's both, actually. The -- when we lost the safety officer position, that position was focused on that string, to make sure that they are filed. We've been doing much better at that because we've thrown additional resources at it. When those are filed, and we're a lot closer to 100%, the accident report does detail how the accident happened. That's the good news. The bad news is that from the safety committee standpoint we have to change the culture in terms of how we deal with that. What do we do with that data and how do we impart corrective measures. For example if we see that lifting patients is one of the issues and we pretty much know that is, or manipulating some tool we need to be a little more finite in how we deal with that and how we correct those action he and that's on our agenda going forward.

>> Councilmember Liccardo: I appreciate that. I agree that it's important for us to use that data. And then finally about modified duty, I ask recall hearing anecdotally studies that you know one of the greatest fire suppression or prevention approaches that offices can take is often knocking on doors to make sure people are checking their smoke detectors and replacing batteries. Is that the kind of modified duty we could employ for an awful lot of these folks who have, for instance, serious back injuries they can still walk but maybe need some rehab on a shoulder or something like that?

>> Mr. Mayor, members of the council, Councilmember Liccardo, that's not the kind of work that we're asking our folks to do.

>> Councilmember Liccardo: Okay.

>> We're having them focus more on internal activities that we can't get done in other cases. Or that we can utilize them for providing support to our folks in the field that we really don't have anyone to do that. One of the things that I failed to mention that the mayor was talking about earlier is that we actually are trying to do wind of a three-pronged approach when it relates to the obligation that we have to our employees to keep them from getting injured and to keep them safe. Our wellness program is fully implemented or nearlifully implemented at this point where we provide people with tonightness training and opportunities as well as counseling to maintain their level of fitness or improve their level of fitness if they'd like to do that. We have a full time person that's managing that for us and also helping people understand the disease and injury process so that we can start to get a handle on some of the types of injuries that we have and try to find ways to prevent that both how we do our job as well as strengthening in order to prevent some of those injuries. Those three things, wellness program, return to work program and trying to get people seen a little bit faster are things we are trying to do to try the prevent the number of people we have injured and out on limited duty.

>> Councilmember Liccardo: Thanks, chief. Modified duty for the most part means desk jobs supporting --

>> It may not be. We have for example 33 new employees that came to work for us yesterday. While some of our folks may not be able to do all the duties of a firefighter, they can do some of the training kinds of things, some of the EMS kinds of training that our folks are required to have during that training program, or they can help manage some of the activities at our recruit academy.

>> Councilmember Liccardo: That makes sense. Thank you so much Chief.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I have a question in regards to the else ares and I'm reaving to recommending number 2 -- I'm sorry, recommendation number 4. First of all I need to know what kind of a lag time is there between the injury and seeing a doctor and the visit to the doctor?

>> Sharon Erickson: I'll start this answer off and other people can also answer. So in our review of cases, we found that people were seen as quickly as within 24 hours. Other times there were delays in seeing physicians.

>> Councilmember Pyle: By a week, two weeks, what is the --

>> Gitanjali Mandrekar for the City Auditor's office. Usually right after the injury was within 24 hours. It was the next appointment that took longer.

>> Councilmember Pyle: The reason was the therapy needed to be taking place?

>> It needed fob scheduled.

>> Councilmember Pyle: All right. I would hate people to say, I'll wait until there's an available appointment or something and put it on hold and apparently that's not what's happening. The other question I had was in reference to recommendation 4, and formal employees about limiting physical therapy appointments to off-duty days when possible. Some of that is so hard to schedule because I don't know you about, but I've had to go to therapy and you can't always do that on days that you have off. And so I just wondered if there was kind of a little bit of a conflict here, in that if we want them to get well, get taken care of, to get the cure going, and then the physical therapy appointments being questioned, I need a little more massaging on that one.

>> Sharon Erickson: And again there may be several of us who answer this one. But our concern was, that the fire department procedures manual does require that off-duty appointments be scheduled where possible. The idea being that we can't just have firefighters off duty for several hours. We would have to backfill for those personnel. So it does become a complicated scheduling problem. So to the extent that they can do it off duty, that was the intent. And we found that that had not always been communicated.

>> Councilmember Pyle: Okay.

>> Sharon Erickson: So we didn't say it's right or wrong. We just said as long as this is your policy and procedure, you should think about following it.

>> Councilmember Pyle: Yeah. And then in reference to the number 5, removing duplication. I can't believe the state would duplicate something. (laughing) is that what you're referring to some of the state mandated requirements are duplicative?

>> Sharon Erickson: No, it wasn't the state mandated requirements. It was the problem of our city physician doing a physical which encompassed more than was required under the state mandated requirement as well as having other wellness programs none of which seemed to have really rigorous follow-ups. So our concern was let's get these programs under one kind of umbrella so that we can ensure that there really is adequate follow-up that people who need to be tracked are being tracked and are being assisted and we're not up thing each other's work.

>> Councilmember Pyle: Got it, I understand that completely. And then B is a little puzzling to me. Develop a process for handling those individuals who are unable to meet predetermined minimum fitness thresholds. Are we talking about people who are too heavy or too, whatever, why wouldn't they automatically meet fitness thresholds if they are a firefighter?

>> Sharon Erickson: That was our concern. So the fire department has been implementing different wellness programs. If somebody scores below a certain score, it was intended in the program that there would be follow-up. I believe that there were six individuals who did not meet those minimum standards. What we didn't see was any rigorous kind of follow-up with those individuals. It was not a fitness for duty exam. It was a fitness exam but it was our feeling that well if we could pass the exam, as probably a minimum kind of standard, because I assume that a firefighters is a lot more physically fit than I am.

>> Councilmember Pyle, just to add a little bit to that. It is the responsibility under the club 1 contract for the fitness or the wellness coordinate to perform those. Those are -- they're not just past. They're a fairly rigorous process as the fire chief can tell you because he just went through his. There are -- because we have a lot younger workforce now that overall our people are in very good shape. And there were a handful of people that fell below that threshold and the wellness coordinator has reached out does aggressively reach out to those people to work with them to improve their scores for the next go-round.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Any other questions from the council? I have one request to speak from the public, I'll take that at this time. Mr. Wall.

>> I would like to first thank the office of the auditor for another fine outstanding report. Especially I would like to thank the chief of the Fire Department and all fire department personnel. This audit doesn't include the rigorous aspects of being a firefighter. I would like to entreat the younger members of the council to climb up and sit in a fire truck and get down at times. See how it wears and tears on your knees and your back. There is a lot of things that the firefighter does that you can't quantify because everything they do is different, every call is different. When it comes to a statistical standpoint Councilmember Liccardo it's very hard to ascertain your question about 60% ever these injuries, you just don't know. You're also creating another administrative nightmare for a department that is already cash strapped for personnel for tracking

these injuries. That's another problem. Another problem is whether these physical fitness tests are going to be included in performance appraisal for merit increases or what have you. I think this is coming, you're seeing the fruits of cutting your fire department, our fire department, as for example: Councilmembers that make statements that so many firefighters per truck, from four to three. I think the firefighters should be the ones that say hey, our safety, we need maybe five firefighters per truck. I don't know. The firefighters themselves should also be included in more participatory events in these audits. And I don't see that per se. I would like to close by thanking once again our very valued and underpaid and valued members of the department. They do an incredible job. And also, overtime. I don't see how overtime is affecting the people's health and welfare.

>> Mayor Reed: Sorry, your time is up. Ross Signorino.

>> Thank you, Mr. Mayor, members of the council. I want to bring up a point of safety which I've noticed a while back and I've waited about an opportunity to speak up on that. It's about Santana Row, their fire suppression here --

>> Mayor Reed: Ross this is not what we're talking about. This is workers compensation and police safety.

>> I was talking about safety here, it doesn't fit in here?

>> Mayor Reed: You're not talk about Santana Row, agenda 3.4, audit of fire department injuries. If that's what you want to talk about wait until open forum. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Quick question for the fire chief. On the heels of the reclassifications and the position changes we did last week do you see any of that helping in terms of the management here? I see a reference to the lack of staffing and that might have been to the presentation so forgive me if you spoke to that already.

>> Councilmember Rocha, yes. We really have a need to focus our attention on supporting our employees, providing them with greater direction and getting them focused on our operational safety, operational readiness as well as their fitness and their safety both physically and mentally. And I think that our intention in fact I know that our intention is to make sure that the contact that we need to have for our folks and the support that we need to have for our newly promoted and even our veteran officers need to be intact and available and those expectations are set, safety is a focus and very important fitness and our operational readiness and our skill levels for all of our employees is a number one priorities and obligation for the organization. I do see that they will all be enhanced by the approvals that you guys provided to the department this last week.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: On recommendation number 10 I was surprised to hear that the safety committee doesn't talk about injuries and what could be done as a result of the injuries, lessons learned et cetera. I certainly agree with the recommendation. The administration says the administration agrees and senior management members of the safety committee are working with labor representatives to refocus the rules for this committee to include all the items contained in the recommendation. How is that going? Does anybody argue with the idea that you should be look at injuries as part of the safety committee?

>> Mayor Reed, Ron Dacioli again. No, but to our surprise it's sort of morphed into something other than what it was meant to be. No one is argue with the on the labor side or obviously our side. They recognize the value. It's a most of turning that ship around and getting them focused in the areas that make the greatest impact and that's one of them.

>> Mayor Reed: How long a process does it take? Is it a supertanker who is going to take a couple of years to turn, or is this a little PT boat that you can turn?

>> It is a supertanker that's about 90% turned. Starting at our next meeting we're going to move that up to the start of our agenda as opposed to being buried in the back and sometimes we never get to it so we should see movement on that fairly quickly.

>> Mayor Reed: Good. Any other council questions or comments? Is there a motion? Motion is to approve the audit. As recommended by Public Safety, Finance and Strategic Support committee. On the motion, all in favor, opposed, none opposed, motion is approved. Moving into a related item, 3.3, our workers compensation alternative service delivery evaluation analysis recommendation.

>> Alex Gurza: Good afternoon, Alex Gurza deputy City Manager. This next topic is clearly related to the one you just heard and I think clearly gives an indication of the many facets there are related to the safety and injury of our employees with the number one goal of preventing injuries in the first place. As part of our workers compensation reform plan we established a workers compensation reform focus group. Sharon Erickson, City Auditor, Jennifer Schembri are members of that group as well as Ron Dacioli who was just here, deputy director of the fire department. Before you is an item that is related to the process that occurs after an injury happens which is the administration of workers compensation claims. The city is currently self-assured and self administered. That means we pay the claims and the cash for the medical costs, as well as any indemnity cost. And we have city employees who handle the claims and administer the claims. The human resources department health and safety division administers the workers compensation program and staff of the HR department currently provides claim administration services. There are adjoining services that are provided by contractual services have been and those are cost containment services which are things such as bill review, utilization review and medical case management. Another very important part of the entire claims administration process are legal services. Those are handled by the city attorney's office who conducted their own separate service delivery evaluation. So this slide is simply a background of the history, starting with an audit of the City Auditor, different than you just heard back in April of 2009. The City Auditor released an audit of the workers compensation program. The audit identified seven recommendations to contain costs and since

that report the city has taken a series of actions to address those recommendations. One, we were directed to develop a comprehensive program to address the total cost of the workers compensation program and assist injured employees with receiving appropriate and timely medical care. The mayor's June 2011 budget message directed the City Manager to consider changes including opportunities to contract out services. The workers compensation reform plan which I referred to earlier was approved by the Public Safety, Finance and Strategic Support committee included exploring an alternative service delivery model and stated the administration would conduct an RFP or request for proposals. The administration has developed the RFP for comprehensive workers compensation services which are the services that I mentioned before, not simply claims administration but also the various cost containment services that are already contracted out or handled by a provider. This next excluded I put in the memo on a couple of occasions and this is probably one of the most important slides here. And what we are trying to do when focusing our costs per injured employee is look at the overall cost of the program, the one to the right. How can we reduce our cost per claim? How can we get those costs down? This is a simplistic view of the costs, number 1 is the cost to administer the program. Whether or not you hire your own employees to administer claims or you use a third party administrator. One is the claims costs itself which is the most significant part of the cost, the medical costs and other costs of time off of work are the claims costs. In addition we provide a disability supplement and then that equals the total overall cost of the program. The question is what are the different things that we can do to reduce the overall cost of the program? In 2011-2012 the cost of workers compensation claims were approximately \$18 million. Approximately 91% of those costs were from the General Fund. Disability supplement as the city auditor indicated for police and fire is State mandated so it is not something we have discretion over. We have been phasing out and eliminating the disability supplement for our nonsworn workforce. This is a graphic that shows the total cost of workers compensation claims by department. I know it may be hard to read but you can see that the police department and the fire department comprise 76% of the total workers compensation costs. And as I mentioned earlier, most of the costs are General Funded and that is because those two departments are the bulk of the costs and they are almost entirely General Funded. So you'll see that that makes sense that that's where most of our costs are going to be in the type of work that police officers and firefighters do, but in percentage it drops way down after that, PRNS

at 5%, D.O.T, Public Works at 4% and on down the line. So in the memo that's before you we identified three options. One is alternative number 1 which is to continue providing claims administration in-house as we have. And continue using the contractual services for the cost containment services. If we went down this path there is no potential for reducing the cost that could be achieved by contracting out or gaining efficiencies that could be used by using a third party administrator. Alternative number 2 is to outsource all claims administration to a third party administrator to provide 100% of the workers compensation claims services. Using a TPA could reduce the city's overall cost of the program. The TPA may be able to provide more time per case, apply best practices and efficiencies and may have access to technology that is not cost fetch for the city to procure. Contracting with the TPA could increase the service level to injured employees. Want to point out if the city council did want to pursue this option some there are 17 FTEs or full time equivalent employees dedicated to the program that would be affected. However there are seven vacancies therefore there would be ten employees that would be affected by complete outsourcing of claims administration. There is no question in this option or in the third option the third party administrator would certainly need monitoring to make sure they are popping. One drawback of outsourcing is the city would lose direct supervisors over the employees that handle claims. The third option which is what our recommendation is, is to try a pilot program where a third party administrator would provide services for 40 to 50 percent of the workers compensation claims administration services. As we mentioned in the memo we would do this by selecting departments that would comprise 40 to 50% of the workers compensation costs. We believe that trying this option in the two year pilot program would be sufficient time for city to determine whether or not using a third party administrator does gain efficiencies and cost savings as compared to using city staff. The other idea of a pilot is it doesn't take issues that would be involved in complete outsourcing. So for example if the city were to completely outsource and determine that it wasn't cost effective it is much more difficult to bring it back in-house compared to the pilot program which we are recommending that would -- the infrastructure would stay the employees and their experience and knowledge would stay. And we would simply, could bring it back if at the end of the pilot it was determined not to be effective. In terms of staffing impacts for this model because of the vacancies that I mentioned earlier there would be no layoffs of any employee through the pilot program. There would be one employee who would be bumped, but however, would be

able to stay in the same classification at the same rate of pay. So our recommendation is the pilot program. We did want to members that I have met personally on over the last year with the workers compensation staff. Did explain the recommendation that's before you. I also had a chance to meet with MEF, the municipal employees federation, some very good suggestions, they did suggest to me that we hold quarterly meetings with MEF on the pilot program to see how it's doing. Absolutely committed to doing that. I think it's a very good idea. And the other suggestion we had is we meet with any bargaining unit that's interested to learn more about the workers compensation system. If you are unfortunate enough to get injured at work the system can be very confusing. And very difficult. Because of all the various processes. And so what we talked about is the better informed that our union representatives are the better they may be able to answer questions. So that's another step that we are going to take. Whether the claims are handled in-house or by a third party administrator to make sure we educate people as much as possible. So with that we ask that the council approve our recommendation. If you approve it we have not yet finished the procurement process. We would come back to council with a recommendation to award a contract. So with that I'd be happy to answer any questions.

>> Mayor Reed: I have a couple of questions. I'm still trying to figure out what the cost is. Part of the cost is detailed in the memo. So we have the \$18 million which is workers compensation claims cost. The \$7.5 million for the disability leave supplement. On page 3 of 15 there's a note at the end of the first paragraph that it does not include the cost to administer the program. So that's some more money. I don't know how much more it is. Is that just a disability leave supplement that is not included in the 7.5 million?

>> Alex Gurza: Mayor, it does not include the staffing cost nor does it include the cost for example of the attorneys staff who work on claims. So that chart on page 4 of the memo covers the only the actual claims costs themselves and the disability supplement cost.

>> Mayor Reed: All right so it's millions more on top of that.

>> Alex Gurza: Yes on page 9 of our memo, our HR claims administration cost, total cost of pay and benefits is approximately \$2 million. Again that did not include the cost of the city attorney's staff who are dedicated to workers compensation claim.

>> Mayor Reed: But they work for free. I guess they don't. We'd like them to work for free but they don't. They need to be paid like everybody else. We have millions more there some couple million more anyway plus lawyers. In the previous item 3.3, in the summary, the City Auditor identified at least \$5 million a year that it costs to backfill people who are out on injuries in the fire department alone. So there's another \$5 million that's connected to this although it's not workers comp it's another category. I'm not double counting I guess is what I'm trying to find out.

>> Sharon Erickson: I believe it's another \$2.5 million which is the actual cost to backfill. A portion of that I may have the numbers backwards but a portion of that was the cost of the disability leave in the fire department. So for those employees who were out, the other half of it, so approximately half was those employees. The other half was the cost to backfill for them. So you need to add on another \$2 million plus to your total. Yes.

>> Alex Gurza: Mayor, you're correct. These costs do not include the cost of back filling in the fire department or any of the other departments. But even to the extent that an employee who's out is not being back filled, it's the loss of the services that is also not quantified here, which they are not here at work providing services because they are injured.

>> Mayor Reed: I'm getting up around \$30 million the total cost here of workers that are injured in some fashion. And then I'd like at page 5, where the average incurred cost per claim, for San José, compared poorly against half a dozen other places whose cost per claim is one fourth, one-third, one half, of what we incur. So I'm looking at \$30 million and thinking couldn't we cut that in half if we had a successful program, and were doing the best we could, \$15 million a year in savings, most of that for the General Fund? That's the order of magnitude that I think I see here as a possibility plus we would have healthier

safer and presumably you know happier employees because I don't think anybody wants to be injured and off work.

>> Alex Gurza: Mayor we certainly think we can make progress. We don't know if we can reduce it business as much as 50%.

>> Mayor Reed: That's the stretch goal.

>> Alex Gurza: There is absolutely progress that can be made. As mentioned on page 5 from the City Auditor's report, we have looked at that chart quite a bit and talked to the people in the agencies. Part of the challenge is to make sure we compared apples to apples and how they actually calculate these costs. So what we decided to focus on is our own costs and trying to compare ourselves against ourselves. In other words going forward can we get that \$17,298 per incurred claim down and compare ourselves as we go forward and can we reduce it? We think we can by a whole combination of efforts.

>> Mayor Reed: Well I think my point is here is the magnitude of this problem warrants us to spend quality time and effort on it? Because it's a million dollars -- many million dollars potential savings and there's a great zeal of demand for extra money around the General Fund all the time, like every week, and if we could save funds on this it's huge. I greatly appreciate the time everybody's put on this to try to save us money along the way. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. First of all, I'm glad we're here, because this has been a long time coming. I know we've discussed it in the context of budget messages, in Rules Committee, at Public Safety committee, for quite a long time, and I know everyone knows I have strong feelings in this particular area. I'm glad to see the conversation has moved from just claims administration to how we're treating our employees and how people are getting medical treatment. Because I remain convinced that a lot of the costs that we are having are because of delays, and needless denials of service and things that happen with the, I forget who we call them the Mitchell folks. I think we really need to do something like

this to find solutions. It's not the fault of the employees in workmen's comp who are handling the caseloads that are four, five, six times that of their peers in other areas. But we know we have a system that's broken. It's been broken for a while and we need to make progress in changing it. I think a pilot program gives us an option to see in real time what we can do. But I think that we also have to really make sure that whoever is handling the claims whether it's our own -- handling the claims whether it's our own people here in house or the third party administrator that we have, that how things go to utilization review and the authority that they have to approve routine items actually go through that process, so that we can get employees seen, evaluated, treated, recuperated and back to work versus stretching it out a long time. So I'd like to make a motion to approve the staff recommendation.

>> Mayor Reed: All right, we have a motion to approve. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And mayor I agree with your sentiment that we need to be focusing on the millions of dollars that we're spending because we don't -- we're not doing enough, that's been identified by our staff, the fire department and I think even the firefighters agree there's probably a lot more we can do. And a lot of it, I appreciate Alex you -- in reference to the chart comparing to other cities, it's very difficult to compare to other cities. The fact is San Francisco, San Diego have more than double the police officers. When you have a short and you are very thinly staffed, you're going to have a higher degree of disabilities and when you do have the disabilities they are likely to be even more severe because you are so short staffed you need the people out there. The firefighters and police officers they are going o-- they understand that they're brothers and sisters that they work with are short staffed. So they are not at this point right now there's a lot of overtime being used and I think we've always been very thinly staffed and I think that's reflective of some of the claims. I think there's definitely room for improvement that can be made. As Councilmember Constant indicated it's not the fault of the employees in workers comp. In fact, the original audit indicated that they work a lot harder and more efficiently than private sector auditors, which begs the question as to, are we looking at the right problem? We have identified that we're spending too much money but I think that we're misidentifying the cause of it. The reality is that we have 17 FTEs that are only ten there. So clearly, you know just by if we just had a fully

staffed department that by itself would very likely, given the faculty that our employees are so efficient and are working you know by given the data that was given to us in the original audit, they're working a lot more cases than private sector auditors. I think that we're misidentifying the problem. You know, the -- even in and I understand the -- I understanding the ideologic trend of this council just to outsource at every turn. But I think when we do an evaluation and the evaluation shows that we actually will not save money by outsourcing and we actually have extraordinarily efficient in-house people doing the work you know I think that we should at least look at the facts and say well is this really the best use of our time doing a pilot program in a program that's not broken rather than focusing on some of the things the mayor talked about, how can we actually get you know make sure we reduce the number of disabilities on the front end rather than looking at a claims system that does not seem to be broken. Now I do agree that Councilmember Constant indicated that there are aspects of it that need to be looked at in terms of why it's taking so long for someone to get an appointment or it's taking so long for some of those issues. But that's not something that I think is a fault of the current employees that are working workers -- the workers compensation department. In looking at and as indicated City Attorney costs are still going to be there. Do we know what the oversight and management costs are going to be by outsourcing half the program essentially?

>> Alex Gurza: Councilmember Kalra we don't anticipate any additional costs. Dave Wong who is here as the division manager will remain and play a key part as well as the rest of HR administrative staff in overseeing the third party administered, I also wanted to mention one thing Councilmember Kalra, one thing is myself or no one is saying that it's the fault of the employees in human resources. We have a very dedicated and very knowledgeable group in a very technical area and they are doing a very good job but I also wanted to mention that we don't only have ten. We have ten city employees but we pending this decision we have not wanted to fill them with city employees, we have temporary staff helping them. So we have not reduced it to 10 and expected them to still manage that entire workload.

>> Councilmember Kalra: .

>>> That for the clarification. Like I said there's no one that's suggesting that the city staff is not doing their job but I think the fact that they are so understaffed and here we are even in the report itself it indicates that the -- a TPA may use streamline process may have access to knowledge could reduce city's overall cost. It just seems like there's no based upon the data that's right here, I think for -- I don't see how going to a third party administrator is going to save us money and in fact the report doesn't even indicate that it will save us money. And so it just seems like with our limited time and energy that we all have our City Manager has a limited time and energy that we should be looking at other areas to save money and with in issue of workers comp payment. Particularly because you know even it says here the long term -- the unknown long term, says unknown, if we went 100% claims administration by TPA, it indicates the cost being anywhere from two and a half to \$3 million, as opposed to our city staff of \$2 million. I know that's not the recommendation but that indicates right there there's too much generality and too many unknowns right now for us to go forward with the program just because an audit was done just because we can do it doesn't mean we should. And so there's nothing that I've seen in this report that indicates that we've identified the right problem to outsource. If there was enormous cost differential and our city staff by using internal in-house we were paying you know 50% more or 100% more then or even if it was ten or 15% more and we could identify where that 10% was coming from see if we could make it more streamlined but here we have a situation where it's likely going to cost more to outsource and we have no way of knowing whether we can get more out of it. It's an example of us focusing on the wrong issue and outsourcing for outsourcing sake rather than just making some of the pitfalls in our system a lot of which has to do with the fact that we're so short-staffed, fixing those problems instead.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just wanted to talk a little more about the MPN, I think that's what it's called.

>> Alex Gurza: Yes.

>> Councilmember Pyle: There doesn't seem to be a whole lot of information about that, can you speak more about that?

>> Alex Gurza: Thank you, Councilmember Pyle for that question. The MPN stands for medical provider network. And it is one of the elements of our workers comp reform program that I think is very important. Currently if an employee gets injured they can choose whichever doctor they would like to go to. Under the state workers compensation program an employer can establish a medical provider network. And you can either establish your own, or go out and use one that's already has been preestablished. And it has to have -- there's a lot of regulations, has to be registered with the state, there has to be choice of doctors and different disciplines. But that is where injured workers would go to first. There is a process by which they so opt-out if they so chose. But in talking to people in different agencies that have implemented them they do indicate that it has been some. And it's definitely something that we want to try. How it's connected to this particular item before you is this: If we go with a third party administrator, many third party administrator since they serve many clients not only up and down the state and even in other states have already preestablished medical provider networks. So if we go with a TPA we are then going to explore with them the possibility of using their medical provider network. If the council decides not to utilize a third party administrator at all we will then separately have to go out and explore an RFP for that process. So it's sort of a two-step but we will follow if we use a third party administrator right away to utilize the ones that have already been preestablished.

>> Councilmember Pyle: Well I tend to agree with Councilmember Kalra in that if we don't see a savings by going into this, what's the point? Unless it does free up people to do other jobs, that is that part of it?

>> Alex Gurza: Councilmember Pyle it -- we were clear in the memo not to say that we can guarantee that there will be savings. And however, if the city wants to explore this, we felt that a pilot program is the best way to determine whether using a third party administrator can reduce our overall claims cost. So why try that? Well, it -- most agencies, if you looked at the private sector, very few use their own staff as claims administrators. If you went out there even large companies that could potentially establish a whole

unit, use third party administrators. At least, from our perspective, why do they do that? Well, they're using a third party administrator whose core competency is handling claims. And they handle them not just for you as a client but for many clients, and may have been able to achieve efficiencies and practices that are more difficult for an individual employer to do. And this will allow us to see if that does actually achieve savings. The other part of our pilot program is to try what we're calling a bundled service approach. So Councilmember Constant talked about the other services like utilization review, and medical bill review. Right now, it's an unbundled approach. We have city staff doing that and then a separate company doing that. What we're looking at is trying a bundled approach and there are people that say there's advantages and disadvantages to either one. The pilot is going to try a bundled approach where that third party administrator is not going to only handle claims but do utilization review and the other elements to see if that also works. So again, it is a way to really see if that really works and if it doesn't work we don't necessarily have to wait the two years. We can always -- we're going to be monitoring this as we go, make changes as we go and potentially not last the whole two years if for example we learn early on that it is not effective.

>> Councilmember Pyle: On page 7 there are let's see, five cities mentioned that do have a TPA going. Is this all of the cities in the state that are utilizing this or the ones that you have contacted?

>> Alex Gurza: Councilmember Pyle thank you for the question. These are the largest cities, we just looked at cities in the immediate Bay Area. Clearly if you look state wide you are going to find many, many agencies that use third party administrators. It is very, very common. There are those that use in-house staff, Santa Clara County uses in-house staff. City and County of San Francisco who I went up and met with, they actually have a system as we indicated here is part outsourcing and part in-house claimers. So that's sort of the model that we're going to try, similar to what San Francisco is doing.

>> Councilmember Pyle: San Francisco. So you have looked directly to any of these cities to see their satisfaction level?

>> Alex Gurza: Yes, directly of these cities, my staff has talked to some of these. I actually went up to the City and County of San Francisco, also San Mateo county which is not on this list which uses a TPA and talked to them again about how it's working. Part of the key issue is going to be the performance measures that we hold the TPA to and how we're going to monitor their performance.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: City Manager.

>> City Manager Figone: Thank you, mayor. I just wanted to add for council's consideration that in considering our recommendation for a pilot, this is a perfect timing opportunity. It's probably the least disruptive time to take on this kind of a pilot evaluation because of the number of vacancies we unfortunately have. And then, how that does, though, allow us to not have impacts on our employees as we're testing this concept out.

>> Mayor Reed: I'd just like to point out on page 13 of 17 are the key benefits, we talk about the way overall cost can be reduced and providing better service levels to our interim employees. I believe that would be the starting metrics by which we would want to judge them, better service and cost savings. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Alex, forgive me I'm not clear about -- I think you answered this question but I'm not clear about the answer. When you look at the chart on page 5 of the remaining cities, that would be Sacramento, Long Beach San Diego and the county of Contra Costa, how many of those can we say use TPAs?

>> Alex Gurza: Councilmember Liccardo I want to make sure I know. I know if we go -- okay San Francisco I mentioned uses a combination.

>> Councilmember Liccardo: Yeah, hybrid.

>> Alex Gurza: Santa Clara County uses in-house claims staff.

>> Councilmember Liccardo: Right, we covered that. I'm talking about the remainder.

>> Alex Gurza: Let me check. We believe San Diego does use -- does have in-house staff. We have to check on Contra Cost county, Sacramento and long beach.

>> Councilmember Liccardo: Okay, there was a discussion about technology in particular, assuming that these independent agencies will tend to use the latest and greatest software to help automate, do all these things that maybe obviously we have a challenge investing in I.T. here in this city. Is there any particular tool that you've heard about that these folks are using that we're not using?

>> Alex Gurza: Parts of it is the technology they have in terms of their reporting. And they generally again they ask invest in it because they are going to make it available to all of them. One for example, is that one has an app, an application, but actually can be used by the injured worker as well about medical -- requirements about appointments and things like that. So those are the kinds of examples of technology not just reporting to the employer but technology that could assist the injured worker as well.

>> Councilmember Liccardo: Help you go to the rehab appointment or whatever it may be. Okay some thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Can you speak to why a two-year pilot, just a little bit about that, and one year versus 18 months whatever the case may be.

>> Alex Gurza: Councilmember Rocha we thought about that. Our concern if we only had a one year pilot is not simply having enough time to really evaluate it. We did talk to the City Auditor about that and there's some concern that even if two years would be a sufficient time to track costs. So we thought that was a minimum period to really have a claim live through its cycle and be able to compare costs. But that was sort of where we came down, no science to it but we thought that anything less than two years might be too short of a time to do an squat comparison.

>> Councilmember Rocha: Okay, thank you. In terms of the time can you speak a little bit to the time we spent getting to this, not the contract overall but specifically this workers comp issue. You don't need to go back to the actions we're taking I'm just talking about your staff time to doing the analysis bring this forward and recommend this and do the analysis if you don't mind.

>> Alex Gurza: Councilmember Rocha, I'm thinking because part of what we have dedicated a lot of time through is not simply focusing in on claims administration, and so we have spent a lot of time on our entire workers comp reform plan which is really trying to look at it from beginning to end and looking at all the processes because at least from my perspective I don't think you can only look at the claims piece. And if I isolated the -- just the RFP process, I can tell you it's a significant amount of time. Our RFP process this particular one is complex because we didn't just do the RFP on claims administration, we did the RFP on all of the other cost-containment services at the same time, which is utilization review bill review medical case management. So that made it more complex but I can't tell you exactly how many hours we've spend.

>> Councilmember Rocha: Fair enough, that was enough to help me anyway. I'm looking at page 6 where it lists the bullets, claims review, medical case measure and these are the services that in your opinion would be enhanced or the valuate or the asset that the TPA would bring versus our in house currently?

>> Alex Gurza: Well, just to clarify, on page 6 you have claims administration, which is the only one of those bullet points that is currently done by in-house staff. So the bill review the others are the ones that are done already through contractual services and we're going to try a bundled approach where one vendor would provide all those other services.

>> Councilmember Rocha: On that other three are those three different firms or one firm that does the other?

>> Alex Gurza: Currently we have one firm doing the three.

>> Councilmember Rocha: Unclear. I too am a little troubled, that's one of the reasons why I talked about what got us here, I understand the policy decisions that got us here to this point from an audit to the mayor's budget direction and the manager's budget these items have been called out a number of times and then when we get to the end of the game and we look at a proposal from staff and we talk about potential savings, and it's unknown. We don't know if it's going to happen. So the pilot in that sense I think is a good approach. But I'm still left with the analysis that got us to the decision to go ahead with this, given that, because as I've brought up before, I just don't know where, I don't know the full analysis that's leading to those initial decisions from the Mayor's Budget Message to the City Manager's directs and analyzing what services do we contract out and get savings. Some of them comes from the auditor's work plan and some I just don't know. I mean, googling just sitting here, there are HR services that are provided and we can contract those out. There are outside auditors that we could contract out and do those services. So what's really more important to me is not this decision here today, what's really more important to me is the decisions that are made prior to this that are getting us to these points and not bundling those decisions in Mayor's Budget Messages or manager's budget messages. I would rather have a discussion about how we're going to go good targeting rather than, decision to go forth. That's where I'm struggling with the decision. I think the pilot approach is a good idea but again I'm just really concerned about the decision to go ahead with this looking at potential savings and unknown. And we've invested a lot of time and resources to get us to contracting out of service that we don't even know we're

going to save any dollars. That's more of a brain dump and an opinion that anybody can answer. So thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I think we've asked most of the questions that I was thinking about but I just wanted to clarification on page 9 of 15. On the estimated annual cost, 100% claims administration by TPA, why the \$1.5 million delta between -- or it would be a \$1.4 million, well, 1.5, a million dollar difference between if we did it 100% in-house, why is there a difference, and then given the two-year pilot, that \$900,000 by the TPA is fixed. So why is there some wiggle room on that?

>> Alex Gurza: Councilmember Campos, first starting with the 100% in-house staff that \$2 million is we know the cost and we can calculate the cost.

>> Councilmember Campos: Right.

>> Alex Gurza: The question you're raising about why such a wide variation. First, set aside the RFP process which is very important, talk about in a second. Like anything, third party administrators can vary dramatically in the cost that they will charge. The reason we're not more specific here is because this is not part of the procurement decision. We have separated out the process and to maintain the integrity of the procurement process which is ongoing we did not cite any specific numbers here and to get more specific. Clearly, if you approve the pilot, we will finish the procurement process in coordination with the finance department and come back with very specifics for your approval and you will know whether or not a provider will be able to do it at the costs that we estimate here. And if we can't do that we'll be back and report that to you as well.

>> Councilmember Campos: Okay.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just want to ask clarifying questions. I remember that we had an RFP before the option 2. 100% administration by the TPA that went out. Earlier.

>> Alex Gurza: Yes, Councilmember Chu it did go out. The RFP that we issued was comprehensive. And it allowed providers to respond to all or part. So for example, a provider who doesn't do claims administration, would -- could respond only to the cost containment elements. We reserve the right in the RFP to award part or all of those services. So it is still pending. The reason that we brought it in two steps to you is because we are recommending a pilot, that does not outsource all of the claims. So we need counsel to bring this issue to you to decide whether or not the pilot was -- whether the council would agree with our approach on the pilot. Then we would proceed to complete the RFP process and come back.

>> Councilmember Chu: I see, how many bids have we received so far? Zero, two?

>> Alex Gurza: The reason I'm looking is I'm looking at Mark Giovanetti. Only because I don't want to disclose any information that we shouldn't as part of the RFP process.

>> Councilmember Chu: The number of the bids or proposal that we have received.

>> Alex Gurza: We don't have the exact number. We know it's over 20.

>> Councilmember Chu: Over 20, wow, okay, that's pretty good. I think one that we all agreed upon is that we need to set up the MPN. That definitely I think will save a lot of overall cost. And how come we haven't put out an RFP to set up the MPN?

>> Alex Gurza: Yes, Councilmember Chu, we absolutely agree that a medical provider network or MPN is something that we should pursue. We did contemplate as we were going through our workers compensation reform plan whether we should issue an RFP separately from this. As I indicated earlier, the reason we decided to wait is because if we used the TPA many of them have done a lot of the work already that we would have to do ourselves which is to establish an MPN. So if we use a TPA we may be able to utilize the one they already established. If we don't brew a TPA for example if the council does not approve our recommendation to do any outsourcing then we would be moving immediately to designing an RFP specifically designed for an MPN.

>> Councilmember Chu: I would suggest if we do an RFP for an MPN we would know how much that piece of work, the value to the city. So on page 9, the 100% in-house, the annual cost is about \$2 million. That's assuming that we have full staff, and 18 or 17 staff?

>> Alex Gurza: Yes, Councilmember Chu is the full staff in human resources and as was discussed earlier does not include the legal services provided by the city attorney's office.

>> Councilmember Chu: Okay. Why are we having these eight openings? If I reword my questions, have you considered having a two-year pilot program to have the full step, full 17-member staff for two years, and have the savings on the overall cost with an MPN?

>> Alex Gurza: Councilmember Chu, we have had 17 staff. The issue that I mentioned is that we have had people retire and leave, and when those vacancies have occurred, we have filled them with temporary services. So we have been using 17. Now, having said that, 17 is reduced from years past when it was higher because the budget cuts, we have unfortunately had to eliminate some of the workers comp staff. So the question becomes, if we continue to do it in-house completely, the question still is, is do we have enough people to handle the claims and because as was mentioned earlier, we have very high claims load per adjustor, so even if we keep it completely in-house, I think it will then have to be

revisited is additional resources to bring additional staff in to get the caseload lower, down in in-house staff.

>> Councilmember Chu: Additional staff you mean from 10 or additional from 17?

>> Alex Gurza: From from 17. If the council doesn't decide to try outsourcing or the 17, the challenge-b how to improve with the 17th because they have very high caseloads. So I think the question will then become, do we have additional resources to add additionally above and beyond the 17.

>> Councilmember Chu: I guess my question is, if we -- now you replaced with some temporary staff, but if we have 17 full time staff for two years, and with MPN I think that probably should be another option that we should be considering.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Thank you, Alex, for the report. It looks like in terms of the pilot you'd be looking at 40 to 50% of the -- trying to get to 40, 50% of the employees you would want to reach.

>> Alex Gurza: Yes.

>> Councilmember Herrera: How would you -- do you have specific departments that you would be looking at? You already said that Police and Fire account for 76%, so your remaining 24% you'd have to look at Police and Fire to work with those cases, as well. I'm just curious where you would want to --

>> Alex Gurza: Yes, absolutely. If you look at the chart actually one of the charts I think we showed, gentlemen, this chart right here. If you looked at that and we were trying to achieve 40 to 50% of the pilot either the police or the fire department would participate in the pilot, otherwise we couldn't get to the 40 to

50 first. So it would be either the police department or the fire department and then a combination of other departments that would approximate 40 to 50%. So it would be by department.

>> Councilmember Herrera: And is that any meet and confer involved in making that decision?

>> Alex Gurza: No, how we handle our claims administration is up to the city to decide how to administer it. The benefits are set by the state, so that the amounts that an employee gets are not going to be affected. They're set by state regulations. The disability leave supplement is a meet and confer item but that's a separate issue. The 4850 pay which is a supplement pay that police and firefighters get is also by state, so that would not be affected.

>> Councilmember Herrera: What in terms of if we did the pilot and you decided the pilot was working, how do we know? What's the goal in terms of this pilot your measure of success around how does it relate to the ten to \$12 million we're talk bug that the auditor, I think TTYs auditor, the ten to \$12 million sails that we should be trying oachieve in workers compensation reform? I'm trying to understand where that comes from because you've got on page 3 there, costs to administer, claims cost, cost for disability, seems like there's a lot of different sources, different buckets where the savings could come. I want to understand that. And then the second part of my question is I'm concerned about how we manage the injured workers and that seems to be a very important piece of this. To make sure that they get treatment sooner rather than later, and their claim is managed efficiently. So can you address all those things in terms of the pilot?

>> Alex Gurza: First, in order to reduce our overall cost, we have to look at holistically, at all of the elements of the process, starting from some of the things that the fire chief indicated that they're already starting to work on, to a medical provider network, to increase injury prevention program. All of those things we believe will contribute towards reducing our cost. It is difficult to attribute how much savings to each and to know how much will be because of the medical provider network and how much will be if we

do a better job investigating the cost of injuries. We do think however with an approach on all of those things we will get the number down. In terms of how will we see if the pilot is working.

>> Councilmember Herrera: Yeah, how does the pilot affect that? I'm confused where we are getting savings here.

>> Alex Gurza: Most of the other elements that I mentioned are apart from the pilot. We could do a medical provider network, we can improve our follow-up on injuries, safety, injury prevention, all of those things we don't need the pilot to do that. And we can -- are starting those efforts and we need to continue those.

>> Councilmember Herrera: And how much savings would we get out of all those efforts?

>> Alex Gurza: I really do -- I look to the city auditor to see if she has any thought, I do hesitate to attribute a number only because it is difficult for know for certain how many all of these efforts, but I guess the way we are approaching it is, if it gets an injured worker treatment faster, if it gets an injured worker back to work, quicker, that's the success.

>> Councilmember Herrera: Yes. So how goes the pilot get the worker back to work faster?

>> Alex Gurza: Great quesiton. So we think that by the bundled service approach. We -- and with the FPA who ask bring some of the best practices they've established, we believe it has the opportunity to improve the handling of a claim and efficiency back to work. That doesn't mean that our staff isn't doing a good job. It is an opportunity to see how that works. We're going to provide metrics and performance measures and also have people that work at other places to help us? How do we measure the performance of a TPA? People who have worked with TPAs and to help us establish those performance measures, to monitor that Tpa to ensure performance. Some of the performance measures clearly you would say, what is the cost per claim? What other thing we would say, is the timeliness of medical

treatment. How long did it take for the person to get back to work. A lot of those elements we'll be looking at, and the TPA is not solely responsible for all of those things. But clearly we'll be focusing on how do we measure the TPA's aspect, what they're responsible for and how they they are performing.

>> Councilmember Herrera: So at the top of page 3, which box would this initiative be saving us money on the claims cost?

>> Councilmember Herrera, the goal is to reduce the cost over to the right.

>> Councilmember Herrera: Okay.

>> Councilmember Liccardo: The overall cost of our program, this is our goal. Even if, for example, we pay the exactly same number of dollars for two services, can one overall contribute to a reduction in the overall cost per claim? So that's how we're looking at it, is opposed to saying this cost me X, this cost me X, it cost me the same. What we're trying to do is what can contribute to reducing the overall cost of claims.

>> Councilmember Herrera: Well, when I look at your -- the formula here, I see cost to administer program, that would be affected by a pilot, there would be a piece of that, right? Claims costs, because obviously we're going to look at per-cost claims, how much that is costing you, you have to be evaluating that. But disability leave supplement, that's not part of it.

>> Alex Gurza: Yes, absolutely, the cost to administer the program, TPA cost, what they charge us will all fit in that box. The claims cost they will help on that issue because to the extent that they are doing an effective job that could help reduce that cost. You're correct Councilmember Herrera, that a TPA has no control over the cost per disability leave supplement only to the extend that an injured walker is when they otherwise would have been, then that could affect that cost. So even in that way, that they do, this is what we mean, that every part of the process can contribute to the overall cost of the program.

>> Councilmember Herrera: They could affect it if they're off leave sooner, or they manager it better so --

>> Alex Gurza: Yes. Let's say for example they're not communicating with our injured workers which is another key metric, how are they -- what is their communication with their injured workers, are they working to get the appointments scheduled in time, all of those things could also, if they're not doing well, could contribute.

>> Councilmember Herrera: And are we managing that, I guess I'm just thinking what about the folks that are doing this now for the city? Aren't we knowing -- having that kind of communication so we know how they're communicating with their injured workers?

>> Alex Gurza: Absolutely. Our staff does a tremendous job, especially when you consider the case load. Part of the challenge here is that we do have high personnel cost and so when we've cut workers comp staff they don't control the number of claims that come in, all right? So we have to spread the claims over a small staff and their caseload is very high. So although they are doing the very best they possibly can with the number of cases that they handle it makes it really difficult for them to have the same customer service level than if they had half the case load.

>> Councilmember Herrera: So this augmenting the staff is to get more people to do the job?

>> Alex Gurza: Well, we really are going to have -- we are going to have half the staff to handle half the claims. It does not solve that problem with the number of claims that our in-house staff is handling. The solution to that is reducing the number of claims filed, reducing injuries or hiring more employees so that you can spread the case load across more people.

>> Councilmember Herrera: Okay. Thank you.

>> Mayor Reed: City Manager.

>> City Manager Figone: Alex, I would also imagine that under a pilot, our employees would be able to kind of track the progress of the TPA approach and benchmark themselves against that work so that we might learn from the TPA, can you comment on that?

>> Alex Gurza: Yes, there's no question that we'll be looking at that. One of the challenges that I've discussed with them is the issue of their caseload versus a caseload that a TPA might have. So that's really still the underlying challenge but we clearly will be having information about sharing, about how performance measures that we use in-house versus the performance measures that a TPA is held to.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor some just a little bit of follow up, based on the great questions by councilmembers during the discussion. Based upon what has been said, seems to be a very costly and labor intensive way to see if this would work. I don't think in the private sector they would jump into a venture like this with such hypothetical returns. And frankly the private sector doesn't have 76% of those filing claims as police officers and firefighters. That's very difficult to make that kind of comparison across the board with what the private sector is doing. If we look at the average incurred cost per claim the two lowest use in-house, Santa Clara County and San Diego so that's -- it's difficult to compare even among cities, we don't know exactly why if that's the case but we do know at least it's not because they're doing it in-house. And so I think that when we look at -- when we do an evaluation our current department needs more staff. That's why they're overworked some they need more staff. We are keeping them with the same amount of staff and outsourcing the additional FTEs that were made vacant due to the downturn in the economy. At the end of the day, when we look at whether our employees get more treatment more quickly or get back to work faster, we are going to have to take into account part of the problem is we are going to have to take into account the fact we're fully staffed now, maybe half of it's in-

sourced now look we're doing many more case he more efficient well finishing we are it's going to be almost impossible to compare what would happen if it was completely kept in house going forward with the save efficiencies and working on some of the same issues that the auditor identified we'll never know because instead of getting our staff that's proven to be extraordinarily efficient an opportunity to be fully staffed with now some of the recommendations and changes that have been recommended by the auditor, we're never going to know if they were going to be able to use that same efficiency to improve on the quality, service and lowering of the cost.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I had the same note. Being able to measure the -- we've been working a lot of efficiencies going forward in this workers compensation side of stuff as I understand it and a lot of discussion for some time now so I'm assuming we're expecting some improvements. The police department has talked about it, the fire department has talked about it so logically we would see some improvements whether we do this or don't. I don't know if you have any thoughts on that particular assessment, so to speak.

>> Alex Gurza: Councilmember Rocha I agree 100%. We expect to make improvements and we expect to make improvements whether or not we stay with the current model of in-house staff or use a combination of services. We clearly are going to continue our efforts to improve. This is simply an attempt to try a process to see if it even creates greater efficiencies. Savings. Benefits to our injured workers. But either way we will continue to work on all of the various efforts.

>> Councilmember Rocha: Thank you, I appreciate that and I also appreciate the blunt honesty in this about no projected cost savings, an unknown. I mean that's refreshing for me. Because we always make estimates, and in a certain sense we needs those estimates to base a decision on and recognizing here the difficulty with this issue I do appreciate the fact that you wrote a note, it was helpful to me to take a look at this and also ask other questions. And to your point about being able to measure the

improvements or the savings, I had asked about the other options of a one-year or three-year or 18 month. You said difficult to measure in that short time. I've been sitting here thinking about that, trying to understand a little bit more if you wouldn't mind elaborating why is one year not enough time for you to understand whether or not the savings or whether this is the right choice.

>> Alex Gurza: Again, a claim can last quite a long time. There may be a claim that lasts way longer than a year. And so part of that is the reason why we think it may take longer than a year to really assess. Having said that if we do a two-year pilot it doesn't mean that we won't be assessing very regularly, and quarterly at least, if not at the beginning monthly. So I don't want to give the impression that we wouldn't be measuring it and seeing how it's going along the way. We simply think it's good to try the full two years. We're happy to report back to the council for example after a year and report to you how it's going in the middle of the pilot. We'd be certainly open to doing that.

>> Councilmember Rocha: So that's actually where I was going. I was going to ask a different period of time and ask for a report-back. Given the two years, I get a little bit nervous I've got a little over two years left here. I'd be interested in weighing in on this issue. If I could ask a friendly amendment, for a good time what do you think is a year or 18 months what do you think is enough?

>> Alex Gurza: To report back to you?

>> Councilmember Rocha: Yes.

>> Alex Gurza: Either -- I think Councilmember Rocha either 12 or 18 months.

>> Councilmember Rocha: I'd ask you report back in 12 months if the maker of the motion would accept a friendly amendment, please.

>> Mayor Reed: Councilmember Constant?

>> Councilmember Constant: I don't have a problem with that, are you envisioning it to go back to the committee that it's been discussed at for the last couple of years or coming back to council?

>> Mayor Reed: How about both.

>> Councilmember Rocha: With a cross reference back to council, that would be okay.

>> Mayor Reed: We have a motion that's got a friendly amendment on the timing of this.

>> Councilmember Rocha: I don't know who the second was --

>> Mayor Reed: The Vice Mayor it's okay the seconder.

>> Councilmember Rocha: As far as measuring the performance in that, the obvious is the cost per claim. Is there any other, and maybe you spoke about this in the report, and sorry if I missed it when I read it.

>> Alex Gurza: There are many, and we can ask Dave Wong if he wants to come up here and talk about other key performance measures. There's something here called the closing ratio, for example? What is the ratio between cases opposite and case he closed. Dave if you could highlight some of the types of performance measures that are commonly used.

>> Councilmember Rocha: As part of that report you would have expected to provide those compare festival speaking?

>> Alex Gurza: Absolutely.

>> Good afternoon, Dave Wong with human resources. I've been with this program for 21 years now and I've seen it come from a small program growing where costs of claims have increased over the years and a lot of things have been done about that. But I guess in answer to your question about this terms of what do we evaluate the adjustors and the staff, Alex had mentioned look at how many cases are they closing? You can't close unless you do case management and get it to closure. We look at their settlements that they project and that they work up for each and all of our employees. Is it fair and equitable to the employee? Are they doing it on a timely basis? That's a key measure. The return work in the audit is a key area. Because if they come back to work sooner then usually the medical costs would be lower because they're working and things like that. That's a major area where we can improve in-house with and we're working with the departments such as the fire and the police and once again they account for 76% of all the injuries. So a lot of that depends on that. If you ask cut your disability cost tremendously but we need a concerted effort among the administration, workers comp, the city attorney's office and of course the department themselves. We need to improve what we do together. But you know there's room for that.

>> Alex Gurza: And with the TPA we establish those similar type of performance measures to see how they're doing in that part of the process. You know in terms of how long the claim's been open all those types of performance measures. We'll be looking at best practices seeing which are the ones to hold the TPA accountable for. And then on the other parts, we'll hold ourselves accountable for the other elements of finding a job finding modified duty and all of those issues.

>> If I can continue for a couple more, then?

>> Councilmember Rocha: Please.

>> One or two more measurements. We look at the reserving practices too, are we doing it timely, are we reserving for what we have exposures for? We look at the penalties. So we're not paying the benefits on time whether it's an award or temporary benefits or medical, we get penalized for that. I'm sure there's

more that I can't think right now, but there are a bunch that we have in the queue that we look at in terms of each performance measure for an adjustor and then overall that equates to the entire program to see if we actually are doing well or not. But the bottom line like Alex said is going to be the overall cost of the claim, what can we do to get that down, it's all parts of not just claims administration.

>> Councilmember Rocha: Thank you, one other question when was the last time we were fully staffed, the 17?

>> I'd say two fiscal years ago, where we had 14 adjustors, now we're down to 9 FTEs, like clerical and management staff, 23 FTEs but that was two fiscal years ago.

>> Alex Gurza: Being councilmember am responded to so there was a higher number of claims adjustors. In terms of --

>> Councilmember Rocha: How much higher?

>> Alex Gurza: Pardon me?

>> Councilmember Rocha: How much higher?

>> Alex Gurza: In years past how many more adjusts did we have?

>> We had a total of 14 and now we have nine.

>> Alex Gurza: Just to not get confused of the numbers is 17 is a combination of administrators as well as other staff that work on the program. So we're at 17 total now, nine of those are adjustors. And then some of those are vacant as we discussed in the past but the work is supplemented by temporary assistants.

>> Councilmember Rocha: Decisions that were made to reduce our members from 14 to 9 were based on budgetary or workload or combination?

>> Alex Gurza: Absolutely nothing to do with workload because unfortunately the claims didn't go away, it was the difficult budget decision he as and other strategic departments had to scut, they cut from everywhere and that included unfortunately workers comp adjustors.

>> Councilmember Rocha: Did we see the correlation between the cost per claim rise as we cut our, looking back annually shouldn't be too hard, you probably don't have it but probably pretty easy --

>> Alex Gurza: It would be easy to do and the hard thing would be to figure out if that was attributable to that or the increased number of claims but we certainly can go get that.

>> Councilmember Rocha: Probably would have a relationship. I don't think it would be completely in a silo there. All right thank you, I'll stop there.

>> Mayor Reed: I just want to raise again something I raised in the past and people think I'm kidding about this but I'm really not. When I look at the chart what it costs Santa Clara County to process these claims we'd be better off just giving it lock stock and barrel to Santa Clara County if we could cut a deal with them. Whatever they're doing over there it seems to be working. Maybe it's magic, I don't know. But I think if this outsourcing pilot, TPA pilot whatever we're calling it, doesn't work, we do have to look at radical changes just because there's so much money that could be saved if we were at the Santa Clara County cost. They have less police officers, less firefighters in their mix so you can't do an apples to apples comparison. But this is data that's older than our cut back in services. The audit was done in 2009 when the department had -- maybe wasn't fully staffed but certainly had more than now. I know that nobody wants to look at completely getting rid of everything, but when this kind of money is on the table I think if we can't find a solution then we have to be thinking about just the entire thing. Not that Santa

Clara County necessarily would want to accommodate our interest but I think it's worth having the conversation in the future. Not today because today we have this pilot project which I think is promising, although we won't know until we try it. Councilmember Chu.

>> Councilmember Chu: Thank you. Correct me if I'm wrong. I felt that the key to accomplish a significant overall cost savings is to have the MPN. So whether we do it in-house or we contract it out, probably doesn't make that much difference. But it's very key in an important is that we set up the MPN. So I would really like to make a substitute motion to ask the City Manager to fully staff that department for two years, at the same time, develop an MPN, RFP and MPN and come back to us and seize what -- is there any significant savings? Because I believe the MPN is really the key. And not whether we outsource to a third party or we do it in-house.

>> Alex Gurza: Councilmember Chu just to clarify. That would actually be and this is three option he, we are recommending option 3. Every element, every one of those, number one, number two number three we are going to pursue the MPN.

>> Councilmember Chu: Okay.

>> Alex Gurza: However, keeping claims administration is number 1. For example, if council didn't accept our recommendation and went with number 1, we would pursue the MPN. So really it comes with whether or not the council acceptance our recommendation. Either one of those accepts our extion are MPN.

>> Councilmember Chu: Okay then I would like to make a substitute motion to take option number 1 if I can get a second.

>> Mayor Reed: I think I heard a substitute, Councilmember Kalra. So we have a substitute for number 1. Councilmember Constant.

>> Councilmember Constant: Thanks mayor. I want to speak against the substitute motion for a number of reasons but one is, the problems that we've had are not just related to how many positions are staffed right now. As you mentioned, the audit took place before we had staffing reductions. We've had a number of systemic type issues with the workmen's comp that we've talked about over the years and I really think we have to go long and hard about the comments made about as we look to start a pilot program first we'll be able to answer those questions that Councilmember Kalra posed that all these unknowns. Well, let's find out and that's what a pilot does. But we're also taking advantage of companies that have expertise, maybe different systems to deal with it, we all know how woefully behind we are on our the I.T. infrastructure. The computers we use, the software we use, the systems we use, everything. And this is an opportunity to see if there are efficiencies that we can gain in other places. And I just think the problems we've had in workmen's comp have gone beyond the last year and a half or two years where we've had the major staffing problems. I urge my colleagues to not support the substitute motion, how or where we'll be able to make changes that will increase the quality of care for the employees while decreasing the cost. And then when we revisit this in approximately two years then we'll have the information to make a decision.

>> Mayor Reed: I'm not going to support the substitute motion. This is an opportunity to save some money. We have to figure out how to do it. You all know the difficulties of finding money in the General Fund. This is a place where we could potentially find many millions of dollars. So I think we got to try to pilot and see if we can make it work. On the substitute motion, motion by Councilmember Chu to go for alternative 1. On that motion, all in favor? Opposed? I count one two three four five six seven opposed. I think. So in favor was Kalra, Campos and Chu, I believe in favor. I counted wrong, it must be eight opposed, three in favor 8 opposed. Back to the main motion made earlier by Councilmember Constant with a friendly amendment from Councilmember Rocha. We have some public testimony, yes let me take that before we move further Elana backman, Yolanda Cruz, David Wall and Robert Sapien.

>> My name is Elena Bachman and I'm here to request additional staff for the workers compensation program should the city move forward with this two year pilot. If 50% of our claims are outsourced to a TPA then the in-house program will be left with 1600 open claims. This memo recommends staffing of one senior, four adjustors and two support staff. In this scenario adjustors caseloads will be at an all-time high of 400 cases per adjustor. Permanent staffing is currently at a all time low, since 2011 we have lost 11 permanent position he. With cases this high the in-house program will be extremely challenged to meet the goals of the workers comp reform assisting employees with appropriate and timely medical care so that we can get them back to work. The memo states using a TPA will also provide a reduction in the number of claims handled by an adjustor which can allow an adjustor to spend more time on individual claims thus allowing for additional service. The memo states this is a benefit to using a TPA. Well, providing our adjustors with a reduction in the number of exclaims equal to that of the TPA will also benefit the program and meet the goals of reducing the City's overall cost. Process improvements are also possible with an in-house program and we would like to be given the opportunity the same as a TPA to do that. But in order to do that, and to meet all the goals in this reform, we need more than just a skeleton crew. The workers comp system just so you know, there's new reform coming in January of 2013 which will hopefully reduce some of the workers compensation cost. And just in answer to one of the questions, Sacramento, Contra Costa county, San Diego and long beach all have in-houseworkers compensation programs.

>> Mayor Reed: Yolanda Cruz. Gl's AFSCME MEF has with the proposed pilot project for workers compensation you have before you today. I want to acknowledge that we did meet with Alex Gurza to discuss this last week. We also met with our workers compensation staff this week to share information received from the meeting. We AFSCME acknowledge that it is unlikely that you will not move forward with this staff recommendation. And therefore, we wish to publicly call to your attention some of the challenges we foresee. The City Auditor's report from April 2009 states that San José workers compensation program is higher than comparable cities and counties in California. Unfortunately what it does not do is specify the ratio of claims to employees, the average salary of the claims and whether or not Public Safety is included in these other jurisdictions. The mayor states that in his June 2011 are

budget message that there is potential for a ten to \$12 million savings for workers compensation reform. However there is nothing that backs up this figure. In fact even if every workers compensation employee were eliminated and this would not come close to this figure. The approximate 91% of this workers compensation cost for this General Fund because of large number of claims come from Public Safety. However, since the DOF mandated by state law and you do not have authority to make alterations to these provisions it is more likely that with changes all increase the percentage of Public Safety for General Fund. Since the auditor's report was issued there's been a dramatic reduction in number of employees due to budget cuts and attrition that have not been filled by city workers but it is instead subsidized with contract workers. Clarification on whether or not vacant positions will be filled during this pilot project are very important to us. The average time frame for maturity of a workers compensation claim is three years. A two year pilot project will not have the same attributed to for comparison purposes. There are receivable other areas that we are concerned about. That will not likely be quantifiable in an apples to apples comparison or will be difficult to quantify in a comprehensive comparison of the two models. We are asking that the evaluation process be carefully monitored and that we AFSCME have the opportunity to be active participants in this process. At the end of the evaluation period, it is important for everyone to have the facts figures exceptions and the criteria used available at the time of the decision. In addition, any request brought to council for budget allocation increases for vendor contract should also be carefully vetted for potential impacts to the evaluation comparison. We look forward to working in collaboration with the city and our members as discussed with Alex Gurza during this pilot project.

>> Mayor Reed: David Wall Robert Sapien.

>> I don't think that you should go with an outside TPA. For a variety of reasons. One of which is, you lose operational control and fiscal integrity of the program. More so, the network of medical providers is, can be rife with corruption, and conflicts of interest that will be so hard, and difficult, rather, for the auditor and for the City Attorney, to monitor for cost savings. There are no cost savings with this, because you do not know. Mr. Mayor, you have at least one attorney working for free. Her name is Nicole Johnson. She's

a volunteer. She works 40 hours a week. Now back to this business. This is perfect item for a study session that Councilmember Rocha champions because all of you are well intended but none of you really know what you're doing on this issue. You're being missile shepherded into accepting the TPA concept because in fact the office of the City Manager in addition to the council has failed to keep pace with this ongoing program and failed to start integrating a new model for dealing with workers comp as a hasn't been discussed today but that is part of this problem. A wellness program safety officers that were already discussed have been omitted. The office of employee relations has been doing a great job on this. However some the cost savings to the taxpayers Mr. Mayor is to keep it in house where you have complete control. Mr. Mayor, you have made several other decisions where it parges that you're saving money but in the end result you ending up losing money such as the loss of police officers, firefighters the amazing destruction of the water pollution control plant operational staff and yet this is completely in line with your decision you're making today. It is folly. It is chasing a Finnegan's rainbow with disastrous results.

>> Mayor Reed: Robert Sapien.

>> Robert Sapien president San José firefighters. Your work is very differently than mine. When there's a problem that comes to my attention I go to the problem, I find solutions I don't do what you intend to do here which is distance yourself even further from the problem and look at it through the eyes of a third party administrator whose sole interest is making a profit. Now, I'm not sure what work's been done over here by this staff but I certainly know they haven't dug deep into where the problem is and why we have so many injuries in the San José fire department and the San José police department and the City of San José overall. You need to think about your process. If your agenda is to outsource jobs, outsource jobs. But don't sit here, and say that it's for the benefit of any single injured employee. It's false. This is a bad plan. It's based on bad values. And it's going to have bad results.

>> Mayor Reed: That concludes the public testimony on this item. Councilmember Rocha.

>> Councilmember Rocha: Two questions to follow up on some of the testimony. Some of the measures mentioned by Yolanda Cruz are some of the matters that you indicated in this staff report?

>> Alex Gurza: I can't recall what she --

>> Councilmember Rocha: You did talk about.

>> Alex Gurza: Absolutely I will follow up with Yolanda and mefs to keep them geablgd ought throughout the process.

>> Councilmember Rocha: And employees saturation or customer facilitation is that one of the ones? robert Sapien went through that issue.

>> Alex Gurza: No question employee satisfaction is an important metric so that will clearly be one of those.

>> Councilmember Rocha: Are how are you going to measure that?

>> Alex Gurza: Generally how we do it now, by survey, survey to the claimants, so we would include that for the in-house staff and the TPA we'll be sure that timeliness is the TPA getting back to them and in general satisfaction with the service.

>> Councilmember Rocha: As part of that question are you going to include the fact that these services are now provided by a different entity so to speak and comparatively speaking the transition do you think that's something you can quawfnt? How is the transition going to happen when we use?

>> Alex Gurza: Well, the transition is a very important element that we have to work on carefully in the transition of claims. I see what satisfaction in the transition so that will have to carefully be managed

especially claims that are in progress so we'll be very cautious how we accomplish that so there's no disruption in Services to the claimant.

>> Councilmember Rocha: In some cases there may be a transition and the individual is not going to know in was a transition so when they're ranking the services they may be ranking it two years prior.

>> Alex Gurza: Yes, I'm sorry, we would clearly communicate in advance to the injured worker and let them know how their claim is going to be handled. If the department going to handle it, claim is being handled and here's the contact number and all of that will happen in advance so they're not confused with how the claim is being handled.

>> Mayor Reed: Mr. Sapien made a comment that made me remember the discussion about an hour ago on the response to the 2012 fire department injuries audit. So I'm cures, recommendation number 10 that I asked about earlier, describes the work that the department's safety committee is going to review. Basically investigations of occupational accidents, causes of incidents, a bit of suggestions for management prevention and the statement in here is the senior management members of the safety committee are working with the labor representatives to refocus the dplifer abltion for this committee to contain all the items contained in this recommendation. So has Mr. Sapien not been involved in these conversations? Chief is still here. Beg yes, I would refer to the chest or Mr. Dacioli to into. Claird by Dave Wong our division manager in human resources.

>> Ron Dacioli fire department. We have had the discussions actually Robert Sapien and I about refocusing that part of the agenda. To start focusing on the prevention piece. And I don't know whether probt wanted to add anything to that but we have had initial discussions.

>> Mayor Reed: Okay, and then there are other references in here to meet-and-confer items out of the auditor's president of the union correct?

>> Alex Gurza: Yes, absolutely, pleem pays while they're out is clearly something that would be subject to meet-and-confer.

>> Mayor Reed: Okay, thank you. We have a motion on if floor to approve the motion of Councilmember Constant with the modification. On that motion, all in favor? Opposed, one two three opposed, four opposed, that was Kalra, Campos, Chu and Pyle, four opposed. Passes on a 7-4 vote. That concludes work on item 3.3. We've already done 3.4. Fowrn 1 -- Mr. Sap yeng if you would like to speak under open forum.

>> You directed a question of me.

>> Mayor Reed: No I didn't.

>> You wanted to indirectly --

>> Mayor Reed: Mr. .

>> Thank you for reaffirming is what I said your fear of going to the problem directing.

>> Mayor Reed: Your out of order, we're done on this matter I'm going to have to ask you to leave, sit down You're out of order. Item 4.1, public hearing and election on the maintenance district 15. Script to worry about on this one. This is creation annexation so 4.1 is a public hearing assessment ballot proceeding on levy of special assessments within annexation area number 1, formation of zone 1 to maintenance district number 15. Silver Creek valley. We'll open a public hearing for the annexation and formation, hear anybody who cares to give testimony and then the clerk will collect any ballots at this time, and then we have to submit the ballots by the close of the public hearing. So first question is, anybody wish to speak in the public hearing? We have no cards. Any ballots anybody wishes to submit? I see no one moving this direction. So no one here to speak. We're going to close the public hearing. Last

chance to submit ballots. Okay, we'll ask the clerk to close the public hearing ask the clerk to tabulate any ballots that have been received for this matter. Clerk need any additional time?

>> Dennis Hawkins: Yes, Mr. Mayor. We need a few minutes to tabulate the ballots and we'll report back as soon as we've completed that.

>> Mayor Reed: All right, then we'll move temporarily to the next item which ask 4.2 which is a public hearing election on the maintenance district 19. River oaks area landscaping annexation. It is a similar kind of a hearing, an assessment ballot proceedings on the levy of special assessment within maintenance districts 1 maintenance district number 19 in river oaks. We'll open the public hearing, take any testimony anyone wants to give are there any requests to speak, have no cards, anybody here want to speak? Anybody wish to submit ballots? Nobody is moving in this direction so it appears there are none. So we'll ask the clerk if-d close if hearing and ask the clerk to tabulate the ballots received. You need some more time to tabulate these ballots?

>> Dennis Hawkins: Yes, Mr. Mayor, we'll report back as soon as we can tabulate the ballots.

>> Mayor Reed: We'll take up 4.1 and 4.2 when we come back so we'll move to item 5.1, San José family camp master plan approval. I believe we'll have a presentation on that.

>> Good afternoon? Mr. Mayor, members of council, Julie Edmonds-Mares, acting director of Parks, Recreation, and Neighborhood Services. We're here today to talk about the family camp master plan. On November 15th, 2011, approximately a year ago, the mayor and council considered the operations of family camp and directits continued operation, authorizing the city Manager to permit with the U.S. forest service for a five year term. That permit was granted. And we're now operating under that. Expires December 31st, 2016. At the next enabled, one of the other directions we received by that date is have biannual updates at the neighborhood services and education committees, at the next NSE identified in that original discussion. Today's item has to do with the master plan. And a condition of the new permit, a

new master plan needs to define what the city may do in terms of infrastructure investment in the future. And may being the key word there. As noted in the staff report, acceptance of this staff report simply lays out the alternatives for infrastructure investment, and also, establishes environmental clearance for future improvements. However it does not create ooh any new obligations for the City of San José and it really is a great foundation to allow us to solicit grants and other funding opportunities to address the various infrastructure needs that are outlying in the master plan. So I'm going to turn it over to Steve hammock who is going ogo over the basic overview of the master plan.

>> Okay, thank you, Julie, Steve hammock, Parks, Recreation, and Neighborhood Services. Just a quick overview of family camp. I know some of you have been there. But family camp is situated on 46 acres and it's a leased operation with the Stanislaus national forest up by Yosemite up often highway 120, south entrance of Yosemite. It has 72 framed canvas covered tents and it's scattered amongst the pine trees and oak trees and Tuolomne river runs through the middle of family camp. guest terchts and all the amenities that one would like to have in a sump family camp facility. And these facilities are owned by the City of San José but not the land. A significant level of deferred maintenance exists today due to the aging condition of these facilities. So the process moving forward is, the master plan actually reviews all aspects of the camp including the future projects that's listed in your memo. And the projects proposed in the master plan may cause direct or indirect changes in the environment, therefore the California Environmental Quality Act is instituted and applied to this project. Environmental analysis has taken place, and public review has been conducted, starting on August 20th, and went on for 30 days. We actually received four comments, and one particular all-positive comments on the environmental review for our master plan. But one in particular from the central Sierra environmental resources center expressed no objections to the -- our mitigated negative declaration, for the project, and we're very positive on the project. So as we move forward we're here today to go through and get a decision on the master plan and the environmental document. And then move that forward to our landlord which is the U.S. forest service and they will go ahead and put their process into play, which is the national environmental policy act NEPA which is required in this process since they're the ownership of the land. The approved master plan by the city will be used to define the project description by NEPA by the

forest service and this is a key point in today's action. So to end our conversation the staff's recommendation is to adopt the mitigated negative declaration and approve the camp master plan. And also we've noted here under alternative 2 being the preferred alternative, that we show, and those alternatives are in your memo. Alternative 2 is our preferred alternative is because we do not have to take and move any of the facilities and leave them in place. In fact, that's how they would be restored if we actually went to that effort. There will be no relocation, and also, would provide a second story on the dining room which would provide environmental education and would allow us the opportunity to apply for grants in the future. So acceptance of this master plan simply lays out the alternatives as Julie was saying. And associated environmental improvements to future improvements to family camp and does not include any new obligations to the city. Furthermore the approved master plan will be in our benefit to solicit grants as I suggested. So therefore staff is requesting that the mayor and city council accept the recommendation by adopting the mitigated negative declaration, and also, our master plan, and so we can submit that to the U.S. forest service. So we're here for any questions and that's the end of the presentation.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Well, I'd like to say that District 10 tends to utilize family camp more than some of the other districts. I'm not quite sure why that is, but they do. And I would like to add to this, as well, that as you no doubt noticed in the letter from the friend of San José family camp, that the friend of family camp was established in 1973, five years after the camp. And that group has been a volunteer organization dedicated to maintaining San José family camp for the enjoyment of all. With their efforts we are able to bring more camperships I guess for lack of a better word, to more underprivileged campers, and have them enjoy the experience like everyone else. And I just want to reiterate one more time before I make a motion: That this does not commit any city funds. It simply allows if master plan to move on to other governmental agencies. In reference to the governmental agencies, last I think it was maybe spring, there was a letter from Congressman -- congresswoman Eshew, Zoe Lofgren and Mike Honda with that, the parks department either here or on the federal level will be better prepared to apply for grants and

sponsor wishes to bring in additional funding for family camp. So with that I make a hearty endorsement moving this recommendation.

>> Second.

>> Mayor Reed: I have a motion and second. Councilmember Kalra.

>> Councilmember Kalra: I want to thank Councilmember Pyle for her championing of family camp. I had a chance to visit with some of my staff, Councilmember Campos and Councilmember Constant's staff were also there for the day to get a sense of the facility. I can tell you the family camp is absolutely something that I think is underutilized, undermarketed but fantastic. I think that's probably an area where we can all do more to help market it because especially if I had kids I'd probably be there every year. It's all inclusive, everything is there, compared to so many other options for entertainment, it is affordable. We talked to a lot of people that were there with their families. There were some firefighters that were there with their families, there were some other folks that were there with their families and they just rave about it and they just say they are going to pay a little bit more to make sure that family camp sticks around and that some of the improvements can be made to family camp to make sure it has some longevity. So I'm absolutely supportive of this master plan. Looks like we're just getting it under the wire, it has to be submitted tomorrow. Remind me for family camp, is it exclusive for San José residents or do they get a priority?

>> Julie Edmonds-Mares: They get a reduced rate.

>> Councilmember Kalra: Thank you. I had spoke to others around here and they said they would like to take advantage that it sounds like a segregate place. The responsibility is on us to do whatever we can to reach out in our community in the winter time well before summer to let folks know that there is an option that the City of San José has, and the last thing I'll mention is it is right at the entrance to Yosemite and

there is public transit there are buses that take you right into the heart of Yosemite from family camp. It is truly an all conclusive experience and an all conclusive Yosemite experience.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor, I want to thank Councilmember Pyle for her work and advocacy and passion for this and your work pushing this in the right direction at least as far as I'm concerned and for the record I believe family camp can also be a good date place for the weekend. Councilmember Kalra.

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

>> I too would like to thank Councilmember Pyle for her passion in this arena. All the people in District 10 that go up there, I'd also suggest that you put this on the agenda for a study session place to go. I think you get more work done up at family camp than you do here, in at least a month. And I would also like to start, how come there's no fund or annuity set up by the city, I don't know if there is or not but why isn't this also on the office of cultural affairs list of event planning to start a master fund to make sure that these infrastructure improvements are made in a timely and efficient manner? Once again, thank you, Councilmember Pyle, and Councilmember Rocha, please note seriously, as a venue for a study session. I think it would be well-served. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion made by Councilmember Pyle. On that motion, all in favor, opposed, none opposed, motion is approved. City Clerk, are you ready to take up items 4.1 and 4.2?

>> Dennis Hawkins: Yes, we are? Mr. Mayor. Regarding item 4.1 , we received 36 ballots. Which represents 94.7% of the eligible votes. We received 50,670.76 of assessed valuation, in favor of the

annexation and the levy of assessments. We received no ballots in opposition. Therefore, we have a majority of votes in favor of the assessment.

>> Mayor Reed: So that means we can proceed to vote on imposition of the assessment.

>> Dennis Hawkins: That is correct.

>> Mayor Reed: So we just need to get a motion one way or the other. Motion is to approve the staff recommendations. All the resolutions, et cetera in the recommendation ABC one 23 all included in the motion any discussion on the motion? City Clerk did you have a question?

>> Dennis Hawkins: No.

>> Mayor Reed: Okay, on that motion, all in favor, opposed, none opposed, motion is approved. Item 4.2. Ready to return the ballots on that, City Clerk?

>> Dennis Hawkins: Yes, Mr. Mayor. Regarding annexation area number 1 to maintenance district number 19, we received 100% of the votes have been returned. And 100% of the ballots have been returned in support of the annexation, the zone formation and levy of the assessment. No ballots were turned in in opposition to the annexation and levy of assessments. So therefore the ballots submitted the formation and the city council may proceed to vote on imposition of the assessment.

>> Mayor Reed: All right, so we can move ahead. Is there a motion? Motion to approve the staff recommendations outlined in the report, all the resolutions, and the direction. On that motion, all in favor? Opposed? None opposed, that is approved. Item 8.1 is our last business item, for today. Status report on the San José police department secondary employment unit. A motion to approve the status report. There will be some questions. We do have some questions, at least. I've got a few. Looking at the status of aggregate totals, a few have been implemented, a few are in process and I think seven haven't

been started. When I looked at the status of most of the ones that haven't been done it's because there is not enough staffing. And it looks like we need \$750,000 to staff the secondary employment unit. And there are also several indications that the department is thinking about changing the structure of the program. So my question is, what are you thinking about the structure changes, and how do we deal with the fact that we're not going to have \$750,000 to spend on this for a while? I don't see us having lots of extra money to do that. So are there structural changes that you're thinking about that will allow us to run this program without having to spend \$750,000?

>> Thank you, Mr. Mayor, council, Tom Sims. I am the commander of our secondary employment unit. So the structural changes we were looking at was an agreement with the City Auditor's recommendation to move towards a time and a half model where all the secondary employment is under the umbrella of the city. That is where we run into a staffing issue. The need for staffing is not only for secondary employment but for our fiscal unit as well, to help with the time sheets, because all of these overtime jobs will now be put on the model that we're looking at would be put onto the officer's time sheets and managed and processed and that's where that additional staff comes into play. I'll let you know that secondary employment manages and coordinates over 1800 different events each year on average. And that's quite a bit for the two sergeants that I have working in that assignment right now. And that runs from one officer to where we require 90 to 100 officers as staff. That is one reason that we're looking at some changes to our current model.

>> Mayor Reed: Well, if we don't change the model and we don't have \$750,000, it looks like none of the auditing, none of the checking, none of the recommendations of the auditor are likely to be able to be implemented. And so I guess this is a question for the City Manager some in terms of the program. Can we just have the program sort of continue on as it was, despite all of the issues that were raised in the audit, or do we have to come up with \$750,000, or is there a different model that will allow us to do -- because we all appreciate and really understand the importance of the secondary employment and all the places that our officers work and it's great to have them out there in the community. We all get the

reasons to do it but we also need to manage it properly. And all the work that you have to do is not something you can do with just a couple of people, apparently.

>> So some of the changes that we are currently looking at or at least evaluating to kind of move towards that auditing process internally, is, and again these are simple evaluations, brainstorming ideas. One is that we are looking at eliminating some of the nonessential SEU type jobs to help facilitate at least the staffing of a lot of these jobs that we're having difficult staffing. We're looking at utilizing modified employees to help track and assist in some of those types of functions. Auditing and such. Hello, chief. But past that, you're right. The fact is, we do need staffing. We need it to move forward with anything we do with this program. As it comes to tracking and auditing our officers.

>> Mayor Reed: Chief Goede.

>> The \$750,000 that we were talking about we do need additional people. The 3.5 FTEs we would actually be 1.1 to go to the time and a half model that we do. So to answer your question we do still need the 3.5 full time employees that we asked for which is the \$750,000.

>> Mayor Reed: Okay, Ed Shikada.

>> Ed Shikada: If I could add, mayor members of the city council, Ed Shikada assistant City Manager. certainly the office of economic development and cultural affairs for the -- its specific area of special events. Because while the auditing issues that have been raised are obviously extremely important we're also very conscious of the cost of providing the service. And in particular, for community events, looking at both the specific duties, the types of functions, as well as the number of personnel that needs to be deployed in order to ensure safety for events and for the community. So again, just a round about way of saying this is an ongoing topic of conversation and I think we need additional work to look at the most cost-effective means of providing the services.

>> I would just add to that, that a lot of what the full time employees were as we talked about this earlier has to do with being able to do the monitoring that we want to do and that the auditor wanted specific to the program to some of the issues that were brought up in that audit. So that we didn't get that so that's where it becomes a little problematic.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I just had a question about pages 2 and 3 of the report. Where it indicates that there's been a change to the duty manual, at C-15.40, that quote, in excess of 24 hours secondary employment but then on the next page it indicates under C-1540 any time the reported hours worked exceed 24 hours in one week. And so I guess I'm trying to figure out is this mandatory or discretionary, with the supervisor?

>> That's an excellent question. That is the mandatory overtime. And the reason that we -- strike that. Reverse. It's the discretionary overtime that we include in that. Those are our suppression cars that we had for a while. Those are any secondary employment. Sometimes it's voluntary call back. If we have lowered staffing levels. Those are the hours that we're trying to track. And the 24-hour difference that you see there is that if an officer were to take off, say, ten hours of vacation or comp time that he had saved up, he or she can use that towards an additional amount of time for secondary employment.

>> Councilmember Liccardo: Okay, so the situation where someone would be allowed to work more than 24 hours, and secondary would be the situations where they're staying comp for vacation time, is that right, Tom?

>> That's correct.

>> Councilmember Liccardo: Okay, got it, thanks for clarifying that.

>> Mayor Reed: Any other questions on this? I have another request to speak. I got one request from the public we'll take that now, David Wall.

>> You believe if we paid our police officers well enough they wouldn't have to have secondary employment opportunities. But more over this gets into workplace safety and workers comp issues and how do you then start funding for liability issues to protect our police officers and police department for unforeseen injuries that arise from these occasions. I would like to thank our police department for everything that they do. And I think that from reviewing the auditor's report there's two issues that come to mind. One, has every police officer been made aware of this inclusion into the duty manual? This is fairly complex. And two, there's nothing that says if you're employed in secondary opportunity, what happens if a police officer in uniform is asked in uniform can that police officer make the opinion in uniform, I reference this the independent police auditor supporting abolishing the death penalty this her office this is on television. If a San José police officer or firefighter were to do such a thing they would be fired instantaneously so there are a lot of secondary questions that, at what level does rank has its privilege and how is the issue I just raised about giving an opinion while in uniform at a secondary event or otherwise for that matter, why the police officer or firefighter would be terminated from service. Once again I'd like to thank police department for everything that they do.

>> Mayor Reed: That concludes public testimony. This is something that is not chief and it probably needs to be part of the questions and things that we pose to the candidates for the new chief because I know different departments do it differently. It would be nice if we get it all solved and have all these problems wrapped up before we get a new chief but my guess is we don't get them all solved. We have a motion to approve. I think we have a motion to approve. Yes, we do. On the motion, all in favor? Opposed? None opposed, the report's approved. Last item is the open forum. Mr. Wall, and then Judy bender.

>> You have previously authorized and with good measure the acquisition of three, 4.6 electric generators for water pollution control plant. I support that but I do not support putting all three generators

under one roof so to speak. There's a variety of things that could happen. A natural disaster, earthquake, a fire, for example. A flood some for example, that could literally take out all three of those generators at one fell swoop. Buildings are not that expensive anymore. They're prefab, they can put up very quickly. And I support the fact that you could move these generators into different locations of the plant, each one housed in their own building, to keep them from all being destroyed in one fell swoop. The other thing that comes from this homeless encampment study program is that we, or you, have forgotten to include God in the process. Our good friends at Bellarmine, our good friends at Jesuits, they couldn't be asked to help out in this regard since they've been afforded extra properties so their prayers for getting that property have also been answered. And I'd like too father Eddie being brought down to St. James park. I think holy man in roam he calls in the Jesuits see how fast that they can resolve the issue. Thank you all for today's proceedings.

>> Mayor Reed: Judy bender.

>> Oh, I'm sorry.

>> Mayor Reed: You're turn.

>> Okay. According to Nancy Pyle, 42 days is too long. I was at a meeting when she said that. I'm going on seven months of dealing with parks and rec on getting a slide fixed for the kids at lean and Colero. Something has to be either done or the whole playground needs to be redone. I understand there's money for it. The park is 25 years old. But that's not my big gripe today. I already talked to them this morning. Last Monday, week ago, I went to the fire station 35, that's my fire station right by the senior citizens center. No one was home. I couldn't breathe. I was having problems with dizziness, vertigo and everything and the reason I went there everybody says why didn't you call the 911? Well, they're just two or three minutes away from my house and I trust these guys and the paramedics at this station, probably all the fire stations, and I didn't want to go and call 911 because if the fire department -- not the fire department, the ambulance comes, from my house to Kaiser is \$2500. That's outrageous for a senior! So

I went there, just to find out what my blood pressure was before I proceeded to go to the hospital. But no one was home. We're right next door to south side senior center and we don't even have one fireman in the station at 10:00 in the morning. They were all out on one call. I'm led to believe there's four guys on and four guys off, at 26 station is, I was just asking the chief. Guys, I voted for proposition B, too. I support it because of the pension plans. But as far as the salaries goes, these guys need to be on duty. We need these firemen there. That's not right to take away a senior's hope for living, because if I hadn't have made it to urgent care and got oxygen I might be dead and maybe some of you guys would be glad.

>> Mayor Reed: Sorry, your time is up.

>> You got to do something.

>> Mayor Reed: That concludes the open forum, concludes our meeting, we're adjourned.