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>> Mayor Reed: I'd like to call the meeting to order. This is Rules and Open Government Committee meeting for March the 25th, 2009. Any changes to the agenda order that we need to consider? None, all right. The first item is the March the 31st agenda, we're not having a meeting. Anything on page 1? Page 2 or 3? Is that ready to go? About the historic landmarks process and the work that staff just got underway.

>> Joe Horwedel: Joe Horwedel, director of Planning, Building, and Code Enforcement, this is a request that was initiated by the landmarks commission and under the ordinance, the process is that the council considers that request, and to refer it back to landmarks commission is that I've been told I need to do that.

>> Mayor Reed: What if the council doesn't want to refer it back to the commission just yet? Want to wait until we have the ordinance changes, or process changes, or whatever?

>> City Attorney Doyle: I think the way the municipal code is structured, if it's to come to council within a reasonable period, the council so initiate that process. That has not been changed as part of the code. And so what's coming forward to the council now is the action by the -- which the code says within a reasonable time. And it's been a significant number of months, I believe.

>> Joe Horwedel: At least and maybe close to nine months.

>> City Attorney Doyle: I understand.

>> Mayor Reed: If the council decides they don't want to do anything about it or wants to turn it back to the commission, what are the alternatives for the council?

>> City Attorney Doyle: I'll have to get back to you. The protocol is to send it back to the commission but let me respond to the Rules Committee and if you want that answered before you set it or if you want the answer at the council meeting, we can handle it either way.

>> Mayor Reed: I think we'd like to have it answered before we set it. Then the other question I had, who is this setting, owner-initiated?

>> Joe Horwedel: The landmarks commission can initiate or ask the for that process to be initiated and that's what's occurred here.

>> Mayor Reed: Okay.

>> Lee Price: Lee Price, City Clerk. I'd just point out that we have a couple of versions of the administrative draft, we have actually moved that item that the mayor was just talking about and that Joe was responding to questions to 4.4, so that is actually on page 11 of the agenda.

>> Joe Horwedel: We moved it off consent.

>> Lee Price: I'm sorry, 4.5. Not on consent.

>> Mayor Reed: The discussion was on 4.5 which we'll get to in a minute. Anything else on pages 4 or 5? Page 6 or 7? Okay. Anything on 6 or 7? Page 8 or 9? I have item 3.5, the A's stadium in San JosÉ. That needs to be set for the evening agenda.

>> Lee Price: It is so noted.

>> Mayor Reed: I would anticipate taking that first in the evening.

>> Lee Price: That's a numbering error, yes on page 6, top of page 6, 2.14 is actually a continuation of 2.14 from the previous page. We'll pick that up, thank you.

>> Mayor Reed: Page 8 or 9, I think we're done with. Anything on 10 or 11?

>> City Attorney Doyle: 4.5 --

>> Mayor Reed: Definitely I don't think we should put it on the council agenda until we know what the council will do.

>> City Attorney Doyle: We'll get back to you. The process contemplated, if the action is initiated, the HLC asked for that, the council sets the terms. We can respond next week at Rules.

>> Mayor Reed: You can bring that back to us because that explanation never makes sense no matter how many times you give it to me. All right. 4.2, the sidewalk cafe update, is that ready to go to the council?

>> It is, and there's a supplemental memo that staff has developed that will be ready to distribute in the packet on Friday.

>> Mayor Reed: We'll let staff work -- is there anybody who actually knows what's happening between midnight and 2:00 a.m. in these sidewalk cafes? Because the code compliance officers don't work past midnight, last memo I got.

>> Joe? Or Rob and the chief?

>> Joe Horwedel: I'm sorry, I caught the back half of the question, Mr. Mayor.

>> Mayor Reed: The question is whether or not there's anybody who actually that has data between midnight and 2:00 a.m. with the sidewalk cafes which is the time we're concerned about since the code compliance officers don't work after midnight.

>> Joe Horwedel: We have been coordinating with the downtown beats to see from theirs are there problems going on and we're also looking up to midnight, are the sidewalk cafes operating the way they should, the menu is available, they're operating not just as a drinking location. So that's what we're going to come back is the coordinated response how we're dealing with that issue to make sure they're complying up until 2:00 a.m.

>> Mayor Reed: So you'll be ready to go on this?

>> Joe Horwedel: Yeah.

>> Mayor Reed: Anything else on 10 or 11? Page 12 or 13? 14 or 15? 16 or 17? Which is -- gets into the evenings land use items.

>> Excuse me, Mr. Mayor, on page 16, 7.1 is a grant application, and it is my understanding we need to inform the -- I'm sorry, do you want to come up? TSA -- it's not TSA, I'm sorry -- to inform where the application is going, we have to inform before 5:00 Pacific time. So if we could take this up -- they said Pacific.

>> Mayor Reed: Sorry, after 5:00 eastern time?

>> Monsur Nasser, we need to inform what our application.

>> The question is are they in Washington, D.C, eastern time or --

>> My understanding is, we have to have it in by 4:00 p.m. central time. And I think they are in Denver.

>> Mayor, we can clarify and --

>> Mayor Reed: So back up to why this is that we're talking about? I missed that.

>> After the ceremonials is when we need to do it.

>> Mayor Reed: Early on the agenda.

>> The grant application is due that day, the same day.

>> Mayor Reed: All right, so we'll set that maybe next week, we'll know how much window we've got there and we can put it as early on the agenda as necessary, as long as we don't have to go into the morning.

>> My understanding is, we have to have it in by 3:00 p.m. our time here.

>> Mayor Reed: We'll do it early on in the agenda. We'll figure that out when we see the agenda.

>> Lee Price: We had this discussion earlier. It's a grant application for, yes, \$16 million but can we see it done early in the agenda?

>> Mayor Reed: I've never seen, in my years, heard an objection to a grant application, never seen much discussion. Anything else on 16 or 17? 18 or 19? Have some additions, excused absences for Vice Mayor Chirco, and for Councilmember Chu. Any others? Okay, we have a motion to approve.

>> Second.

>> Mayor Reed: Second. Any remaining questions about timing of agenda items? I think we've covered them all.

>> City Attorney Doyle: Mr. Mayor, we didn't bring an add with us, but the item we'd want added and we can get it to the clerk today is a resolution following up from yesterday's meeting with Councilmember Liccardo and the Tommy Smith home. And initiating historic landmark proceedings and that requires a resolution of council. That can be on the consent calendar item. We can get the language to the clerk but it's just for the council to accept.

>> Mayor Reed: Okay, that was a referral from yesterday's council meeting so we'll add that. Anything else? I have a motion to approve the amendments. All in favor? Opposed? None opposed, that's approved. Redevelopment draft agenda for the 7th? Anything on page 1? Page 2 or 3? Page 4 or 5? Any other additions or changes?

>> Mr. Mayor, no, there are no other adds or changes.

>> Councilmember Chirco: Move to approve.

>> Second.

>> Mayor Reed: This does include yesterday's discussion on tax increment changes. 8.3. All in favor, opposed, that's approved. Next item will be legislative update. Betsy.

>> Betsy Shotwell: Mr. Mayor, Betsy Shotwell, director of intergovernmental relations. As a report on our Washington, D.C. trip, as you can imagine, a large part of the conference whether in large groups or small, workshops and planning panels informing city officials how to access the recovery act funds and the criterias and the basic stipulations with regard to accountability and transparency and job creation. The state league also held a number of meetings with our congressional delegation and on the same subjects. We're all on the same page obviously but the devil's in the details, as our state lobbyist would say, Roxann Miller. It is going to be a formidable process. We're very engaged and involved internally. I know an info memo just went out a week ago. I'll have an info memo on the other issues and topics of last week. But we are working very closely with patten Boggs, our lobbyist. Working with the City Auditor to develop what will be the Website for our projects. Again, they will be accessible both to the public and of course the administration in Washington which is following this very closely. I have to say, a number of secretaries, cabinet secretaries spoke and intergovernmental relations folks from the president's office attended various parts of the conference. It was an opportunity to meet with staff face to face and get some good contacts to follow up with as we go through the recovery act process in the next few

months. It's very fast-paced as I'm sure you've noticed in the paper. We'll be moving very quickly. The usual large chunks of time to develop applications is not the case this year. As you know it's going to be very quick. So we're moving fast. Be happy to answer any questions.

>> Mayor Reed: How fast can we move? We just have -- we just discussed an agenda item, get it on the council agenda to approve making a grant application. That's a four-week process in and of itself as I understand the way these agendas are put together. That may be a little bit slow. Do we need to have some other to process these so that we're not pulling them up when we got to move quickly?

>> Betsy Shotwell: The info memo went out a week ago, then I was gone. I didn't have a chance to address that question. How can we have an opportunity to move, I will be working with the City Manager's office and city attorney's office on looking into that. Again you're right it will be asking for money, it's not controversial. But it's -- needs to be timed, timely.

>> Mayor Reed: When I was in Washington I talked to a lot of people who were work on the guidance for these various things and they all expect the time periods to be very short. Not going to be a lot of time so we have to be prepared and we have to be able to move quickly and it really is quick, especially when you think about the speed at which federal government usually operates.

>> Betsy Shotwell: Yes.

>> Mayor Reed: Faster than our normal cycle. We need to figure out some waive speeding up our normal cycle some way.

>> Councilmember Pyle: Could we not make an exception to the rule in reference to this and expedite it in that? I think we could do it on the 7th.

>> City Attorney Doyle: I think we made an exception today on the grant. I think it may be bet to come back with -- we have all these exceptions under sunshine. We could maybe give the City Manager authority in these types of cases to be accepted, or have a category under the rules. But we can come back with a recommendation.

>> That would be great.

>> And I believe grants do fall under the exceptions already under our sunshine rules.

>> This is a formal grant.

>> Mayor Reed: I'm wondering if we have to have an agenda item on each grant or have a notice like we do on some other things.

>> City Attorney Doyle: We need to check with the federal grants process. Because sometimes, the process itself requires that the legislative body have a resolution that authorizes it. Other times, the resolution that delegates to the City Manager to do it is sufficient. That's something we have to get back to you on.

>> Mayor Reed: And some of this may happen in July when we're gone.

>> Betsy Shotwell: Absolutely, I would expect it very much.

>> Councilmember Pyle: And the other suggestion would be, if it's needed some kind of an emergency meeting. Is that a possibility, as well? In other words, if there is something we all do have to weigh in on.

>> City Attorney Doyle: If the clerk can notice it and get a quorum, I think that's the test.

>> Mayor Reed: That's a possibility.

>> Councilmember Pyle: We don't want to be strangled by our processes.

>> Betsy Shotwell: Mayor, we'll get back to you.

>> Mayor Reed: Is that all? Anything on boards commissions and committee -- I'm sorry, public record.

>> Motion to note and file.

>> Second.

>> Mayor Reed: Anyone here to speak on the public record? All in favor, opposed, that's approved. Appointments to boards commissions and committees. We have some appointments to make to the project diversity screening committee, we deferred this from a couple of weeks ago, to allow councilmembers to submit. I did see a memorandum from Councilmember Pyle with one additional name. First question I have, how many spots do we need to fill?

>> Lee Price: We have four seats, four vacancies on the project diversity screening committee. Currently all districts are represented on the 13-member body but for the exception of district 3. So away you have in the packet are six recommendations from district 7 and one recommendation from district 10. The committee is meeting next on April 6th and 7th, to conduct evening interviews of applicants for boards and commissions. We currently have a quorum, but getting folks on board as quickly as possible would be good. However, even if you made all four appointments today, it won't be ratified by the council until the 7th. So we're -- we know we can still do the work with the committee that we have in place now. Any new appointments could attend these meetings, after they're appointed by the council on the 7th. You could go today with some or all, we can come back to fill any additional vacancies, it's really up to you.

>> Mayor Reed: We have six names from Councilmember Nguyen.

>> Councilmember Chirco: That was my question. One is eligible for reappointment.

>> Mayor Reed: No, we did that.

>> Lee Price: We did that already.

>> Councilmember Chirco: There's still three left?

>> Lee Price: There are four.

>> Councilmember Chirco: Oh, four.

>> Lee Price: Yes, we have already reappointed Judy Ellerbeck and Rick partridge and that leaves us with four vacancies.

>> Mayor Reed: Let me do this in a simple way, I'm not sure I can sort out what is best. But I think there is another spot open for mayoral appointment.

>> Lee Price: Yes.

>> Mayor Reed: If we were to pick the one that Councilmember Pyle recommended, and the top three off of the list, and that Councilmember Nguyen recommended, and then I would recommend Vick Nakamoto for the mayoral appointment. That's four.

>> Lee Price: The four vacancies, include the one, Mr. Mayor, that you would be making the appointment to.

>> Mayor Reed: Math doesn't work then.

>> Lee Price: You gave me five. I just need four.

>> Mayor Reed: Well, how about the top two off of Councilmember Nguyen's list, and then I'll designate Victor Nakamoto as the mayoral appointment. I've known Victor Nakamoto for a long time, I think he would be good on the committee. With Councilmember Pyle's recommendation, that would be four, would that be okay?

>> Councilmember Chirco: I would move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: That would be Maria Trejo Bouttai, Al Rennig, and the three open spots and then Victor Nakamoto for the mayoral spots. Do I have the math right?

>> Lee Price: That's right. If you would go ahead and permit me, to get all the appointments ratified by the council on the 7th.

>> Mayor Reed: Okay.

>> Lee Price: We'll invite all of these folks to attend the interviews, and work with the project diversity screening committee in an ex officio matter until then.

>> Mayor Reed: All in favor? No one's opposed, those are approved, okay, that takes care of project diversity screening committee. That was the only one with committees. We have an item 10.1, bail bonds workload assessment. Deferred from March 4th. We have some people to speak on that. A couple of memos, and I'd like to note that I did get a letter from supervisor George Shirakawa, and a letter on this matter. Supervisor Shirakawa, is recommending -- I think we'll start with Joe Horwedel on this.

>> Joe Horwedel: Thank you, Mr. Mayor. Several questions were raised at the earlier rules committee meeting in March. Those questions were related to our -- the City's practice of defining bail bonds as a personal service used for personal office use. And that we did go do research back, and had identified in 2001 the same question, had come up from a previous bail bonds business, and we provided the copy of the letter that was provided to that individual. As well as our zoning code now incorporates, in 2004, the downtown, a specific exclusion for bail bonds use from a personal service use. That in downtown personal service uses are allowed but we did specifically exclude bail bonds uses from that. And so it memorialized how it had the zoning code had been used previous and how we defined bail bonds as a personal use. Since then we also had a community meeting and I wanted to have Carol Hamilton from my staff give a brief recap of that meeting, the zoning approval at Hedding and first Street.

>> We met with the community and both the neighborhood residents, surrounding where the bail bonds businesses are located and some of the operators of the actual bail bond businesses. And heard some of the concerns of the business operators, who are attempting to provide services to their clients, and heard some real concerns from the community about the impacts of these businesses. We understand that unlike some of the other businesses in the area, the customers of bail bond businesses are often needing to wait around, and there's a significant amount of loitering, and the community has indicated that this has resulted on a number of impacts, litter, noise, traffic and just generally behavior in their neighborhood, that they do not feel is compatible with the living environment. And so we did understand that. We have looked again at our current regulations, and feel that there's -- the regulations that are in place now that allow these uses during the daytime by right, but require a conditional use permit at night, probably balance the issues pretty well, that they address some of the more serious concerns of the community in the late evening hours, but provide some flexibility for the daytime hours. And so we have concluded that those regulations are adequate as they currently exist.

>> Mayor Reed: Anything else? I have a question about your workload assessment. You did a supplemental memo, some additional things that you're working on. Your vast zoning amendment, new ordinance staff is working on, the staff of one, with -- I don't know what the total count is of other referrals, for the council for ordinance changes but it's a lot.

>> Joe Horwedel: We just finished an ordinance memo, 38, that are queued up, we have basically identified our workload assessment through 2010 that we'd be able to accomplish. Policy referrals that council has asked us to look at, including fast food ban around schools, parking ratios, lighting policies, update, public outreach policy updates, we tried to put them all together and be able to prioritize.

>> Mayor Reed: Okay. We actually have two items on the agenda relating to this, 10.1 is the workload assessment, 10.2 is the regulation of bail bond establishments. I've got cards of people who wants to speak on both of these. We'll take these all at the same time. So whatever questions the committee might have on either one of these. Just deal with it as a single item. I have a question about the county, and the request from councilmember, former councilmember, current Board of Supervisors Shirakawa, recommending the city-county open a dialogue to address the issues. How much conversation have we perhaps already had with the county staff or anything around bail bonds and any other issues?

>> Joe Horwedel: My staff has not had any conversation with the county. In fact, I just saw the letter as I was walking in. That is one of the things that, if there was a referral to rework the rules, then that would be part of the process, that we would involve them, the obligations of how the jail operates. Because staff is not proposing changes to what the current law of the land is, we did not do outreach out for this referral.

>> Mayor Reed: In case anybody hasn't seen that letter, I know there are copies on the desk there. Councilmember Liccardo is here. I don't know if you've seen it or not.

>> Councilmember Liccardo: Mayor, I just wanted to jump in a little bit, I had some experience on the county side before I came here to the city. The jail actually doesn't release, to my knowledge and perhaps the chief can correct me on this, they don't release inmates between the hours of 12:00 and 6:00. I have left a message with supervisor Shirakawa. Because it appears the supervisor maybe perhaps misinformed about the nature of this proposal, we're not looking to somehow close bail bond establishments. We're simply asking bail bonds establishments to comply with the existing zoning that is always existed in these locations. So I suspect that maybe there's been some miscommunication over on the county side. I know I've had some conversation west supervisor Cortese and I'll continue to do some outreach there.

>> City Attorney Doyle: Mr. Mayor, I've had a conversation with the council counsel about the same issue that supervisor Shirakawa raises, that has to do with the impact on the jail operations but it was a generic or general question. This basically says the same thing.

>> Mayor Reed: I have a fundamental question on all of this, it's hard to figure out exactly what's going on because we have a lot of problems that have been outlined from Councilmember Liccardo's memo and those from the community, perhaps having to do with activity that is taking place when there shouldn't be activity taking place because maybe we don't have enforcement of our existing regulations. If we were to enforce our existing regulations where would we be in the continuum of these problems? If it is the question of the enforcement it's one thing or if it's a question of changing the resolution, that's another thing. I'd like to see what Mike Hannon has to say.

>> We have adequate staff. The zoning ordinance currently prohibits personal services between the hour of midnight and 6:00 a.m. We have issued citations to organizations that have indicated they provide services during those hours. We are prepared to proceed if the city is describing these uses.

>> Mayor Reed: If we were to proceed with uses and deal with the 12 to 6 period, how much problem that the people are having in those neighborhoods does that address?

>> It would certainly reduce the number of folks, I don't know. We haven't seen any indication that people are actually hanging out at any of these businesses between the hours of 12 and 6 in the morning so I'm not sure if that particular issue is occurring. I'm not sure we heard that from the community that folks are hanging out between 12 and 6:00 a.m.

>> Mayor Reed: But there are people that have hung out between 6:00 and 12 midnight.

>> Councilmember Liccardo: There are plenty of people from the community that will talk about fights and litter in the community and everything else.

>> Mayor Reed: I've got that from your memo. Is it based on the time of day, all after midnight, or sit 24 hours a day?

>> Councilmember Liccardo: My understanding is it is a 24 hour problem. Certainly it becomes more acute when people are trying to sleep. Let me clarify more about what my intent is, how we could proceed today if the committee's agreeable. I appreciate all the workload assessment and extensive workload assessment here on various options. The truth is, the first three options weren't anything that the community's asked for, nor have I. Really the fourth option is really what we're looking for and that is really concerning whether or not this should be a personal service use that's governed by a C.U.P. I understand there are a lot of other planning obligations, and items on if workload for planning. So what I would hope, or what I would suggest is this: Can we move forward to council with a moratorium for any new bail bonds uses, until we're able to get through the queue on a proposal for a C.U.P? And however the council may decide a C.U.P. is appropriate, certainly the council's choice. But the idea is at least in the meantime we can put the brakes on what has been the tendency over the last two or three years, of more and more of these businesses moving in without any kind of land use issue whatever. The moratorium could move fairly quickly. It wouldn't impact any existing businesses, simply put the brakes on any new businesses. In the meantime, planning could take its time coming to council with the C.U.P. proposal.

>> Mayor, excuse me, if I could just make a clarification, and maybe I'm the only one, maybe I'm confused. But currently according to the current zoning code, a C.U.P. is required, if there is -- if they are operating after midnight, between you know, midnight and 6:00 a.m. But in this particular case we did not know that they were operating between those hours. So we have not yet gone through the C.U.P. process with this particular business. And I just wanted to make that clear.

>> Councilmember Liccardo: If I could clarify, the question is whether or not C.U.P. should be required for all operations. That is --

>> Mayor Reed: 24 hours a day as opposed to --

>> Councilmember Liccardo: Yes.

>> Mayor Reed: -- after midnight piece. City Attorney, you talk about when it's appropriate to consider a moratorium or not.

>> City Attorney Doyle: Well, I think the council does have leverage or the ability to impose moratoriums where there's the public safety is involved. We can bring that back if the council wants to go that way. I think if the committee has before it a recommendation to go to the council, the council is going to have to instruct us to do that and then we would come forward with any proposed item.

>> Mayor Reed: You can only impose a moratorium in contemplation of doing something, right?

>> City Attorney Doyle: There is a limited amount of time, I don't think you can exceed it for more than two years. If the council wants to think about this and bring back a recommendation they can impose a moratorium while that process is moving forward.

>> Mayor Reed: But it's always about a process or something happening. Otherwise it's not a moratorium, it's a ban.

>> Joe Horwedel: That's correct.

>> Mayor Reed: Which is a different animal of some regards. The other question I have has to do with the county. I don't want to step on the County's toes, not this week, anyway. We have a compendium of issues with the county. I think, you know, 35 or 40 issues. I don't think this one is even on the list.

>> Joe Horwedel: No.

>> Mayor Reed: I know I haven't had any conversations with anybody at the county as part of that discussion process. And I do value their opinion on this, and they have a stake in this, although I think perhaps they misperceive the direction. But that's all part of having some sort of a discussion with county staff. And I'd like to have our staff reach out to the county staff and try to sort out the issues before we decide which direction we're going to go in and how we're going to get there. We also have a request from Councilmember Constant, who can't be here today because of an illness in the family, to refer this to Public Safety, finance and strategic support committee, for the Public Safety issues, there's a range of ways we could go, to do this. I'm reluctant to put it on the council agenda without at least consulting with the county before we move that forward. We could hold it here at Rules while we talk to the county and do our best to try to consult with them, or we could send it to Public Safety committee. So do you have any thoughts on that? Mr. Mayor? Nick.

>> If I could just provide a quick point of clarification, we've spoken to Councilmember Constant's office. Although they do have a memorandum, the preferred course of action would be to defer until the councilmember can be here and participate in the discussion. So that's sort of another option for the committee to keep in mind as they're thinking about how to move forward.

>> Mayor Reed: Rick, any thoughts on what our choices are?

>> City Attorney Doyle: Well, along the lines of, and sort of consistent with the protocol we have in our county agreement, I'd like to find out what are the adverse impacts on the county. Councilmember -- or supervisor Shirakawa points to a number of them. Councilmember Liccardo says and from his own personal experience, formerly of the District Attorney's office, not in the jail, that they don't let people out between noon and 6:00. I'd like to get clarification of what would be the adverse impacts that the county's claiming. We need to be on the same page of what are everybody's concerns before we can report back to council.

>> Mayor Reed: Sam, do you have anything?

>> Councilmember Liccardo: I'd like to believe these conversations can happen in parallel. Again I know it's not this committee's decision to impose a moratorium of any kind. But I don't think these are terribly complex issues. The item is to what extent moratorium have on any new businesses and we already have a dozen there. Nobody is going to be restricted from the ability to exercise their 8th amendment rights today or tomorrow if we were to impose this moratorium. I think all these conversations can happen in parallel without anyone feeling threatened. I would oppose this deferring for three weeks so somebody else can be on the panel. There are numerous opportunities for everyone to weigh in at the council level. If the county has specific oaks certainly we can address those but it's not going to impact current businesses with a moratorium.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I just wanted to make sure I understood some of the components in this. In the real estate community we used the term benign neglect. Because we have been allowing the businesses to stay open between 12 and 6 could come under that category. Whether we enforced it or didn't could seem like benign neglect. How long has that happened, ten years or so?

>> Joe Horwedel: I think speakers from the community could better address that. There have been bail bonds organizations in the neighborhood for a while. As a resident of that neighborhood, back in 1990 time frame, today there are many more than were there in 1990. As for those that are running 24 hours, that is not something that the city does proactive looking at businesses to see how they're operating. We're just not staffed that way. So it is on a complaint basis that when we find something that appears to be a violation, that we do then investigate. And that's what occurred in this case.

>> Councilmember Pyle: I didn't mean as an accusation, more of an observation.

>> Joe Horwedel: Businesses have been there a while and I think some have operated very well and not created a problem and sounds like some have not operate well and created tremendous problems. The fact that they have been there and they have been in there illegally and we haven't caught them doesn't give them standing. I think that's something that Rick will be very clear about. It means we haven't caught them. But now we've been dealing with it, we've kind of put the net out, we've caught people and we're proceeding with enforcement. For the moment we've stopped enforcement, but the signage they've got going on other types of things about those businesses that they need comply like everybody else in the City of San JosÉ.

>> Councilmember Pyle: Right. There are a lot, lot of questions and as you said it does affect 8th amendment guarantee of due process. So I think there are just so many questions that that seems to be a logical conclusion to put a moratorium on now and to proceed with a more thorough investigation as to really defining the problem.

>> Mayor Reed: Okay. We have some people who want to speak on this. I think I'll take that testimony now. We've got about a dozen cards. So I'm going to call your name, just come on up, Antonio Ataro. Antonina Ataro. That microphone will adjust. If you squeeze the handle up and down, that also works.

>> I'm Antonina Ataro, I'm from Hyde Park, close to the area where there are a lot of bail bonds businesses. I have about 50 signatures, we want a moratorium. We want the city to proceed with whatever process we need in order to get down. These businesses, to me, should be in the category of a check-cashing or pawn shop, which are establishments that adults use. I believe with bail bonds I think only adults could use them, they should be considered that way, that's what I'm hoping, hoping for option 4. These businesses are in the sight of schools, junior highs and areas around the neighborhood and encroaching upon the neighborhood, too. I also have a letter from the Hensley historic district from Lenore and John who are the president and vice president to support what we're all saying. We're gathering together as a neighborhood, many neighborhoods in the area gathering together to support a moratorium as well as regulation on the bail bonds industry in our neighborhood, actually throughout San JosÉ. Who do I give this to? City Clerk?

>> Mayor Reed: Our City Clerk will take that, for the record. Make sure everybody gets a copy of it. Jeff Stanley.

>> Chairman, Coleman, or committee members. My name is Jeff Stanley, CEO of bad boy bail bonds. I urge the committee to adopt the moratorium. I believe my neighborhood is very safe, compared to other parts of the city. I've run my business for ten years, at no time has anyone from the surrounding neighborhood talked to me about any problems with my business. I'm available for any questions and urge the adoption of the resolution urged by Councilmember Constant. Thanks so much.

>> Mayor Reed: Jeff Stanley -- that's Jeff, John Cams.

>> I'm John Caras.

>> Mayor Reed: John Caras, sorry.

>> I live on Hyde Park on third street and I'm also an officer on the Hyde Park neighborhood association. And I'm in favor of a moratorium for right now. I'm not in favor of option 1 which is continuing enforcement of the current regulations, or I guess another way of viewing option 1 would be actually beginning enforcement of the current regulations. And to me the biggest problem right now is the huge proliferation of the bail bonds businesses in the actual neighborhood. Whereas, they used to be mostly confined to first street and maybe Hedding, you know, the bail bonds businesses have -- they pretty much take up almost every retail spot in the entire neighborhood. And now, some of the officers and employees of the bail bonds have actually started to buy houses on second, and who knows where else they'll buy them in the neighborhood, so that they cannot only be on first street, but also on second, and third, basically running bail bonds businesses out of houses. And you know, the neighborhood is becoming bail bond row. You know, I don't know how many bail bonds business one neighborhood really needs to have. Obviously, not all the people who end up in jail live in the Hyde Park neighborhood and the surrounding neighborhoods. They probably live in a whole bunch of neighborhoods. And I don't think that Hyde Park should be the center of all the bail bonds businesses. So yeah, in the meantime I think you need --

>> Mayor Reed: Sorry your time is up. Gus Kay.

>> Good afternoon. I live in the neighborhood, on second street close to all the bay bonds businesses there. And I have a daughter that goes to the middle school, Peter Burnett, there as well, you could literally throw a stone to the middle school, that's how close these businesses are. So you can imagine my concern, having children go to that school, and the amount of traffic. I mean, these businesses basically bring this unsavory characteristic with them. You know, somewhere where it's more conducive to what they do, if they want to be closer to the jail, that's fine. Maybe group them together and put them closer to the jail. The negative impact that that's having in our neighborhood is profound at this point. So I'm sorry I'm a little bit passionate about the subject, I've got a laundry list of incidents that have happened since we moved there in '99. I hope you consider some sort of action, at least in the meantime a moratorium to stop this. Thank you.

>> Mayor Reed: Okay, Eric Shanehauer.

>> Good afternoon, Mr. Chair, members of the committee, my name is Eric Shanehauer, I'm a resident in the Vendome neighborhood and this is strict a land use issue. The claim of some impact on the justice system is a smoke screen. Don't fall for it. There are dozens of bails bonds businesses. So the justice system will continue to operate. But this is a land use issue. These businesses are too overconcentrated and they are too close to our homes, our schools, and our parks. Take a walk on first street from Jackson up to 880, and tell me that that section of street feels like a friendly neighborhood-serving business district. It doesn't. Because about every third business along that route is a bail bond store. It is reasonable, the city does it all the time, to set regulation that don't have businesses overconcentrate and keeps them away from sensitive uses such as people's homes and schools. That's what's happening on these uses. I beg you to look at these and update your regulations which are inadequate. Thank you.

>> Mayor Reed: Jeff Ray.

>> Mr. Mayor, committee members, staff. I'm here to support Councilmember Liccardo's recommendations on this issue. And we feel the manner with which bail bonds businesses have been licensed and allowed to open up and open shop and operate within this city over the many years has been shameful. These businesses have been opening in spaces that they are not properly zoned for. And operating at hours which is in conflict with the neighborhoods that surround them. In a great many of these cases they've been able to advertise and run on a 24 hour basis even though none of them that we know of have been issued a conditional use permit that would allow them to do so. These businesses have been able to fly under the radar of what would be appropriate operation for many years, and we have always asked why. Just because they have been getting away with it for these many years doesn't make it right. And please, don't be disillusioned by the false notion that because they have been operating for many years inappropriately, that there must be no problems with it. There have been problems. That's why the bail bonds issue was put on the table in the first place. And many of the homeowners and residents who have had to live nearby can and will attest to this. We have watched as more and more of these businesses have opened under and infiltrated these neighborhoods. We have had to deal with the sometimes violent outbursts of their clients and the logs of property and property values. They have not been held accountability to the loss of tranquility to the neighborhoods we live in and now it's time to start doing the right thing. We need to start regulating these businesses, much better. We need to stop the long standing practice that we've had in this city of allowing them --

>> Mayor Reed: I'm sorry your time is up.

>> -- of allowing them to operate anywhere and anywhere. Thank you.

>> Mayor Reed: Kathleen Matsukas, approximation on the last name, thank you.

>> My name is Kathleen, I live in Hyde Park.

>> Mayor Reed: Lift it up.

>> Does my time start now?

>> Mayor Reed: You're okay.

>> What I found interesting was a couple of things. I read the memo you sent and the background. What I find interesting is, different terminology. Once they were financial, then personal, then they want offices, fitting into the zoning in that area, these should be stopped. Number 2, I talked to the assessor's office, our assessor, the land has to be an abatement issued if this continues, because it is affecting our property values, other than the economic stuff. So it's going to affect the revenues to the city, too. It's really critical. The other thing is the other night when you guys were here, I am appalled to hear that enforcement stops at midnight. Because you didn't tell us that at all. And as far as the planning representative, it's really disappointing that you told us, we put a mix, because everybody -- they're already there. The city needs to stop planning this stuff. The schools, and I have an autistic research permit, that I do research with autistic people, we have problems with people performing various acts behind fences. It's really appalling. I think the city has to look at a couple of things, the value of our homes, the abatement issue for lower taxes, property taxes if you're going to continue in this manner. And the safety of the children in the neighborhood. I'm very concerned about the schools have always been because it's a middle school and the criminals are right there. The summer's very concerning. There's no one at the school. There's lots of places for these people to duck into, and do all sorts of things. We don't have any regulations for that either. I would like those addressed as well by the city. Those would be about my main points. Thank you.

>> Mayor Reed: Tina Morrow.

>> Hi, good afternoon. Thank you for allowing me to speak. So I am a resident and president of the Vendome neighborhood association, which is very close to Hyde Park. And I got involved because I'm concerned about neighborhoods in San JosÉ. And so what I've been hearing from neighbors, you know, today and also, earlier, you know, if you close your eyes and you think about having a bail bonds establishment in your own neighborhood and waking up the next morning and you have to clean up after some of the unsavory behavior that has happened, I believe you were being polite by some of the things you found. There are some other things that are not nice to find, from the people that are hanging out and waiting to spring before you. I stand before you saying I do support the memorandum by Sam Liccardo. People are in support of this memo by Sam Liccardo. And I would like to call out on number 8 where it says continue the existing enforcement efforts. I'd like stronger language. I'd like enforce. You know, enforce the unauthorized after-hours operations and maybe that requires some out of the box thinking. Maybe it requires having the bail bonds hire security to make sure that people are not hanging out and being a disruption to our neighborhoods. And maybe having code enforcement spot-check them. I don't know. I don't know what the answer is. I do know that they provide a service to, you know, they're a business, they do provide a service. But it's the behaviors of the people who are hang out and waiting, that that is causing a huge problem and we don't need it in our neighborhood. Thank you.

>> Mayor Reed: The last speaker is William.

>> Good afternoon, my name is William lambson. I'm the president of the Japantown neighborhood association. I have been living in the community well over 14 years now. This has become an issue over the last couple of years. When I moved into the neighborhood we did not have this many bail bonds businesses in our community. Over the last several years the growth and proliferation has been astonishing. This has created a lot of concerns within our community. One is safety as you've heard from other speakers, we have a middle school Burnett which is a stone's throw from these businesses. People are hang out and the children that are potentially being impacted and the concerns that people are raising to me as a neighborhood leader. The other one is that as these bail bonds businesses continue to grow there is a concern about the valuation of people's homes as a result of this. And just concerns that they are now going to not realize the value of their property, because the bail bonds and ultimately you're trying to make decisions whether they stay in our community or they move. That has an overall impact on our community. The neighborhood has read Sam Liccardo's memo and completely support the memo. They do support the moratorium until this issue gets addressed. I think Eric Shanehauer said it very well, this is a land use issue. I think again when there was one or two, three or four bail bonds businesses, we did work well together, the community and the bail bonds businesses. Now that there are much more than that, I believe a moratorium is a good starting point to get these issues to the table, get people talking and to resolve this and to try to reduce the concentration of these businesses in our community so it's friendly, safe and encourages people in San JosÉ. Thank you.

>> Mayor Reed: That concludes the public testimony. Anything you need to add from staff?

>> Joe Horwedel: Mr. Mayor, staff would just add that we do agree that the issues about bail bonds are a land use issue. We think the tools with the late-night controls deal with some of those. I think the question you asked earlier about, is this a 10:00 in the evening or a 2:00 a.m. in the evening issue. I think it's a liberal of both. What we've heard from the community is around that, I think it's a challenge that, from staff's standpoint, how to move forward on this is being able to come up with a regulatory structure, if we are going to look at something different, that is discernible or that we could actually implement. We do have some concerns about trying to define bail bonds, that somehow doesn't rope in a number of other uses that really, there are not concerns about, and that suddenly we have a large class of businesses that are subject to C.U.P.s. The pawn shop is a specific enumerated use, and we have been able to define that, so it doesn't bring in other second-hand stores and things like that. So we do have concerns about that. We've done just a little bit of research looking at how other cities have dealt with that. I do as you've heard have a real concern about, if we are going to do a moratorium, there is a presumption we do need to move forward with and permanent rules to come to a resolution and that will take a significant amount of time to do that, just the work that we've done to get to today, the two memos has taken Carol away from the work we're doing on a number of other issues. Today we kicked off the sign code issue, with the first of our many focus groups. I appreciate the concerns that are out there and I just ask that we will need to do some prioritizing for this issue if the council wants to go forward with it.

>> Mr. Mayor, if I may, I'd like to jump in too. In the first staff report we provided we did indicate that we had I think issued three noncompliance issues and I'm hoping before we leave today that we have just a better understanding as to whether or not we are to move forward in the enforcement associated with those three noncompliance issues. And if so, that would mean requiring a C.U.P. for any operations after 12:00. So since that's currently the ordinance, or the zoning ordinance that we're working under, so --

>> Councilmember Liccardo: Mayor, may I speak?

>> Mayor Reed: Councilmember Liccardo, sure.

>> Councilmember Liccardo: I'm unsure why we wouldn't move ahead with enforcement. In terms of what we do, I know we need to talk to our partners, the county, and so forth. But we have to at least put a moratorium from where we are and so we can at least start these conversations. I appreciate the memo and the extensive amount of work here but honestly, I believe some of this is being made more complex than it needs to be. What we are looking for is a C.U.P. on existing use. I think bail bonds use is relatively easy to define. If they're advertising, hey, come here to get your buddy out of jail, that is a bail bonds use. I don't think this needs to happen any time in the next month or even in the next year. This is something we need to do over the long term, let's stop digging the hole.

>> Mayor Reed: As starters, we need to enforce the regulations as a baseline and work from there. Perhaps we find out how much of the trouble is caused by enforcement, how much is beyond the scope of the enforcement as part of that. I am concerned about moving ahead too quickly and getting ahead of the county even though it looks like the county's thinking differently than the direction we're going, but I can't tell from the communication. So what I'd like to make sure is the manager is in contact with the county exec and the City Attorney is in contact with the county counsel. So we at least have started that conversation with them so the members of the Board of Supervisors aren't getting upset with us, moving ahead, when they've asked to consult with them. I think it's important to maintain that relationship on this and many other things as well. One problem I have conceptually, in terms of your memo, Councilmember Liccardo, your conversation was more to do a moratorium while we figure out what to do. While your memorandum outlines a whole bunch of things we do, when we reach that conclusion, I'm not there yet. I clearly understand there's a problem, I just don't know how to fix it yet.

>> Councilmember Liccardo: And I can appreciate that, mayor. These are certainly suggestions that may well be modified as we learn more down the road. My hope is that, with a fairly minimal amount of staff work, we can get moving on the moratorium idea. That wouldn't be anything that requires significant outreach to existing businesses certainly because it doesn't impact them, at least not adversely. With regard to these other suggestions, obviously these are land use questions that may require quite a bit of conversation. So let's put that

off for the Public Safety or other committees, some way far out in advance. And at least accelerate the moratorium question.

>> Mayor Reed: Councilmember Chirco.

>> Councilmember Chirco: I just had a question concerning the moratorium. I heard the City Attorney say that, unless you're moving in a direction of change, a moratorium is inappropriate.

>> City Attorney Doyle: And we used that to operate in the context of zoning or a land use moratorium. This is for building permits which raises a certain -- another area, some practical concerns but by and large you need to have a process that you're going down that you're looking at an issue that you want to make changes to and while you're going through that process, you basically have everything at a standstill, while the decision's pending. So yes, the answer is, you need have some kind of process you're going down in order -- before you can have an effective moratorium in place that stops or put things at a standstill.

>> Councilmember Chirco: The question is, I heard the mayor and Sam say lest enforce our laws. Moratorium does not permit enforcement of the current laws on the books.

>> City Attorney Doyle: It is similar to the tree problem in Willow Glen. The police officers are charged with enforcing the laws. There are things from the staff level we can look at to make sure the laws are enforced. We should be proceeding along the lines of enforcement and continue that.

>> Councilmember Chirco: My last question has to do with time frame. I understood that moratorium versus a ban, and that line gets crossed at about two years. It's a simple yes or no.

>> City Attorney Doyle: Yes. I try to keep it short, but you know, I'm a lawyer.

>> Councilmember Chirco: I know. My question to Joe is, you outlined a work plan until 2010. You know, my concern is, if we do like a moratorium of the neighbors and Sam have requested, is it reasonable to expect that we can move thoughtfully to this conclusion within that time frame?

>> Joe Horwedel: That was my expectation, that it would be in the back half of next year that we would be dealing with this issue. Unless we went and moved some other things around.

>> Councilmember Chirco: And I wasn't entirely truthful. I have one more question. A moratorium I'm guessing would have to go to the council.

>> Joe Horwedel: Correct.

>> Councilmember Chirco: I know that there is a memo from Councilmember Constant, is this not something that we could -- well, of course, we need to talk with our partners, too. So -- is it appropriate to ask that this come back after we get the information, or could we just take it to council and have that information delivered to council?

>> Councilmember Liccardo: Could I make a request, mayor?

>> Mayor Reed: Sure.

>> Councilmember Liccardo: If the committee simply set a date to go to council say six weeks out, for instance, I think that would give us adequate time, or if it needs eight, that's fine, adequate time to check in with the county. I think they would be more concerned with moratorium than whatever else we would do about land use regulation.

>> Councilmember Chirco: I believe that it would allow Councilmember Constant to return and participate in the discussion, also.

>> Mayor Reed: Well, if we're just dealing with the issue of the moratorium, we don't have to have the answer to all the questions. And it ought to go down okay with the county because we got 12 of them, that's probably enough.

>> Councilmember Liccardo: Yes, that was an estimate. We may well have quite a bit more.

>> Mayor Reed: And then we could work on the other issues. So what if we limit this, not have the entire thing going to the council. But really the issue of the moratorium so we have some time, some space to deal with the issues before we get more of them which is really the purpose for a moratorium. Put that out about a month -- where does that --

>> Joe Horwedel: I think that would be appropriate.

>> Mayor Reed: Where does that put us?

>> Councilmember Liccardo: 28th.

>> Mayor Reed: How long does that give the staff --

>> Joe Horwedel: Perhaps move into it the first meeting in May, just working back wards for the lead times for council agendas.

>> Councilmember Liccardo: May 5th.

>> Mayor Reed: May 5th. You're going to have to draft something for the moratorium, for the staff, there's work to be done, for May 5th, we'll have several opportunities to communicate with county along the way.

>> Joe Horwedel: One question that staff has is a part of the moratorium the way the memo's written, Councilmember Liccardo is that for new businesses? And the question is, if a current business that wanted to come in for a use permit for legalizing the late-night uses would that also be subject to the moratorium? Or was it just to not have new businesses coming into the neighborhood regardless of the hour?

>> Councilmember Liccardo: Cindy it, I can tell you my intent was any mechanism for which staff could find to prohibit new businesses from going into this area. If it's additions to the existing business, we can deal with that at the council level and it will be in the public setting. Joe Horwedel thank you for that clarification.

>> Mayor Reed: It might be helpful for them to come in for C.U.P.s, this is a moratorium for new businesses.

>> Joe Horwedel: I wanted to check that.

>> Councilmember Chirco: If it's appropriate, I would make that motion that you just outlined.

>> Councilmember Pyle: Second.

>> Mayor Reed: May 5th, for the moratorium for new businesses. We would ask the staff to contact their counterparts at the county and start that consultation process that we have. Further discussion? All in favor? Opposed? None opposed, that's what we'll do.

>> Councilmember Liccardo: My thanks tot committee. [applause]

>> Mayor Reed: All right, that concludes 10.1 and 2, we'll take up 10.3, that's the consortium for police leadership and equity. There's a memorandum that we've been circulated earlier. From myself, Councilmember Liccardo and Councilmember Campos on this. And the memo is that we, we the Rules and Open Government Committee, should place the item on a future city council agenda, to initiate a process with the consortium for police leadership and equity, not a specific direction to put this on the next council agenda but for us to sort that out. Why don't we have the chief indicate how we should move this forward.

>> Rob Davis: Yes, to give you a background, the last time we met we were in the process to investigate more about the consortium in a trip we took to New York. Just brief history, this is something that happened over four years ago, where there were researchers, social scientists from around the country who came together and the main focus of their mission statement if you will is try and figure out ways if you will that they could enhance the social equity that they saw going on in statistical data surrounding police departments. So they did a conference in Stanford and they reached out to different police departments and they said we'd like you to come and discuss ways that you and we would be able to team up and try to advance this effort. And several of us went to that meeting, I believe it was in 2004 we went to that meeting. They've had subsequent meetings since and Denver was the first department out of the barn that decided they would try to work with these social scientists to see what they could learn. As a result of that experience while Denver may not have liked everything that came out of the report that the social scientists came forward with it was very clear it was a unique group, a very highly qualified group and there was value to other departments around the country to get involved in that. Steve Danotto went back East last month, and we met with the director of this group, named Phil Gont from UCLA as well as other social scientists from the following universities, Harvard Stanford, UCLA and Rutgers and others. Took place at the Russell sage foundation in New York. Its mission statement is how can we enhance social equity in a variety of other social settings in the country. We were there and they explained to us some of the projects they did over the years, race issues, gender issues, L.A. county, Newark, Toronto, Edmondton and others. Our willingness to go forward and be involved in this consortium, based upon what we have already learned over the last several years, based upon the Denver experience, we see great value in taking a leadership role in law enforcement and taking a look at data, not having the expertise to look at how it could inform us in terms of policies, procedures, equity issues that we see within disparate arrest rates and things like that. We see huge value in this. We brought that letter back, we brought it to the City Attorney's office, they agreed that we could go forward, I signed that letter of intent and we have been moving forward with the consortium since. They have informed us that the process that they normally go through whenever they engage with a city such as Denver is that they will come, they will talk to the police chief about the issues going on in the community and what we think or the chiefs think are some of the issues that they could be addressing. They have a meeting with the City Manager, whatever form of executive government there is in the city or county. They then have a meeting with the mayor and/or county executive and make themselves available to the members and members of the community, they need to get the feedback back to the community about some of the issues they could be addressing within the city. Where we are is we've reached out to them, signed the letter of intent, they could take a look to say, here is what we could do to inform you on these issues. They've already reached out to a significant number of community members in our city to poll them as well to try to establish those relationships. They're in the process of scheduling calendars so they could meet with you and other city council members that they desire. Where we are in the process is looking at what we have to offer, issues in the community, data that they could be informed or work with, we as a community figure out what they could work with, and they would come forward and say this is our proposal. Again the Russell sage foundation is the one that's sponsoring this, and the schools and the universities with whom these people are engaged. The city is not contracting with them, we're not hiring had them. They are independent third party people who could come forward with some things that could inform us.

>> Mayor Reed: Well, I had a specific question that I posed to you when we were talking about the reports and the data that we're collecting. And that was, when you go back to talk to these people, what kind of data should we be collecting? We're doing reports over and over again and you sort of get the same answer all the time. I'm not sure if they're prepared to answer that but that's one of the questions I have for them, what kind of data should we be collecting and how should we be providing that, to get better tools to analyze our problems.

>> Rob Davis: One thing we did, every chief or department representative basically took seven minutes, and put out in a round table, here is what we've got, here are some of the issues we still have in the community and we threw that out there. After we got through they told us some of the projects that they had been working on and shared with us their ideas, how they could better come in and inform us and guide us in terms of whatever data they could use. Steve Danotto has some words about the value of the data that we had been collecting and when we can take away going forward.

>> Mr. Mayor, members of the committee, I have shared several conversation west Dr. Goff with CPLE, he acknowledged that well intended and productive, the first major agency effort with the vehicle stop demographic

study at first the taser use study, while well intended and of use to inform both department ongoing training initiatives as well as community awareness issues they really don't do an adequate job of helping address some of what the community perceives as more of an interest or a need about getting to bias based issues. In fact he told me unequivocally, to determine if there's bias based or race based policing occurring, it requires more complicated concerns acknowledge with the engagement of the concerned and based on the data they can avail themselves through the department. To so it is something they're definitely willing to roll up into this process, over the next year or two, however long it takes, make sure we include broad based data, not just staying as finite as arrest stats, stops and census information.

>> Rob Davis: Final comment, what we're seeing is having talked to them, getting a feel for what their expertise is, they can assist us and inform us on what we should be looking at. Is it valuable? We should have known about this in 1999 and 2000, 2001, but if we are getting to the root causes of some of these data or statistic pieces, we need them to help us, they will ask us, we will need you to collect this collect that. We need to be able to assist in this issue. What we have been doing in the past they're informing us we really need to take a look at. And because of the amount of time it's taking us to do these things, we need to get a fresh look at our cost-benefit analysis in terms of our efforts.

>> Mayor Reed: Okay, committee members have any questions? Vice Mayor?

>> Councilmember Chirco: I don't know if I have any questions, but it sounds like it's an appropriate step, where there's a disinterested third party who is doing data analysis who has no contractual or connection to the work that's being done. It seems like just the best practice, the analysis of best practices throughout the country, so it seems like something that could benefit our city greatly. So this was a memo from the mayor and from Councilmember Campos and Councilmember Liccardo, sounds like something that would give clarity on issues we need good clarity on.

>> Mayor Reed: Since they're not asking for any money, we don't have budget decisions to make. What does the council need to do to make this work beyond the letter of intent step? We need a contract or some letter of agreement that we're going to allow them to come in, have access to confidential information, do we need to --

>> Rob Davis: Because of the efforts we made here in San José to move forward very, very quickly because we see the valve this they're kind of leaning towards us, the terms they have outlined so far, to make us a flagship, to make sure we get something valuable out of this issue. Remember they're an independent third party. They will be meeting with us, the City Manager's office, councilmembers who may want to engage them as well as members of the community. They will come back and say here is some of the things we think you could be addressing. They will give us options and we'll discuss those options. We'll examine, for lack of a better wording, a memorandum of understanding. There will be issues that we need to deal with, with POA. If there was data they need to look at, internal files, we would come back in some type of a study session and inform you, here's what we're doing.

>> Mayor Reed: All the meet and confer parameters is basically to give them access to whatever information we have to do whatever it is they think that needs to be done and they'll tell us what we need to do.

>> Rob Davis: Our access to them, unprecedented access, if they say here is what we think we can learn with this type of study, but normally police departments don't share this, would you be willing to do that? You know? , if we always do what we've always done, we'll always get what we've always got. If somebody came to me and said gee, why account statistic the way it is? We look internally to see if policies or procedures are driving this. But there are so many variables that drive that type of statistic, I don't know if I could basically give an answer that would meet the criteria of a good answer for this. We need to be able to step back and say, as a law enforcement community and profession, here is what the community is looking at, everybody's is weighed in. It will not only inform San José's practices but some best practices nationally. I think we have an opportunity to take a leadership role in this. That's what the department has a history of doing so let's step up and do that and give them access to that data.

>> Mayor Reed: What I'm interested in doing, I've looked at that data, multiple times, always have the same question, why, always have the same answer, I don't know. And I'd like to know. And if this is the way to get

beyond the gross data and get to answering the questions of why, I think it's useful to do the exercise. Especially since it's not going to cost us. That's a big bonus, but of course that does mean that these folks are independent. They will do what they think is appropriate. That's a risk we take by bringing in outsiders but I think it's appropriate and timely to try to do that. Councilmember Pyle.

>> Councilmember Pyle: I think it's great that the police department is willing and able to do this. Does this make you the first police force west of the Rockies to engage of this?

>> Rob Davis: West of Denver.

>> Mayor Reed: West of --

>> Rob Davis: You're right, mayor, we're on this side of the continental divide.

>> Councilmember Pyle: That is great.

>> Rob Davis: It is time for San José to take leadership role, we think we can do it.

>> Mayor Reed: What is the next step, the timing of that?

>> City Attorney Doyle: I think the recommendation of your memo is to set it on the council agenda, authorize the manager to move forward with the items and to let her execute my and all agreements that would be required to facilitate getting access to records and all that.

>> Mayor Reed: Okay, do we have a date that would be best for future council agenda?

>> At this point in time, I think it's going to be in June I think is preferred. The City Manager is looking at the -- we're supposed to be -- there's a lot of interest from the public intoxication task force, they were supposed to meet tonight, and that schedule is changed and there's an issue with reestablishing that schedule. I'm thinking June might be the appropriate time. But if you would like us to get back to you, we certainly can.

>> Mayor Reed: Well, June seems like a long time out there. But I know there's work to be done before it can get on the council agenda anyway.

>> I mean, we can bring it back, you know, the work plan is what you would like just to better understand how it is, the work plan that we're going to do this with, or chief, help me. Jump in.

>> Rob Davis: Simply because we might say we're coming back in June or the end of April, whatever the case maybe, it doesn't mean that there is not going to be work that immediately commences. As I stated CPLE is already engaging members of the community based upon what they're reading, based what they're hearing and seeing on google. They're obviously having a lot of conversations, what are you thinking, what are your thoughts. What is the feeling that your team has? My guess is in the next three or four weeks they'll already be scheduling the meeting. We're not suggesting that we wait until June. But we may fill in the holes after they've had the meeting with everybody, excuse me.

>> Mayor Reed: Why don't we bring it back in the next couple of weeks to the committee. It is not going to be in the first few weeks in April. Maybe we can have a better feel for the work that has to be done and the sequencing of it.

>> All right, provide you with a schedule at that point in time.

>> Mayor Reed: I believe I stated April but it would be at least May, at least.

>> Councilmember Pyle: Whatever work that is being done now would be part of the report or the final analysis, right?

>> Do you need a motion for that, mayor?

>> Mayor Reed: To bring it back in two weeks?

>> Councilmember Chirco: I would move that this come back in two weeks.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to bring it back in two weeks. All in favor, opposed, none opposed, that's what we'll do. Thank you very much. Next item is 10.4. That's a request for an approval to designate operation prom dress as a city council sponsored special event. Authorization to accept the donations of materials and services for the event, namely, prom dresses. That's from Councilmember Nguyen.

>> Councilmember Chirco: I would move approval with a notation while I'm well past prom, I did donate a dress.

>> Councilmember Pyle: And I would second that with a hearty enforcement. It's a wonderful program.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. We have a couple items with nothing to do, and that takes us to 12.2. Sunshine Reform Task Force, technology recommendations. A report back on something we had on previously. Tom Manheim will take it away.

>> Tom Manheim: Thank you, Mr. Mayor. Actually Tom Norris will be doing most of the presentation but before we get into it, since it's been a while that we've been on sunshine, I'll take a moment to let you know where we are scheduling-wise. We have two technology recommendations that we're going to address today. The remaining items we have are the balancing test and drafts and memoranda. The police and statistical reports and police records. And the drafts --

>> Mayor Reed: Can I stop you right there on the police and statistical reports. I think we had some modification of that based on the CPLE item.

>> Tom Manheim: One of the things we talked about is the possibility of coming back on the statistical reports on the 22nd of April. And we thought it might be instructive to have some of the CPLE members' representatives here to address that issue.

>> Mayor Reed: Okay, that would be good, if we can get them.

>> Tom Manheim: Right, so we're working on that. The balancing test and drafts and memoranda we're hoping to get back on April 8th. That would be two weeks from today, four weeks from today on statistical reports. Finally on police records, you directed that we go back, work with the Bert Robinson and the D.A.'s office to see if we can all reach agreement on something and then send that out to all the various stakeholders and get their input. We think we've reached agreement, we're waiting to get the finalized feedback from the District Attorney's office. Once we have that we'll be sending it out for review by the other stakeholders. And it's hard to say at this point when we would get that back. But I'm guessing it will be sometime in late May. So with that I'll turn it over to Tom Norris to run us through the technology recommendations.

>> Tom Norris: Thank you. Back in September and then October the committee reviewed task force recommendations with regard to use of technology. The only two that remain are 7.1.3 (b) in which the task force recommended that the city implement a searchable database of all votes of the councilmembers, via a searchable database via the web. And (a), recommendation of links to reports, and departments that were responsible for those reports. At that time, we requested that we defer a decision on those recommendations until we could test the new search engine for our Website that was coming into play. We've completed the testing, as outlined in the memo. The results are for the vote-tracking function, the search engine really is not an effective tool for that. It was not meant to be. You'd be just about as effective going page by page through the minutes. However, it is very effective in finding specific issues, if you wanted to know how council voted on those issues. During earlier on, we also did some research about other cities that might do this. And the only large city in California that we could find that has a database like this is City of Los Angeles. In fact I did a nationwide search and I didn't find much out

there, either. Speaking with their staff member who's in charge of putting that application together, it turns out that it would -- if we can use that as a basis for our own estimate, that it would probably cost about \$35,000 in city I.T. staff time to do that. I also want to note that to implement the recommendation would require a change in procedure for the conduct of city council and council committee meetings. First of all, all the votes would have to be through the electronic vote-tracking system. And the committees would have to also meet in the council chambers. So we don't really have a recommendation about whether to change the procedures or not. We do suggest that, due to budgetary constraints right now, there are probably some competing priorities for the funding it would take, limited though it is. The second recommendation, regarding the posting of staff reports on the department web pages, I did some testing there, and I found that the search engine is very effective in finding specific reports. Sometimes you have to do a couple of searches. It just depends on what kind of information you have going into it. It's probably not as effective as a full subject index. However, it does greatly increase our access to the reports. The recommendation itself, we don't think that's something we should require residents and other seekers of information to do. I also want to note that speaking with the I.T. staff, they are currently working on some solutions to further improve access to certain collections of records, such as the staff reports, by focusing the search engine if you so choose on those so you don't get hit wall sorts of other things. Just in short, we really don't recommend implementation of the recommendation. There doesn't seem to be great need for it and once again, there seems to be the issue of the implementation of resources.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: If it requires a lot of resources, we don't have, if wishes were horses, we'd all be riding what if we started now doing the electronic vote, going back we don't have a history, but going forward we could. Would that be a problem?

>> Tom Manheim: That's really, it's entirely at the discretion of the mayor, in terms of how the meetings are conducted. There obviously would be some additional time, just for going through the process, on the clerk -- Lee could probably talk a little bit about the process she goes through, if that would be helpful. But the other thing I would just point out is that the recommendation was not limited to city council meetings. It was for the mayor and city council. And --

>> Councilmember Pyle: But I wouldn't be including those in that thought.

>> Tom Manheim: You're just thinking about the city council and not the committees?

>> Councilmember Pyle: Uh-huh.

>> Mayor Reed: I agree with Nancy. I think there's some merit in trying to create this trackable database. But the question is, how difficult would it be. And I don't think I would include council committee meetings in that, because ultimately those are all advisory to the city council, and the real vote is the council vote. And that's what people need to be able to track. So if we could narrow this down a little bit, it might be easier, administratively to do. The real question I have: Is there a way not to have to vote 30 times on the consent agenda? Or do we -- if we have to do this, do we have to take each one of those items, you know, one vote at a time or can we sort of populate that with everything that was approved and then just deal separately with those items that are pulled off? Because that would make it a lot more tolerable in terms of running the meeting if we could do the consent calendar that way.

>> Lee Price: I think both the systems we're using could be used that way. It would show by default, 11-0. And then we would enter information that would then capture the exception. We would have to work with our vendor to see how we could implement that.

>> Mayor Reed: I'd like to know if that's possible before I sign on to something like that. I really don't want to spend another half of the-hour in council meetings just to capture the votes. That's a dreadful thought, an extra half-hour. Even if we don't include the council meetings in this thing, the price tag is still probably \$35,000 to do this even if it's in the chambers.

>> That's correct.

>> Tom Manheim: If I could say, that's based on L.A.'s experience and extrapolating how many hours it took them --

>> Mayor Reed: A ballpark estimate.

>> Tom Manheim: Yes.

>> Mayor Reed: I took as a one-time cost, what about ongoing?

>> The staff member I spoke with in the City of L.A. I.T. department, indicated they worked into the procedure, and the resource drain was minimal.

>> Mayor Reed: Because the Granicus system essentially populates the database, that's why we vote this way?

>> Tom Manheim: This is unrelated to Granicus. It pulls into the systems that run the lighting and LV, and the system, built into that system is an electronic voting system. It's a proprietary system. So we will have to work with our I.T. folks to see -- the proprietary system, I think, does create a record of each vote. And so the work that we would have to do, as I understand it, would be to take whatever record that form is and write a script that then takes each vote and populates it to something that makes sense for us when we looked at it. Because right now it's not something that you can look at and make sense of.

>> Lee Price: You would have to use the voting system in order to track it.

>> Mayor Reed: That's the catch here, you actually have to use it. Well I'd like to give the clerk the chance to try to figure out how much difficulty there might be with the sync calendar, whether it should be something that should be done.

>> Tom Manheim: Just on that we'll probably have to work with the vendor who installed the equipment, and built this entire system for us. We'll make sure we include the clerk's office on those discussions and so that they understand what we're trying to do.

>> Mayor Reed: And then at some point be prepared to answer the budget question for purposes of, when we get into the budget cycle, if the council wants to fund this project with new resources, whether it's \$35,000 or \$50,000, pick a number we set aside, it's sufficient to do it, because at some point we'll take that up in the budget cycle which we're about -- we're already in. Nancy.

>> Councilmember Pyle: We already can trace votes. Is that correct? Would that be an accurate -- even though there's a certain amount of difficulty involved we can now track votes?

>> You can track votes by going to the minutes and looking at each issue.

>> Councilmember Pyle: Exactly. Exactly. It may not be the most ideal system. But I'm trying to understand the need for this speedier way of handling -- I'm trying to figure out the motives. Is this to prove pattern of votes?

>> Tom Manheim: To see patterns, to compile a history of the votes of the elected officials.

>> Councilmember Pyle: So we have to weigh that need.

>> Tom Manheim: Right.

>> Councilmember Pyle: Versus the cost.

>> Mayor Reed: The important thing is to be able to find out what happened, how did a person vote six years ago, if you have a search engine you have 80% of the value, that's really vital. Having the database is an extra, which would be nice but it is a matter of resources but I think it has some merit.

>> Tom Manheim: If I would just -- if I could comment and commend the clerk's office on that, I know those of us in the city use their Website regularly. And it's going back to 2000, I'm not sure how far it is, but it's all right there and you can find every single vote on every single item. It's all there and available. This would simply be an enhancements ham, in terms of how people could access that information.

>> Mayor Reed: I have a question about the search. If you go to the city home page and do a search on this voting record item, is that where you search from, or do you have to get to the clerk's page before do you the search? Good you can get to this item from either page. The new search site is on the clerk's page. I think the city site is using the former search engine at this point. I can't say enough things about the new search engine. It provides all sorts of possibilities in finding things.

>> Mayor Reed: That's great. My complements to the I.T. staff getting that in and implemented. Search has been a long standing wish to have a better search than we have in the past.

>> Councilmember Pyle: Mr. Mayor, how many votes do you think we cast in a single year?

>> Mayor Reed: Thousands.

>> Tom Manheim: Is that including, Mr. Mayor, the individual consent items?

>> Mayor Reed: Electronic databases, the only way you can keep track of that stuff. So if we give you a chance to put some details to that over the next couple of weeks, in some time we can deal with it in the budget process.

>> Just on your question of how many votes you take a year, the clerk's office came up with figures, and they're -- last year there were 1920 separate council memos, and that's assuming that there's a vote on those. That's approximately how many.

>> Councilmember Pyle: That's a pretty good search engine.

>> No, that was --

>> Mayor Reed: That was the old fashioned search engine. [Laughter]

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Before we finish this item, Dan Pulcrano just came in, as member of the task force. I know you wanted to speak on this. We just had a question about the database, we think it has some merit to do it, if we shrink it down, council meetings, not all committee meetings and everything, trying to get a refined price tag so we can deal with it during the budget process with an assignment to the clerk how we deal with the consent calendar, do we deal with it 30 times or can we find a way to do it one time like we do it now. Nancy and I both think the searchable database is a good idea, we want to see how it will work but I don't want to vote 30 times on a consent calendar to make it work but it does seem like they are feasible. We can only do it on a going-forward basis. On a going backward basis the cost is much more. Do you want to add to that, Dan? We did have one question about the task force and what the task force is trying to get to so --

>> Dan Pulcrano: Well I'd just like to say, I'm very happy to hear that it will be going forward. The -- from what I've heard from the Los Angeles database, the benefit was tremendous, not just to the public, but they were very surprised at the amount of internal use that the database got. Because it just made City Hall processes more efficient. And I think in these challenging economic times, providing members of City Hall with the best tools available, and this is a very simple utilitarian way to look up the history of votes, can have tremendous economic benefits to improving efficiency, within City Hall. I think you'll be very pleased and a year or two from now you'll wonder how the city ever did without it. I think it's very reasonable to exclude the past stuff. The committee votes, the elected officials are the most important piece of this. And obviously, the consent calendar, if it's taken as a group or if there's a way to auto-fill it, that's no problem. Those compromises the way you described them are very, very reasonable and I'm very pleased to hear it's going forward.

>> Mayor Reed: Does anyone in the audience wish to speak? We'll refer it to staff to work on it a little bit more. Anything else?

>> Tom Manheim: The index of staff reports on individual department Websites.

>> Mayor Reed: I agree with staff analysis on that. There's not much added value with that considering the way we're now operating. And I do remember the old days when the clerk had to photocopy stuff and send it to our offices because we needed the staff report. It's great to have it online. I know the clerk appreciates that. Okay so that's a referral back to staff on this one.

>> Councilmember Pyle: Move to approval.

>> Mayor Reed: I'll second. Anything else on that one? Okay, motion and approval to do the staff work. I think that's all the business on the agenda. We're now to open forum. Anybody wish to address us? No? Okay. We're going to adjourn, thank you.