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>> Mayor Reed: Good afternoon. I think we can get started with the Rules and Open Government committee of December 8th, 2010. Any changes to the agenda order? First item would be to look at the December 14th agenda of the city council. Any changes on page 1? We need to talk about the start-time of the regular session and the start-time of closed session. And whether or not we should do something different than the usual. It seems to me that we start the regular session at 9:00 depending upon what happens in the closed session we might have to come back into closed session at some point but we-d I'm sorry start regular session at 10:00 and closed session at 9.

>> City Attorney Doyle: I think that should work. Right now I think we should be able to get out of there in an hour.

>> Mayor Reed: If more things happen we can come back in the afternoon or something like that. Anything else on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? Page 8 or 9? I see we only have 27 items on the consent calendar. That's actually less than usual for the last meeting in December. Anything else on page 9? Item 3.2, actions related to the convention center project. Are there anything actions we need to modify based on actions we did yesterday or agenda language or anything we need to do?

>> Ed Shikada: Yes, Mr. Mayor, we have one relative change, related to the spending action and should be coming out with an amended item later today.

>> Mayor Reed: Anything on 11? Page 12 or 13? Page 14? Which is the last one at this point. We have some request for additions, actions related to the regional Public Safety interoperable broadband system. City Manager is asking that to be added to the 14th agenda because we just received a request yesterday from the Alameda County sheriff's office asking us for action immediately on a letter of intent whether or not we want to participate in that. And this is not been in front of the council for any action so we need to get it there so the staff can be guided in that. So we would need a sunshine waiver I guess on that, as part of getting this on the agenda. Any other additions?

>> City Attorney Doyle: Sort of a quick add. The CBB agreement will expire on December 31. The council has extended it twice. We're in negotiations with Team San José to do a five year extension on that. That was put on hold pending yesterday's discussion and we're not ready to bring that back so we're asking for a 60 day extension to February 28th.

>> Mayor Reed: We would need to put that on the agenda on the consent calendar presumably.

>> City Attorney Doyle: With the sunshine waiver as well.

>> Mayor Reed: With the sunshine waiver on that.

>> City Attorney Doyle: Mr. Mayor I have one other sunshine waiver request. 4.10, the tobacco retail, the ordinance, the actual ordinance is being tweaked, we will have that out tomorrow, the final document has not been posted. The memo is out but the document has not been posted.

>> Mayor Reed: The memo has been out for a while.

>> City Attorney Doyle: It's been out for a while it's just the final language on the ordinance.

>> Mayor Reed: Okay, do any members of the committee want to talk about the regional public safety interoperable broadband system issue before it goes on? I don't know if staff needs to say anything about that other than the agenda language which we have proposed agenda language on that. If there are any changes on that we probably don't need to talk too much about about it until Tuesday.

>> Deanna Santana: This is an item we are trying to get a little more information on. We have posed some questions we want to ask Sheriff Ahern about, to provide that back to him, by Thursday. And so we want to know, questions about whether -- whether he could duly represent and sign the letter of intent moving forward. So the way we've designed the agenda language the first is just to consider the request as opposed by Sheriff

Ahern. The second is to develop policy options or alternatives for the council to still express his interest and supporting the concept of interoperability for the region and the fourth is setting forth a framework for how we work together in this regional effort.

>> Mayor Reed: I assume we would invite Schaeffer Ahern to come to present to us.

>> Deanna Santana: To be able to respond to council's questions as we respond to this request.

>> Mayor Reed: Is that something about the time of day? Do we want to start at 10:00 in the morning or a particular time of day to make it more convenient for sheriff Ahern or others?

>> Deanna Santana: We need to check the with others to see when we can get a time certain and work through the agenda process to post that.

>> Mayor Reed: Anything else on the additions?

>> City Attorney Doyle: Mr. Mayor, one other request for an addition, East Brokaw and old Oakland road that ordinance has yet been posted and we need a waiver on nap.

>> Mayor Reed: This is one we just had often the agenda yesterday, right?

>> Councilmember Constant: Ready for a motion?

>> Mayor Reed: I think so.

>> Councilmember Constant: All right I'll take a stab at a motion here. I move that we approve the agenda with the add related to the broadband system. And the CVB extension, and the requisite sunshine waivers for those two items or the three others that was pointed out by the City Attorney.

>> Councilmember Chirco: Second.

>> Mayor Reed: On the motion, any further? All in favor? Opposed, none opposed, that's approved. That used to be the last meeting of the year but we have a couple more to get through before we get done with the year but we don't have anything to discuss for December 21st, which is a good thing. Is there any reason why we need to talk about the January meetings, anything that we need to do, Rules Committee will meet first week in January, the deal with the January 11th agenda, I presume. Rules in lieu et cetera before that.

>> Councilmember Constant: Will there be a Rules meeting next week since we'll have an opportunity for a Rules before the next or are we still scheduled to meet next week?

>> Mayor Reed: Rules is scheduled to meet next week but the rules in lieu or whatever it is, the 22nd is cancelled. We'll be back next week. So let's move to the Redevelopment Agency agenda for December 14th. Page 1 will have to adjust the starting times consistent with what we discussed for the council agenda. Anything else on page 1? Or Page 2 or 3? I have one request for an addition from the executive director to add an approval to increase the construction contingent for the civic auditorium phase 2 project to be added.

>> Mr. Mayor, if I may with that item the agency would request a sunshine waiver, memo and the resolution should be out by Friday but clearly that's not within the ten day requirement of the council and board. And I should also note that item -- there will be an item 8.2 added as the council and the board yesterday continued the development agreements with North San Pedro housing so that will appear on this agenda just as a due-course item.

>> Mayor Reed: Any others?

>> No other changes other than the one we have provided for the civic auditorium.

>> Councilmember Constant: Motion to approve and the sunshine waiver.

>> Councilmember Chirco: Second.

>> Mayor Reed: That's no new project, that's just completing the intent, is that right?

>> The intention is to shuffle some money around to finish the concession areas.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. Nothing for December 21st. Timing of the day will start the open session at 10:00. Are there items that need a time-certain or specified it will be in the morning or afternoon in particular on the agenda other than perhaps the UASI discussion once we figure out what will work?

>> City Attorney Doyle: Unless you want to take redevelopment early, because the council meeting might run late and having agency staff hang around may be an issue.

>> Mayor Reed: Well, usually we've taken redevelopment first in the morning to open up the morning session and get it out of the way.

>> If it's the committee's choice certainly but it's probably 15 minutes or so for the agency meeting, depending on any discussion with the development agreements on North San Pedro, there's nothing lengthy on the public comment looking like on the agenda.

>> Mayor Reed: Anything else on the agendas? Nothing.

>> Mayor, did you want to set a time certain for the plastic bag oranges?

>> Mayor Reed: Perhaps.

>> Ed Shikada: Setting no earlier than?

>> Mayor Reed: Certainly a not earlier than and not in the morning. We'll get into it the afternoon for sure so people won't have to come in the morning and sit through.

>> Ed Shikada: Thank you, good idea.

>> Mayor Reed: So do we have -- pay attention to ceremonials on this agenda. One ceremonial so we could set that not before 2:00. Where is it in the --

>> City Attorney Doyle: It is 7.2 I think.

>> Mayor Reed: Anything else that's likely to draw a crowd?

>> City Attorney Doyle: While we're thinking about it item 7.1 I don't know if the city of Milpitas representatives would attend. But that may be something that I don't know if staff wants to check and see but that's -- the plant master plan update is another item you may want to consider.

>> Ed Shikada: We haven't heard that they expressed a desire to make any testimony on this item but wouldn't be surprised if they do.

>> Mayor Reed: I'm trying to scope the length of time for the rest of the meeting of and I don't see any other big time items on there besides the plastic bag issue and then the plant master plan update. So maybe not before 3:00 for the plant master plan? There will be some people on that, that's probably only the City of Milpitas and McCarthy. We can spread it out not before 2:00 on the plastic bag, will be early in the meeting. Anything else in the waive time? Okay, is that okay with the committee and with the motion? All right. Upcoming study session agendas, we have December 13th, medical marijuana study session, seen that agenda before. Anything new that

we need to talk about on that agenda? I have at the last rules committee, we had a request to make a a presentation, my staff has talked to a couple of groups that perhaps meet a group of people. Lodger than two-minute presentation we'll work that out. Okay, anything else? Nothing changed. Legislative update, we have nothing from the state or the federal governments. At least not to talk about at a. Meeting schedules a special meeting agenda for December 16th. That is specifically for the purpose of interviewing members, prospective members of the retirement boards. I don't know if we've got a count yet from the Clerk's office of how many people we're going to interview or not.

>> There's going to be 14 individuals that will be interviewed.

>> Mayor Reed: Okay, so 14. We have occasionally run faster but typically run about 15 minutes a person. So that's three and a half hours and we're starting what time?

>> 8:30, we're proposing to break it into two panels in order to facilitate speeding up the process.

>> Mayor Reed: We'll tell half of them to come early and half of them to come a little bit later. If it takes us three and a half hours that takes us until noon. And we have I know a council committee meeting in the afternoon. So if we run over three and a half hours we can probably still make sure that committee gets a chance to meet. And if we start going longer we'll just figure out how to speed it up a little bit. Anything else on that agenda? We're going to meet in here, that is right? Okay. Any other comments on the 16th meeting agenda? That will be the last meeting of the year, right?

>> Councilmember Constant: We still have time to add.

>> Mayor Reed: We can always add another one, yes. Trying to drag out Vice Mayor Chirco's committee meeting requirements. On to boards committees and commissions, meeting, I have a approval of recommendations for Bruce pinsky and Kris McFarrland.

>> Councilmember Constant: Move to approve.

>> Councilmember Chirco: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. The public record, I have a request from David Wall to speak.

>> David Wall: Good to see you all. Item D, excuse me we'll save that for later. Let's go to E. In the continuing CPLE saga, the dedicated San José police lieutenant is supposed to be part of the CPLE process. Now I've been told by upper levels of the administration that CPLE is at no cost to the city. So does this dedication of a police lieutenant give rise to a lie? The other issue is that the chief of the San José police at the time, it's been publicly talked about many times, was in uniform on the CPLE web page where any other San José police officer and or firefighter for that matter would be fired for such an appearance. So I do not know if this give rise to the issue of cheating. Because preferential treatment in the department. Furthermore we look at the learned tone's memo of last, we're grateful nor the nome, there is nothing in the contract the previous contract or the attorney's memo that precludes you from posting this report, a public record document that has been entered into the record by CPLE and affirmed as a public record document so City of San San José can be advised of what's been hoisted on their police department, their tax paying dollars are being forced to pay for but they don't get to see it in the comfort of their home like any other public record document. This is very shameful Mr. Mayor, because we now have issues of cheating and lying. And does this, together, represent stealing from the public their right to know.

>> Mayor Reed: Sorry your time is up. Anything the committee wants to pull from the public record for discussion?

>> Councilmember Constant: Motion to note and file.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion is to note and file the public record, all in favor, opposed, none opposed, workload assessment for council requests and referrals. We have a workload assessment report from City Attorney regarding drafting of social host ordinance. City Attorney.

>> City Attorney Doyle: Mr. Mayor, members of the committee, in your packet is a memo as instructed by the committee to come back with an assessment on drafting a social host ordinance. We break it down really into three categories. The two real areas are what it would take to draft and much of that depends on the scope of the ordinance. We've done a survey, quick survey of different cities and counties that have such ordinances. They are as few as two pages and there -- and I see the county estimate has been passed out by someone which is a nine page ordinance and it really depends on the comprehensiveness of of what the council seeks in an ordinance. There are a number of issues that we can either seek direction here or we can work with internally with staff after doing outreach and come back with recommendations. But it gets to things such as what is a gathering, do you limit to it two people? Or silt -- two people or more, or where do you draw the line? The underage drinking there already is a prohibition. But it's difficult who has proof -- possession unless it's observed by an officer. These are issues that we need to deal with in a -- any ordinance. The type of who's the responsible person, what types of penalties, do you want to make it a misdemeanor generally? Violations of the code are misdemeanors. We can treat it as a civil penalty or perhaps others. What in the event of a violation if that's a criminal matter that's taken care of by the courts. If it's a administrative matter whether we have hearing officers and/or the appeals hearing board or something like that. That's another thing we're going to need guidance on ultimately. In getting to the outreach, the City Manager's office is generally more experienced orchestrating what types of outreach, that we sought input from them, and it really there gets to the scope of your outreach in terms of some cities have taken up to a year of outreach in gig to the committee at different committee meetings. At the same time, we have a bunch of commissions we could seek, we note here the youth commission the neighborhood commission and you know other types of groups that we could target and see where we go from there. We are really seeking direction. We didn't attach, the attachment really shows what types of ordinances are out there, and this was technical am. Number 15 is off the list.

>> Mayor Reed: Congratulations.

>> City Attorney Doyle: We did that in the second reading last week. The bicycle ordinance has been taken care of. A lot of these, some of these are small, some of these are significant, the medical marijuana significantly the planning issues, the bail bonds moratorium, we have to come back with an ordinance ultimately. So there are a number of things in the hopper that's just for your information. I believe there was a study session set in November to talk when these demands. This is informational but we're looking for guidance as to how you want us to proceed.

>> Mayor Reed: I do want to sort these out in February at the priority-setting session. Because the list keeps getting longer every time -- not every time but it does get longer rather than shorter. So there are some things in here that look pretty simple and some things look is really complicated. I think that's what we'll tried to do in the February meeting is get everybody up to speed on what the demands are and begin to prioritize what the council thinks are the most important. Because clearly you can't work on all of them all the time. And then the other question I had generally with the council because the outreach, certainly our expectations for outreach do add to the workload and the difficulty of getting some of these things done just because of that and we probably ought to look at our outreach process as it relates to this kind of work, and decide maybe there is a lesser amount of outreach for some kinds of ordinances. And this one is not as complicated as the marijuana, medical marijuana ordinance for example. But I do anticipate, I don't know what the date is on that February meeting, but it is scheduled as part of the budget.

>> City Attorney Doyle: February 14th.

>> Mayor Reed: Valentine's day, is that right? Councilmember Pyle.

>> Councilmember Pyle: Thank you. Configuration I'd like to thank Rick Doyle our City Attorney and his staff for their hard work on this memo and quick turn around. I think they recognize as do we is underage drinking is a matter that needs to be done with in a timely yet thoughtful manner. Leland high school, says they experience one underage death per year, Santa Teresa high school as well. In response to the workload assessment we have

before us today I'd like to offer some additional direction to staff. I indicated in my November 10th memo to the Rules and Open Government committee that county ordinance should serve as a model ordinance and provide a starting point for discussion by the San José community. I still believe this is the best way to proceed. It allows us to begin to make headway on this issue by not being a burden on a staff that has significant time issue complaint. This issue is brought to me by Gabrielle Antolovich. This should be referred to the neighborhood commission and the schools, city collaborative for more review and feedback. Once feedback has been gathered and then it would be brought to the neighborhood services and education committee for review and as each review the community concerns and response to the ordinance and direct staff to make any appropriate changes before going to council for full approval. NSE can also determine if a citywide policy meeting specifically dealing with the issue of social host would be beneficial. Again I'd like to thank staff for the work that they've done on this issue and for their ongoing efforts to pursue a social host ordinance that would keep our school and our community safe. Gabrielle is here to speak and I'd also like to have the social host ordinance placed on the March NSE committee agenda. There are others who would like to speak to this issue from Leland high school.

>> Mayor Reed: Other, Councilmember Constant.

>> Councilmember Constant: Just a couple of questions as we go forward. First of all I support this in concept obviously, the devil's in the details between the one page ordinance or the 15 page ordinance and anything in between and what paths it may take. The one question I'd want to make sure that we explore as we go forward is I know the state also has recently passed the social host state law. So I want to make sure that if we're concentrating, if we're using our resources we're using them in a way where we're not duplicating what's already done. Just have another layer of law but maybe looking where there are deficiency in the law and augment what we want to do instead of double.

>> City Attorney Doyle: My understanding the state just signed a law of third party liability, whereas if you were over 18 and you were drinking and somehow you caused an accident you couldn't go after the property owner. It was the -- or the person hosting the party. It was -- because you could go after the adult, the over 18-year-old

even though they were drinking illegally. The governor's signature of this law allows somebody to sue the person responsible for hosting the party and that's a major change in California law.

>> Councilmember Constant: So just as we go forward I want to make sure that we fully explore that and I do think that as we've talked about with other ordinances, that we've talked about over the years, if they are -- if this is something the county and other jurisdictions within our county have, we should try and get as much uniformity as possible so that particularly I like to always point out my district, you don't know which city you are in depending how far you stumble in one direction or another direction, the ordinances should be similar. On the workload assessment process, one thing that would help me especially when we get to the study session in February, this list is great but what it doesn't give us with the exception of number 4 is, kind of when we gave the direction. So it would be interesting to see if some of these have been sitting for three months versus three years. And then the mayor mentioned the fact that some are easy and some are hard. So maybe even a scale of you know, one two three, easy, moderate, very difficult so that we can look at how we're going to juggle these. When I looked some of these are pretty important issues that we want to make sure that we get to and I just want to make sure that we have the tools to prioritize properly going forward.

>> City Attorney Doyle: And a couple of these are on next week's agenda, number 9 and none 13 and the sign code is still underway and we should have that done. That's a good point, some of these have been out there for some time.

>> Councilmember Constant: Even something you just said we know they're almost there and coming to council a target date, it would help -- I think it would probably help you help us give priority.

>> Mayor Reed: I had an interesting conversation with president of the board Ken Yeager, our regular weekly meetings. We were comparing how long it takes to move things through the county and the city. It was posed, if the county approved it why can't we adopt it? The county population is 60,000 people and we have over a million. The number of businesses that get affected when the county does something, maybe one or two whereas we have thousands of them. The scope of the outreach and the stakeholder list is so much longer for us, even if

we say we like what the county's done let's just do it, it's hardly ever that simple. But we do need to look at our outreach policy, maybe we've overdone it in some areas and gives staff permission, direction to streamline some of that on some of these ordinances I think.

>> Councilmember Constant: Actually one last thing Mr. Mayor, on the outreach, perhaps we could also look at how we might be able to bundle issues for outreach. Just looking at this list, you have two alcohol-related issues, 24 or 25. We could combine two or more issues, and have it more in a town hall forum style in a couple different areas throughout the city and knock out outreach jointly to get things done. And I do think that we have had a lot of discussion over the four years I've been here about outreach and the different methods of outreach and the different depths of outreach and it maze really warrant us taking a look at that outreach policy as the mayor said and coming up with tiers of outreach, don't argue who gets when and length.

>> Councilmember Pyle: I agree, the length, I also think we need to make a category for urgency as well. Those items that have something to do with life and death situations I think should really be considered as well.

>> Mayor Reed: One other thing Councilmember Pyle you mentioned, you wanted to get this on the March neighborhood service and education committee as well. Those work plans are being prepared. You should be -- and staff is working on them so we can do that. Those will be back to the Rules Committee I think in January with work plans for the committees including that.

>> City Attorney Doyle: So if I'm correct the committee accepts that, then the target date to get the draft and come back to committee would be March?

>> Mayor Reed: Well, I don't know, it depends on what the council wants to do in way of priorities. We have 39 of these, some of them are urgent and some of them are in other categories. But at least we get it on the committee work plan. May not be done with the work by then. The other thing that comes to mind is who is going to do the outreach. Because I was talking to the fire chief and they don't have anybody left in the fire department in the outreach category. I don't know -- and if there's a comment here about the police department, I don't know if

they've got outreach people left. And we need to think about how we do the outreach and who does it because just saying we have a policy and it must be done, comes down to who's going to do it.

>> Councilmember Pyle: Would it be possible for Gabrielle antolovich to come forward? She has been given a grant and has --

>> Mayor Reed: We'll take that, unless be the committee has something else to say before that.

>> City Attorney Doyle: My view is, not to pass the buck but we would work with the City Manager's office on any outreach. In terms of the different departments and making sure the contacts and communications, you know they're usually set up for that and we would make ourselves available to participate in any types of community meetings but orchestrating the outreach would be something that I think we'd work with the City Manager. I haven't had that conversation, looking across the table here at Ed Shikada. That is something we need to follow up on.

>> Ed Shikada: We're certainly more than ready and willing to orchestrate we need instruments few and far between at this stage but certainly put forth council direction.

>> Mayor Reed: All right, public testimony at this point. Gabriel Antolovich.

>> I'm Gabrielle Antolovich. I'm executive director of voices United and we were actually founded by the county Department of Alcohol and drug to reduce the underage drinking in San José. And we discovered that most of the drinking happens in parties in the home. And so we decided to work on the social host ordinance. Partly because you know, eight cities already have them. And the county eventually passed it as well. So we approached San José city with the possibility of going through this process. And we are funded to actually do the outreach in the community which is your question, how is this going to happen? On this last Friday night, we had had our first community forum, where we had 85 people show up and there was a huge event at our lady of Guadalupe church, the most popular church in the area. We still got 85 people there, it was a Friday night and it was

cold. People were enthusiastically wanting to know about the social host ordinance and what is it about underaged drinking that it's important to address. We are funded to do this work and what is help is minimal support from city council. I have to admit you know I did push it but Nora Campos as she was walking out the door did do an e-mail blast at the last minute and that helped to bring lots of people and that's not a lot of extra work. But your credibility does help. We also asked John Duran who is the principal at Santa Teresa hogs, do an e-mail blast and he had parents show up. Those e-mail additions really do help and the police with their credibility can add to what we are doing. But we're the ones that went door to door. We're the ones that got permission from the school district to hand out fliers to parents as they're dropping kids off and picking them up and we were allowed in the schools to go to the students and speak to the teachers. And so that's the kinds of outreach we are able to do.

>> Mayor Reed: Okay, thank you. Edesa Bit-Badal and Bobby Larilla.

>> Good afternoon. First I want to thank Councilmember Pyle for bringing this ordinance forward. I think it's a great idea. Unfortunately we have to deal with tragedy right now in order to bring this forward. I wish that was not the case but I want to thank you for your foresight in bringing this forward to us. As a mother of 3 and former graduate of Leland high school I've seen that issue in the community for a long time. It was an issue in the 1980s, issue right now and in other districts right now so it is not only in one area, and I am really appreciative of your efforts and the rules committee and councilmember Chirco's and mayor's efforts in addressing this. I also would like to ask staff to fast track this. I think it's very important because it is a life, health and safety issue. I reviewed the other ordinances that you're looking at and I really thought as a resident that some of them have precedent over the other ones and I think we can probably reexamine them and realize social ordinance to me as a resident would be much more important than other ones I don't want to name which ones. But also by fast tracking it, we send a message to the community that we do not tolerate that. It is not acceptable. Lastly I want to say that I understand we are looking at the county or other cities. We're City of San José we should really look at the best practices and really pick what's the best from other social host ordinances and implement them for City of San José. Thank you.

>> Mayor Reed: Bobby La Rilla and David Wall.

>> I'm Bobby Larilla, I'm here for the Friday night youth program and youth coalition. I want to acknowledge that there are plenty of youth out there that do not binge-drink. At the same time they are being trained to be willing to be out there and help promote, help outreach for the social host ordinance. They are there to actually to raise awareness for the social host ordinance and to organize community forums as well so I do work with a lot of young people through east side unified school district and they are there ready in action to do outreach. Thank you very much.

>> Mayor Reed: David Wall and then Jacqueline Nguyen.

>> David Wall: First things first I'd like to thank our learned counsel for his great work. We mention several ordinances and I'd like to take a time to mention a thought that each ordinance the City Attorney comes up with, that each ordinance goes into a fund in other words constructive fund to help these unjustified pay reductions and also create one for a bonus for quick litigation for our litigators. Bundle outreach is good but I think it's time to look at certain outreach as your function as being archaic, discounted. There is no outreach that says you can't murder somebody. Disavow it get rid of it. Strict liability in tort for these things as an abnormally dangerous activity. Therefore we can get nasty little punitive damage awards coming in and that should shake somebody's tree very quickly. Also another proactive detail of this could bring pro active enforcement to a neighborhood in its entirety. That you call in for one of these problem houses code comes right in with the police and everybody else and does a variation of project crack down. But the bigger issue here is how you look at this thing from not just a private nuisance but also as a public nuisance with reference to strict liability and tort and then turn the greatest law firm in the state loose on them, thank you.

>> Mayor Reed: Jacqueline Nguyen and Patty Young. Can you pull the microphone down? Squeeze the handle, there you go.

>> I come from a generation where it is considered normal for teenagers to drink alcohol and do drugs. I entered high school believing myself that this was acceptable behavior. I am now a senior in high school, and I have seen the facts of underage drinking on my classmates. I have also seen my friends parents contribute to underage drinking. You would think that I would be shocked but I'm not. Nowadays it's considered the norm. If students who are participating in underage drinking are allowed to and the parents who contribute to underage drinking aren't be held accountable then who's going to take responsibility? Do I have to wait until I lose another one of my classmates before something is done? Thank you for your time.

>> Mayor Reed: Patty Young.

>> Good afternoon, I'm employed by San José unified school district and I work at Leland high school. I have worked in the public school system with the high school students for nine years. Every Monday I come back to work, I hear the stories of students and their weekend parties. Every Monday I see photographs of the students with alcohol on their Facebook pages and every Monday, I see pictures of their parents playing alcohol related games with their children, and their children's friends. This situation with miles an hour being served alcohol by adults has gotten way out of hand and the problem seems to get worse with each year. Nearly every year we lose a student to drinking and driving. The problem of irresponsible parents providing alcoholic beverages for their children as well as their children's friends can no longer be tolerated. Parents need to be held accountable for their actions. We may look at a teenager and think that he or she looks like adults. But these are children. They are minors and they need guidance, not our alcohol. Thank you.

>> Mayor Reed: That's the end of public testimony. Come back to the committee for discussion. One thing about the outreach piece, when we do outreach we've expect our staff to be honest brokers. And it's difficult for advocates do the outreach for us because the community doesn't necessarily look at them as honest brokers. For example, medical marijuana that we are talking about on Monday, you can't have an advocate for or against do the outreach because it's not going to be accepted by the community. Same thing with lawyering. We expect our lawyers to advise us, we can't rely on the county's or the city's lawyers, we have to rely on our counsel and we can't rely on anybody else because nobody else has the duty to give us the best answers. So we do have some

professional standards that we carry out so we get an ordinance in front of the council, at least the proof of the matters that are honestly arrived at. So some of the modifications that I think I would certainly like to see to the outreach ordinance, might be a problem with some of that, because I certainly could just have the lawyer just draft up the ordinance put it on the agenda on Tuesday and let's move ahead but I don't think that would be at the quality that we've grown to expect from our staff. I think that's an issue that the council needs to discuss. In terms of outreach on the work that gets done as frustrating as it is to look at the list of 39 ordinances that are pending, we also expect them to be done at a very high standard that we've grown to expect from our staff. Anything else on this? So work plan is underway. We'll have our February discussion of prioritization et cetera and try to rank this list in some fashion to do that, but it's clear this is one we would like to move ahead because of the urgency nature of it. I am curious, we just got the county ordinance today, certainly want our lawyers to take a look at it and determine if that is sort of the best starting place model, I think that's a good question is where you start. It's helpful not have to reinvent the wheel.

>> City Attorney Doyle: I think that's going to be my approach. I think we can look at this as a model and then go from there. But -- well, we'll just come back to council.

>> Mayor Reed: Okay, you have outlined six very interesting questions which of course I haven't thought about, that would you have to bring out in an ordinance. But it's not my job to think about it, it's your job to think about it.

>> City Attorney Doyle: It's only your job when you have to adopt it.

>> Mayor Reed: And I have to rely the staff to get it right. Pete.

>> Councilmember Constant: If you are looking at one other one at the county, I know we had discussions about two years ago as it relates to our cost recovery program for police response to disturbances. And we had had discussions about how code enforcement could or could not enforce arounds be eligible for cost recovery since they also take action in those. And we were told I believe at that time that code enforcement could not engage in cost recovery, but I notice in the county ordinance, it broadly defines enforcement officer, which if I'm reading this

correctly would allow their code enforcement officers to site and be reimbursable. So as you're looking at this if we could look at it with that area and then if we find that it is appropriate and we can do it and the I think we might be looking at revising the disturbance response as well.

>> We'll take a look at that.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I took a while to look at this. 350 for the first citation, 700 for the second and 1500 for the third. If somebody is doing this three times, the penalty I people should be much more severe than another amount of money.

>> Deanna Santana: We did speak about on the administrative process the administrative ability to track violations and bill out and track who's paying who's not is something that we would need to work through with the police department to make sure that they have the administrative about capacity and infrastructure in place to put such a ordinance in place. We would want to look at the cost benefit and see if it would cost the city more on that particular benefit than it would receive. We do have a community engagement process which is part of the sunshine process which requires for a significant policy which this is one at least two different community meetings, and a final meeting and that was going to be the outreach that we would be guided by, that is significant, there are some additional commission opportunities here. But if we're to explore moving forward over the next couple of months I just want to remind the committee that it is the police department staff who will be taking this on as a collateral duty with the City Manager's staff, at the same time we will be outreaching for community budget outreach. They should know what to expect when they arrive at the community meeting. So I'm a little concerned from that perspective that there are a lot of outreach demands on a very limited set of staff.

>> All right, anything further on this from the committee? We'll move then to the second one which was the second item under workload assessments.

>> Councilmember Constant: Are we taking any specific action on that one?

>> Mayor Reed: I don't think we need to take any specific action.

>> Councilmember Pyle: I think it said to continue to work on it.

>> Mayor Reed: As we have done. We have a memorandum from councilmembers Chimp, Liccardo and Kalra, on the effects of secondhand smoke. Vice Mayor Chirco do you want to talk about that or do you want staff to respond to the memo?

>> Councilmember Chirco: I'd like to ask Councilmember Kalra to speak to the memo.

>> Mayor Reed: Okay.

>> Councilmember Kalra: Thank you mayor.

>> Mayor Reed: He just happens to be here.

>> Councilmember Kalra: I'm back. And I want to say Councilmember Pyle, important I'm glad you brought that forward and I want to thank Vice Mayor Chirco as well as Councilmember Liccardo for joining me on this memorandum that this issue has come up before, before rules, and I was asked to not come back until there's been further investigation, both in terms of workload, as well as one resources we can garner in terms of putting this forward. I'll start off by saying I don't think there is any dispute that this is necessary. Tobacco is the leading cause of preventable death in this nation, increases lung cancer by 20 to 30% and even brief exposure to secondhand smoke has immediate adverse health effects. And I'd like to see San José lead. San José clearly has lead on this issue before as being one of the first cities to ban smoking in parks. But on the issue of outdoor dining where it has certainly trailed the county, as well as Gilroy, Palo Alto, Sunnyvale, and I think San Francisco's has just more restaurants per capita than any large city in the nation. That is a major driver of theirs, and they're able

to go forward with outdoor dining smoking ban. Along with asking the county to move forward, in terms of cost clearly we have some major budget issues, not the only one but we have to be concerned about our budget issues certainly and I think that really learned itself in being creative and collaborative and how we work with others. As was just demonstrated with the social host ordinance, there are issues that are worthwhile to move forward on even in difficult times. Other partners that you'll hear from today we have right now an opportunity to comprehensively address one of the significant health issues facing our residents. In terms of enforcement I understand the concern about long term enforcement of the policy but I do believe that it's overstated. I think that if we look at the enforcement required for inlate noises, how much enforcement has been required for the park span which was much more recently enacted. To the extent that enforcement is necessary we need to be creative, we can find ways and fine schedule that certainly provides an incentive for restaurant owners, thumb their nose at the band and I say unlikely because in surveys that I've done most are in favor and just like the indoorman, it's healthier nor the employees as well who have to be here as well. I understand staff is overworked underfunded. That's exactly why we have to take advantage of the opportunities for outreach in regards to outdoor smoking and there's no guarantee the partners who are with us today or will be here tomorrow or at least the resources are due tomorrow. I wrote just ask the committee because showing consideration to approve this proposal, thank you.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: Yes, do you have public testimony requests first I'd like to hear that first.

>> Mayor Reed: David Wall, Dennis hacha, Josh Howard.

>> David Wall: Your case would have been made a lot stronger, had you listened to the outstanding ideas and leadership shown by your brother councilmember, who sits off to my right. Poor Councilmember Kalra worked himself almost into the grave over this the last time but here he is trying to save us all from an ignominious death. It is to your tribute Councilmember Kalra that I'm able to breathe fresh air as I stand here today. But with no help from the learned councilmembers who sat before me for a variety of reasons. Mr. Mayor, when you go down

to Washington a little bit once in a while here's an idea for you. In the '70s you know those little aluminum tabs off of the cans, they outlawed them. Go for cigarette butt filters, also go for eliminating any subsidies for tobacco farmers as a secondhand approach to secondhand smoke. Give Councilmember Kalra and learned councilmembers who have seen the light, the haze of smoke, and give us all a breath of fresh air. It gets polluted in here enough already. I don't want to die.

>> Mayor Reed: Dennis Acha.

>> I would like (inaudible).

>> Mayor Reed: Josh Howard and Emily lamb.

>> Good afternoon, mayor members of the committee, Joshua Howard with the California apartment association. I want to begin by saying we recently conducted a survey and found that more than 50% are already voluntarily implementing nonsmoking policies in their rental units, whether that be inside the unit or the management company. As already volunteered market research and their customers demands. Although I think survey data and the action of some of the largest companies in this area, may speak to the fact that legislation in this regard is not needed. What I would offer so the resources of the city attorney's office and whoever is deemed prop to work closely with you to identify to restrict the behavior of smoking in uncommon multifamily residential properties. The mayor mentioned a moment ago that just because the county did we should emulate it. Although, county implementation is far different and impacts far fewer people than this would. So we would like to work closely with you to identify and create a solution that meets the mutual goals to promote health, protect health and at the same time, protect residents and property owners so thank you.

>> Mayor Reed: Emily lamb followed by Sarah muller.

>> Good afternoon, my name is Emily lamb. I'm the senior director of health care and federal issues for the Silicon Valley Leadership Group. Research has shown that secondhand smoke is the leading cause of

preventable death and given that 75% of 2.5 trillion goes to chronic disease of which a good portion is related to tobacco related medical costs this is one of those things we can do long term to curb health care premiums for our approximately \$11,000 per person. In recent days there was a study saying that the medical cost of a smoker is about 50% higher than a nonsmoker. We support these ordinances and hope that you will as well, thank you.

>> Mayor Reed: Sara muller followed by Diane Lawandowski.

>> Good afternoon my name is Sarah Miller I'm the director of working partnerships U.S.A. and I along with other leaders in the community including the Silicon Valley Leadership Group are part of the persistent budget challenges have forced us all to do is think creatively about how we move public policy throughout our communities. We can't do what we were doing before. We have to be thoughtful about how we can move in an effective and cost efficient manner. Today is a great opportunity to develop sound policy in our community and decreasing the exposure to secondhand smoke and this spot has been developed throughout this region and throughout the state of California and has already proven to enhance the quality of life for this which is good for all of us. The proposal also offers a creative idea of how to put a good proposal together that minimizes staff resources. It offers significant expertise from the Public Health department that is eager in trying to move forward to help the city put this together and the implement it effectively, it offers community resources that want to make this implementation as some and smooth as upon and the tobacco funding grant from the completely department. Overall, it is a sound proposal, to be able to assist in the potential implementation of a policy and would I urge the council to move it forward. Thank you.

>> Mayor Reed: Diane Lewensky.

>> I'm an avid volunteer. They never lit up a cigarette they knew smoke wasn't good for you but they worked in environments that are exposed to secondhand smoke. I'm going to oppose.

>> Mayor Reed: Mary Keenan.

>> Mary Keenan, relay for life of Willow Glen, and a former smoker. Started because it was cool when I was 15. I would love to discover any other kids same as with drinking because kids start drinking because it's the, a thing to do, if you see kids smoking at the nearby Starbucks, this is one great way to stop that. It certainly helped me quit with when I couldn't smoke at work in your nymph. I strongly encourage it, thank you.

>> Neil Klepi, researcher at Stanford, we have done quite a bit of work over the years. Lately we have been doing quite a bit of research on tobacco smoke in common areas of multiunit dwellings and also infill traiting from smoking to nonsmoking buildings. Recently, we've seen quite a bit of infiltration between units, I have a bit of data I can't show it right now but I will give small materials instruments like this, a little aerosol, airborne particle monitor that we put into a unit for days or weeks at a time and we look at the amount of particles that filter between units, in Downtown San José what you might expect in a smoky casino or bar. Into put we feel there is infiltration between units, even large brand-new buildings and lot of residents in them. You would think if you had older buildings that are leakier you would have slash approximate. Thank you.

>> Mayor Reed: UKA Masada, I'm an engineer --

>> Mayor Reed: Get a little closer to the microphone please.

>> My naming is Gail H-a arervard, e-north Almaden district 3. I want to share my story with you (inaudible).

>> Mayor Reed: Come a little bit closer to the microphone.

>> I'm trying my hardest, struggling, my unit 520 is nothing less than a death chamber. Just to show you certain numbers, I can't show you information but just to read to you. I wish all of you can follow me and see away I'm breathing through. It's another holocaust. Just very few bills that I have looked at a few days bought my stuff is all in a box. I'm mainly homes because of the building failure to, allowed in this community multilevel unit. Just for a few months I have spent not all bills received, over \$52,000 in medical bills and that's involved. It was merge, since I'm only living in that unit I have lived in parking lots in my car, in my patio on high rise, outside, in hotel

dean today and hospital emergency cars and hops beds. That is not the way to live. Buying a unit, this should not be a death sentence. A couple of things I talked about, all those data are taken in my unit. Seven months I'm breathing that, my lungs and my life will never be the same. I am trying so hard to get that space --

>> Mayor Reed: Sorry your time is up if you want to submit your materials in writing it will be distributed.

>> One more sentence I have to tell you that I beg you to please ban the smoking in multiunit area.

>> Mayor Reed: We got the message. The next speaker is Roger Kennedy and then Huett joiner.

>> I'm Roger Kennedy chair of the tobacco free coalition of Santa Clara County. You have heard a number of things I wanted to just touch on briefly. First of all, smoke free premises are good for business. Smoke free restaurants and outdoor areas and they are going to be competition the businesses of Santa Clara of San José and will benefit for being smoke free. I invite you all to join the crowd all over the country these things are happening. You have heard from Sara the opportunity, that the leadership team of the Public Health department and I'm a member of that leadership team as well is offering that incredible resources that will help you implement these policies. From a health standpoint as a physician I have seen the impact of smoking and secondhand smoke and these are evidence based ways to reduce the impact of smoking on our population. This is a cost saving measure and a life saving measure and finally the enforcement issue these are largely self-enforcing ordinances. But my own example when I go to Kaiser the nonsmoking campus entirely including the parking lot when I mentioned to a smoker I said this is a nonsmoking area they very quickly extinguish their cigarette. They know that smokers now realize that their smoking is not accepted motion place in the county. This is not going to be a major enforcement area. This is something we can do and San José can join with many, many other communities in the leadership role in this area. Thank you very much.

>> Mayor Reed: Huett joiner followed by Carol baker.

>> Good afternoon. My name is Huett joiner and I work for breathe California of the Bay Area. We are the ones who did the 113 surveys at the restaurants in Downtown San José. We surveyed them three times. The first time we surveyed them was to get the information out and to find out where they were. Second time was to educate them so they understood what we were asking about as far as secondhand smoke in the workforce, enforcement laws. Third time was to get their opinion. When we called them the third time we had 96% said yes, we would definitely not oppose the ordinance. So we have done the outreach. We have a secondhand smoke line complaint that we have had for the last five years. We received numerous complaints about multiunit dwellings and outdoor smoke. Third thing we have been working with Santa Clara County Public Health department consistently so any outreach that needs to be done for multiunit housing or outdoor dining or service lines we are prepared to do that, thank you.

>> Mayor Reed: Carol baker Delois turner.

>> My name is Carol baker I'm an honorary life member of the american cancer society. I'm a mom I know that you know that secondhand smoke causes cancer and emphysema and many other horrible things. But looking at the smaller things, when my youngest daughter was four years old which was a long long time ago, we were at the happiest place in the world where they had no smoking regulations at all. We were standing in line for a ride, the person in front of us was smoking, turning around and pointing out, and the cigarette fell into my daughter's eye. Of course she was screaming and it was a horrible horrible experience. So for that reason, and for the reason another small reason, the litter it causes, another small reason the fact that people just don't like the odor of it, I encourage you to vote yes on this, thank you.

>> Councilmember Liccardo: delois turner.

>> My name is de Lois turner. Santa Clara County. I'm here for the kids because I know I've had four back surgeries. Almost lost my life, okay? But I almost lost my life three months ago, from being exposed to secondhand smoke. My eyes were like just inflamed, I had to leave, move out of my apartment because I could feel the energy just leaving my body. As soon as I left from there my body started to clean itself out. And I know, if

I had stayed I wouldn't be here today, okay? I just had surgery myself on the 18th. And so the reason I'm here is the kids. We have to save our children.

>> Mayor Reed: Thank you. That completes the public testimony so the committee is here. Janie Burkhart is here from the Santa Clara County Public Health department. In case we have questions.

>> I wanted to go the last time. My name is Dennis Ocha from breathe California. You may recognize me, talking about smoking in any area. I applaud your effort and support any ordinance that controls or regulates secondhand smoke. There's a lot to be said about sharing walls with strangers. And though this work is very good that you're doing I believe you can go further and do more comprehensive ordinance. I'm an apartment complex owner myself so I empathize with Yalka and research that Dr. Has conducted in our condominium. We all know that secondhand smoke is dangerous, however Yalk satisfaction a daily nonsmoking smoker. She has to live with this every day. You have to see the research it's very compelling. You are giving up some kind of level of freedom like peace and quiet. However when you are dialing with known cancer causing toxic air contaminant, your life is at stake, things change drastically. I'd like to applaud your efforts hour you know you are oink doing half the job because the smoking in other private areas which seeps over to other private areas is a lot lot worse than in any common area so thank you very much.

>> Mayor Reed: That concludes the public testimony, back to council discussion. I had a couple of questions. Trying to figure out how much money is available is one of the recommendations is to apply for some grant from Santa Clara County Public Health department, how much money is there and how much could we qualify for? Janie Burkhart is here.

>> The city has already been approved for \$128,000 and there is another \$19,000 currently available.

>> Mayor Reed: The 128,000, what are we spending that on?

>> The tobacco permitting.

>> Mayor Reed: The one that's in front of the council next week?

>> Correct.

>> Mayor Reed: There's only \$19,000 left?

>> If other communities don't claim what they're due, it's possible that there will be more than 19 available.

>> Mayor Reed: What is the county spending the \$6.9 million on?

>> A lot. A lot of contracts to do work in the community working with health communities, working with cessation, working with breathe California, we've spent dollars on contracts with public health law and policy, to work with your City Attorney, to work with your offices here to provide some of the resources you need to bring up an ordinance like this. We're also spending some money on quite a bit of money almost \$3 million on media. To support the policy work that we're trying to get across in the county, across the county, to get messages out to the public.

>> Mayor Reed: Well I'm just curious. Since the county sets its own priorities it seems to me if this is that important it ought to be worth more than \$19,000 of county spending out of the \$6 million.

>> 146,000 in total is what's available to San José.

>> Mayor Reed: We are already spending \$125,000 on the other ordinance that we did. Now this is of great importance but there's no money left.

>> As I said roughly 19,000 possibly more, I can't give definitely figures until we see what comes back into the bank to redistribute.

>> Mayor Reed: Any other questions for Janie? Vice Mayor.

>> Councilmember Chirco: If you could just wait a minute. Ash could you speak to what funds I thought I heard you mention other pots of funds that might be available.

>> Councilmember Kalra: That was one of them is that I know that part of the reason why those other funds may become available is other jurisdictions aren't claiming them. We are claim what at least from the initial go round is allotted for San José and by doing that I imagine that allows us the opportunity to be able to claim additional funds.

>> Correct.

>> Councilmember Kalra: Do you know when those funds will be available or when you will know?

>> We don't, we expect to be open with the City of San José as we are with all cities now on the time line because cities have had some difficulty in actually going through the process to accept these funds.

>> Councilmember Chirco: I get that. We had this conversation when you were here before. The reason I had voted against this before because of this very conversation we're having right now. But Ash's worked incredibly hard for this to be something that is actually doable. There is a list attached, work San José contact, secondhand smoke, it says what Public Health department staff can do and provide and there is a list of hours. Non-now is this separate from the 128,000 and the additional 19,000, is this additional work that can be done separate from the ordinance that will be coming to the council on Tuesday?

>> It absolutely is.

>> Councilmember Chirco: All right then you need to bring that out because to say there's only \$19 thousand and that any unallocated funds might welcome to San José, resources are also dollars.

>> It is a very good point. Those were only cash resources I was referring to.

>> Councilmember Chirco: That is a important part of the conversation and that's why I changed misposition and signed onto this memo is there are resources, personnel resources that would actually assist with this. So what I would like to say is, this ordinance is very similar to the previous ordinance that we talked about with all the challenges that that one has, although there are additional hours of research, technical assistance from the health law and policy, outreach, training, materials, development and dissemination and of course media, signage cost, do you have an estimated value of that? It's just -- we measure everything by dollars anymore because there are so few.

>> I don't have a cost estimate associated with that. I was hoping that the hours would be useful as far as staff time but --

>> Councilmember Chirco: I do appreciate that because it's this kind of work that convinced me. And I also put this in the category of health and safety. What's kind of surprised to read the letter and I would like to refer to the City Manager's office why these particular questions were asked. Because they seem very narrow when I consider we have done other antismoking for instance in our parks. You talk about pilot program, you talk about wanting a county wide versus the city, putting us in a disadvantageous situation. Those are questions that never were raised when we were looking at the banning smoking in the parks. Can you elaborate why those particular three questions were asked?

>> Ed Shikada: Certainly, thank you Vice Mayor, members of the committee. Perhaps just to respond in a comprehensive manner, I'd like to describe for you the way staff viewed our follow-up discussions with county Public Health following the Rules Committee discussion and direction to put this in the context of the upcoming work plan. First, what we wanted to do was to continue the dialogue recognizing that well starting with

appreciating the value and the importance of smoking cessation, also to look at it in the context of the resources available. So we wanted to look at opportunities for advancing the antismoking initiative while at the same time meeting the enforcement need which is where options such as the pilot program, or looking at nontraditional methods of enforcement, aside -- or independent of relying on our code enforcement, limited resources, could be pursued. And so obviously as you've heard I think this afternoon, the focus of the county initiative has really been on a very specific ordinance. And as you can see from the letter that we copied to the council, we were looking at way -- how broadly they would define the initiative in a way that could allow us again to look at nonenforcement methods. To put it in the context of the parks, I think the point has been made that quite frankly it's one thing when we're talking about environment such as our parks which there is a presumption of city control. And this, on the other hand, when referring to public service lines which could be anything from restaurants to banks to event venues to the like are not locations that have the, again, the presumption of city control as well as where city staff has already been deployed, whether it be our parks maintenance staff or to the extent that we still have park ranger staff in some of those areas, as well as again restaurants apartments and other areas where we would be having to take more of a responsive enforcement posture rather than having staff onsite.

>> Councilmember Chirco: You know probably being totally overly candid, I find that argument weak. Because I just remember when I was a kid and if you didn't smoke it was out of the norm. And I've just watched the evolution of the antismoking health awareness. And I think as one of the gentlemen spoke to, that this is largely, it's self-enforcing. And also, then, tricounty who my husband and I have been members of for probably more years than Josh has been around, to have an organization such as that step up and say this has been polled as a very valuable business model, I just find that this becomes increasingly compelling. Now like I say I had originally not supported this because I -- the resources just did not appear to be there. But when I see the kind of resources in time which the reality is, time is money, it begins to look more doable. And I know, speaking to the City Manager recently and the reality is we have to continue to do the community's work even in times scarce resources. We have to be thoughtful about our scarce resources and how we utilize those. But we still have to do the community's work. And I look at some of the 39 issues on the pending list, and I really have to agree with Councilmember Pyle. That when we look in February in that statistician session. To do kind of a category and I think Councilmember Constant referred to it, kind of evaluating the priority. And one of them needs to be health

and safety. Because that is always one of the core services that the city must pride for its community. And data increasingly shows the dangers of smoking. So I'd like to think we have a self-policing community. And we try to set good guidelines, that can be reasonably enforced. And I think we need to begin there. And again, I -- so what I would like to do is, with this one, is exactly what was done with the social host ordinance. Is to put it in that same category. Obviously -- and then maybe to put it on the NS and E work plan, and I don't know, not to overburden the NS and E or the staff, but to have it come back like April so that they're not all piled on top of each other and then also in February to do that evaluation of the pending list so that would be my motion.

>> Second.

>> Mayor Reed: Okay, we have a motion. One suggestion as we look at this. There's really three different outdoor smoking recommendations and each of them raises a different set of issues and potentially a different set of stakeholders. But if you think about it the ones that were happening where people live have to be much more important than the fact you're standing in line or at an outdoor restaurant. You can't really change where you live just as easily as you can move on to another restaurant or another place. I think one thing we could do to pare down the workload, is to divide these and think of them as three different elements. Tricounty is already engaged so we've got some of the major stakeholders willing to look at them. That one looks one, more important and two, easier to work with, maybe that affects the workload assessment, something we can deliver with the 19 thousand hours and contributions and whatever it is. My personal opinion, spending \$3 million on advertising campaign is not a good spend of money. Yet another advertising campaign to go with a dozen advertising campaigns that I've seen on smoking.

>> Councilmember Chirco: I really want to agree with the mayor because organizations like the American cancer society, breathe California, and even the tobacco master fund settlement, those are all dollars that go into media-type coverage. So I would just really ask the Public Health department to look at prioritizing what you can really accomplish. Are they best spent in media or are they spent in actually creating a framework to move this kind of work forward? So I really agree with the mayor.

>> Mayor, just say I appreciate the council's comments and we will take that into consideration and the funds are not already spent and that's not carved in stone with regard to the \$3 million.

>> Mayor Reed: Okay.

>> Councilmember Constant: Just a couple of comments. In relation to the motion first, I guess the only issue I have with it is, saying that we're going to discuss it, when we talk about our priorities in February, and going ahead and putting it on the workload. Because those aren't necessarily congruent. But we have 39 ordinances on this list, plus the one for the social host is 40 and this one is not on there. So it just adds one more. And if we go ahead and just immediately refer it out to the NSC to be put on the work plan, and City Manager can correct me if I'm wrong, but that sets into motion a whole bunch of work that gets done by staff which is the whole idea why we were going to have the priority setting session in February so that we can start to look at and prioritize and come up with a system to deal with all of these. So I think it would be more prudent for us to say that February council meeting is what, about 60 days away. We get to there we set the priorities and we get everyone going in one direction at one time and decide which of these are going to get on which work order versus what order, I know there is the issue of funding coming in. But funding doesn't always match up with workload. Just giving the city attorney's office a little bit more money whether it be \$19,000 or \$50 thousand doesn't give them money to get an extra attorney.

>> City Attorney Doyle: I don't think we've seen any of that money.

>> Councilmember Constant: That's another issue. Just an editorial comment on self-enforcing. I don't think there's self-enforcing anywhere. We have had antilitter campaigns all over the place, I don't believe the no smoking in parks is self-enforcing. I take my kids to the parks and I see people smoking right under the no-smoking signs. I don't think anything is self-enforcing. Any type of ordinance has to have some type of enforcement, you have to have enforcement to modify behavior.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I agree with that sentiment. I would like to say too though, that we're not talking about the entire community out there. In fact, California's adult smoking rate was at 14% in '06, California has the second lowest adult smoking rate in the nation, after Utah. And among children 12 and under California has the lowest smoking rate in the nation. We're already on the right path, we don't have as many people that we need to appeal to. And the outreach itself is not something -- we don't have to ask everybody in town how they feel about this. We know we're doing the right thing and governing properly when we take everyone's health into consideration. This will help too on our medical expenses and our insurance rates.

>> Mayor Reed: Vice Mayor.

>> Councilmember Chirco: I don't necessarily disagree with what Councilmember Constant said but I think there is a sense of urgency to this one. I don't know if I can say that the San Pedro square kiosk ordinance has the same urgency that a social host or trying to have areas in our community that people are forced to share have smoking limitations on it. So I -- I'd like to maintain my motion, there are resources, certainly limited, and I would look forward to the county prioritizing what's really important here. There are other dollars that can be used for a media and these are dollars that can be used for this kind of work. And there is a large commitment of time. So I would just ask that my motion stand.

>> Mayor Reed: I'd like to ask for a friendly amendment to the motion that would be that I would send a letter to the board asking them to reconsider their allocation to maybe put some more money into these kinds of things that we think would be more effective than other areas. They would at least hear it from us rather than just the staff. Would that be okay?

>> Councilmember Chirco: I think that's a great idea Mr. Mayor, I apologize for not working about that sooner. We are better together than we are individually.

>> Mayor Reed: Okay, Councilmember Constant.

>> Councilmember Constant: Just my final comment because I can seize where the vote's going. When we talk about setting priorities, I believe the one you picked out is not but everyone who lives by bail bonds, they have a different priority than me on the bail bonds. The plastic bag ordinance, there are a whole different group of people who have an opinion on that. Medical marijuana that ordinance has an extremely high priority for an extreme about the prioritizing and looking at what's jumping in front much other things and we're finally getting to a meeting in February we're going to talk about this and tackle the process issue but every single that comes up is an exception to that and it is only 60 days away, we should look at it more in context and go forward from there.

>> Mayor Reed: Okay, anybody else? We have a motion, all in favor, opposed, one person opposed, Councilmember Constant. That covers that. We have the 2011 guiding principles as headed to the council committees for next year's work. Betsy Shotwell is here.

>> Betsy Shotwell: Thank you, Mr. Mayor. A document that is, I always say every year is a living document it's not in concrete, issues do come up during the year that the council will give staff direction on but this formed the foundation for our advocacy in Sacramento and Washington and collaboration at the local level as well. Due to the hour of course if the committee prefers I would be happy to answer any questions and staff is here as well. To answer any questions.

>> Councilmember Constant: I'm ready to make a motion to approve.

>> I'm ready to second or third.

>> Mayor Reed: Motion and second to approve. I had questions did we have approximate last year to be able to respond to ever changing situation in Sacramento?

>> Betsy Shotwell: Thank you very much mayor. The process called what we referred to as the expedited bill process, where if you have already indicated your support, or opposition on issues, through the guiding principles

or past previous fairly recent activities through the mayor and the City Manager and the City Attorney, our advocates in Sacramento, Washington can move quickly and return within a week or two to Rules and inform you of the status and ask for reaffirmation on those issues. This worked really well. I was thrilled perfect times in July, perfect example, issues come up we all know state legislature seems to meet forever and doesn't go home at the summertime. This is been very helpful to be able to move forward again particularly in times when the council is in recess or the city is in furlough mode and not meeting, or if we have something come up urgently in January and the council hasn't started meeting yet. Thank you very much for asking the question and thank you, you all, for your support and involvement in the activity.

>> Mayor Reed: Okay we have a motion to approve. All in favor? Before I take the vote I have a request to speak, David Wall. Sorry.

>> Betsy Shotwell: And if I could add, to have a one week turn around.

>> Mayor Reed: This has been to the December 14th agenda. This has already been to a couple of committees?

>> Betsy Shotwell: I.T. been to all committees. If there is money next year, our lobbyists have advised us to go ahead with this to fund money directly through various agencies and departments.

>> Mayor Reed: Okay.

>> David Wall: Lobbyist costs have been way out of town. Councilmember Pyle rightfully created the Sacramento express. That could do away with one set of lobbies. I suggest Mr. Mayor you create the Washington, D.C. express and eliminate that Patton Boggs group. That significant money is needed here at home and we have Congress people we have senators, that you could put the screws to on the media and using your friends at the Mercury News to hold them accountable. Those are our lobbyists. We need to get these people off the payroll. We look to schedule or attachment C. This airport business has interesting little snippet. I suggest that

you raise that passenger facility charge not to 7.50 but to a flat 10, if you can get away with it if not raise it to \$8, all right? Then we see what I gave testimony to at transportation and environment, one issue, is that harvest power group, here is the grant, \$1 million. That's not going to cover the cost of that program. This is a granting farming. In other words, this is a scam. It's not going to work long term. The taxpayer will be stuck with it. As they are stuck with the reclaimed water project. Now you need to recall that project a salt concentrator project. Here they want \$10 million or more, and that technology innovation center, another boon dog many. You're not going to get innovation by asking the Feds for \$28 million for something that is illusory. Part and parcel, not to mention all those housing requests for money. Part and parcel why our country is screwed up. This is money the country does not have. You need to live within your means. Thank you.

>> Mayor Reed: We have a motion to approve. All in favor? Opposed, none opposed that's approved.

>> Betsy Shotwell: Thank you all.

>> Mayor Reed: Next item is the monthly report of activities by the City Auditor. Sharon Erickson is here.

>> Sharon Erickson: Good afternoon, very briefly during the month of October we issued our audit of Team San José's management of the city's convention and cultural facilities. You heard that report yesterday at the city council meeting. You also heard yesterday, the presentation of the comprehensive annual financial audit my office coordinates that contract but the work is mostly done by people in the finance department. Next week at the Public Safety, finance and strategic support committee you'll be hearing the audit of police staffing which reviewed the budget proposals from and the Mayor's Budget Message last June and then our next report up will be our service and accomplishments report and you should be expecting that in January. Accomplishments report I'm happy to answer any questions.

>> Mayor Reed: Any questions?

>> Councilmember Constant: Motion to approve another wonderful report.

>> Councilmember Chirco: I second that.

>> Mayor Reed: My compliments for the work you did yesterday on the auditor around Team San José. Very helpful to the council as usual. On the motion, all in favor, opposed, none opposed, that's approved. Taking us to -
- I'm sorry, David Wall wanted to speak on the auditor's report.

>> David Wall: I don't think there's enough words ever created to give thanks to our auditor. But we can do something that holds the office of the City Manager, which had been really renamed as a homeless prevention act, okay? These should be charged to the auditor. A fund constructed to pay in perpetuity our auditors, with bonuses like our learned attorneys. They solve a lot of problems that should not occur in the first place under the theory you're paying high paid people and educated people for management and yet you need smarter people to correct their mistakes. I say eliminate the problem people. Now, with this police department business, the entire deputy chief sections could be eliminated. They're not going to like me over there now but that is fluff. That whole salary range is just dramatic. And if you have money for CPLE, okay, you've got plenty of cops for the streets, right? So you dump the CPLE and you put more cops on the street. You really need to come out and enshrine the third floor. Enshrine it for your gratitude but we hear it all the time, we hear no accountability for Team San José. Who is responsible, for the City Manager, somebody has to be shall I say tossed to the dogs. Thank you.

>> Mayor Reed: We have a motion, all in favor, opposed, none opposed, that's approved. One more item, that's my request to approve the challenge day national conference as a city sponsored special event.

>> Councilmember Constant: Motion to approve.

>> Second.

>> Mayor Reed: All in favor, opposed, none opposed, none on open government. Open forum. David Wall.

>> David Wall: First and foremost I want to give praise and thanks prior to giving more praise and thanks to Vice Mayor Chirco's service to our city. One more question in two parts. When you entered service to our city does your kindness precede your generosity or is it the other way around? Now, Mr. Mayor, odors. You have made odors from the water pollution control plant an issue. Where, in reality, it is not an issue at all. We have, as usual, our learned counsel who created a written instrument with the McCarthy family years ago. You need to publicly discuss that written instrument. Does it force the City of San José at any time to change, to open the agreement, from my knowledge it does not. Which means why would you allow on that agreement with the McCarthy ranch? You have the best environmental way to dry sludge ever. Part of the master plan which I reject, one little city in germ any uses the greener house method to solve the issue. Lets go back to that little sneaky contract. Now you have a city council member on staff from Milpitas whispering little nothings in your ear. It is not in the City of San José's interest to open this up. \$5 million or better to change things? No. Here's something you haven't thought about. Tell Milpitas, not as a touchy feely stakeholder garbage crap, build your own outfall, build your own sewage treatment plant. You just saved \$500 million bucks. Thinks about it.

>> Mayor Reed: Your time is up. That concludes the open forum, concludes the meeting.