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>> Councilmember Nguyen: At this time I would like to call the Public Safety, finance and strategic support committee to order. We will start with item 3 on the calendar. Before we take a vote on that actually I left off staff presentation, I have someone who would like to speak on this item.

>> Madam Chair, I would like to take us to item B, we have two deferrals, item 5A, operations and performance changes in the police department, I do request a sunshine waiver. The item went out on Friday as an info memo, and was circulated as a committee report.

>> Councilmember Nguyen: All right, I saw that on here, forgot about that. Sunshine waiver on item 5 and we're going to hear that before item 4, is that correct?

>> Deanna Santana: Yes, I would like to also suggest that the order items 4 and 5 be taken out of order so item 5 is heard first and item 4 is heard last.

>> Councilmember Nguyen: Motion?

>> Councilmember Oliverio: Motion to move.

>> Councilmember Chu: Second.

>> Councilmember Nguyen: We have a motion, all in favor, opposed, item carries. Item C, consent calendar, Mr. Wall you want to speak to this?

>> David Wall: Good afternoon, Your Honor. It would be prudent to look at the auditor's report on this issue, note that there are five partially implemented recommendations. I would think that workers comp should come back at a very soon period of time to be determined by you with a list of excuses why these recommendations are not implemented. Thank you.

>> Councilmember Oliverio: Motion to accept the consent calendar items.

>> Councilmember Chu: Second.

>> Councilmember Nguyen: We have a motion to accept the consent calendar items. All those in favor? Opposed, hearing none, motion carries. We will move down to the committee reports, item 1, semiannual recommendation follow-up report for all outstanding recommendations for the six months ending December 31st, 2010.

>> Sharon Erickson: Sharon Erickson, city auditor. I could joke about how our audit recommendations are outstanding, but actually they're just open. There were 177 open audit recommendations as of December 2010. That included 49 new audit recommendations that were issued within the last six months. 19 recommendations are fully implemented. Including 11 out of 13 of the recent Team San José audit recommendations which probable establishes a new land speed record for getting recommendations implemented. There are a total of 37 audit recommendations in this report that have potential budget impacts. We totaled those impacts and it ranges from 63 to \$69 million. So there are substantial number of dollars out there. I want to say that these are already reports that you've already heard or known. So we've tried to highlight those in this report. They include everything from eliminating dual employee medical coverage where people have double coverage, \$25 co-pay, increasing animal licensing to improve cost recovery, take-home vehicles, police civilianization and span of control. There are a number of different recommendations. We will be working with the budget office to consider these recommendations as part of the upcoming budget process. I did want to point out, there was a question raised at last week's council meeting about a recommendation that we had open on disability retirement. It was on the workers comp audit but it was a potential recommendation to implement a retirement benefit payment offset for sworn employees receiving disability retirement payments that replicates the offset that we have for non-sworn employees. The question that came up was how much was that, what's the dollar value of that. We had estimated and it's in this report, \$2.8 million so I wanted to provide that information to the council. I also wanted to point out that we are following up on our efforts to encourage performance measurement and management in the organization. The purpose of that, what we're doing is, we provide staff

training on a citywide basis. We hold discussions with senior staff where possible, using performance measures to focus attention on monitoring and maintaining and of course improving where possible service levels. So we will continue that work. And with that I'm happy to answer any questions, or ask that you accept the report.

>> Councilmember Nguyen: Thank you, Sharon. Are there comments or questions from the committee?

>> Councilmember Oliverio: One question.

>> Councilmember Nguyen: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you chair, thank you auditor. Would you -- obviously you have a lot of recommendations with paragraphs on each one that detail the conversations that were going on. But if you were to bucket where those are at, like some are meet-and-confer issues, that you may recommend them, but it takes a meet-and-confer process to implement it, there might be another bucket where there's a disagreement. How would you bucket the majority of items for the general public on the ones that are still open?

>> Sharon Erickson: Many of the -- some of the reports we've done lately are heavily involved with employee costs. All of those are subject to meet and confer, and it is a long process to actually get those implemented. We're seeing movement on the rest of them. So items such as take home vehicles we're seeing movement as you can see in this report on those recommendations. Staff is really attempting to -- they are going after any potential cost savings that they can. We're seeing movement, you'll hear today the helicopters in the police department, it was part of an audit recommendation. But I think that we are seeing the impact of fewer staff out there to actually make these types of changes. So the implementation may be slowing down in some ways, the list is growing. On the other hand, there is a lot of money involved here. So they are complicated decisions. It isn't just a question of somebody being able to rewrite a procedure and calling a recommendation implemented. It's much more complicated than that.

>> Councilmember Nguyen: All right. Questions, comments? Does anyone want to speak to this item? Motion?

>> Councilmember Oliverio: Does this need to be cross referenced for council?

>> Deanna Santana: Yes I would request it to be cross referenced.

>> Councilmember Oliverio: Motion to accept the report and cross reference for city council.

>> Councilmember Chu: Second.

>> Councilmember Nguyen: We have a motion to accept the report and cross reference. All those in favor, opposed, hearing none motion carries. Move down to item 2, the monthly report of activities.

>> Sharon Erickson: You have before you the monthly report of activities. We have already crossed a couple of items off our list with the report of open recommendations and the cities association audit that you'll hear later today. I'm happy to answer any questions.

>> Councilmember Nguyen: Questions, comments? No. Motion?

>> Councilmember Oliverio: Motion to accept that monthly report of activities.

>> Councilmember Chu: Second.

>> Councilmember Nguyen: We have a motion and second to accept the monthly report of activities. All those in favor? Opposed hearing none motion carries. Thank you Sharon. And then item 3, cities association of Santa Clara County expenditure review.

>> Sharon Erickson: Right. The cities association of Santa Clara County is a collaboration of 15 cities, in Santa Clara County. The auditor's office in San José has been asked to do an annual report of the association's

expenditures and revenues. As you can see from the report, based on our review, we found the association did accurately report its revenues and expenditures to its board of directors. And has controls in place to protect the association's assets. We have provided the attached report to the association for discussion at their board level. With that I'm happy to answer any questions.

>> Councilmember Nguyen: Just one question. So of the 15 cities that are associated with this, I was just wondering, why did they pick San José or your office to conduct the audit, not that you're not qualified, I'm sure we're the best organization to do this.

>> Sharon Erickson: I try to shuffle it off to Palo Alto. Not every city has a audit. The cities association continues to ask us to do the review. It is a very -- it doesn't take any time for us.

>> Councilmember Nguyen: Okay.

>> Sharon Erickson: And it provides a useful service to them.

>> Councilmember Oliverio: Motion to accept the report.

>> Councilmember Chu: Second.

>> Councilmember Nguyen: Motion and second to accept the report, all those in favor, opposed, hearing none, motion carries. And now we'll move down to item 5 the police department's report on operations and performance.

>> Good afternoon, Madam Chair and members of the committee, Chris Moore police chief. You have before you a memorandum dated March 10th and approved March 11th on changes in operations and performance in the police department. As everybody knows, the city's budget situation has required that we take a look at the police department, and we've identified roughly \$30 million in cuts some of which we don't know if we're going to need,

come the new budget year. That will all depend upon the budget negotiations that are going on now. But we did identify a number of things that we could have some immediate savings and at the same time, identified some other operations where we could do some consolidations that we recognized would take place anyway. The great thing about being involved in these really, really tough times if there's a great thing, it's you have an opportunity to really look at everything with a completely open mind. Because you just know you can't do business the way you used to do business. So we've identified some changes. I'll go over some of them, and I'm sure you'll have a lot of questions, and I'll be happy to answer them. In particular in the bureau of investigations, because we know we're going to end up shrinking that portion of the department, we wanted to see operational efficiencies through combination or combining of units within the bureau of investigations. One example of this which I think is instructive and illustrative of what we're trying to accomplish, our bureau of investigations crime scene unit within the homicide unit, they do all the technical work at the scene of a homicide or major crimes. Very talented folks, lot of expertise that has required lots of training. In a separate traffic investigations unit where we investigate failed accidents and the major injury accidents, we have another group of folks who are also highly trained in similar types of work, but different. They're not necessarily homicides, but there are lots of measurements involved, lots of scientific instruments you have to learn how to use and it takes you a long time to learn how to do that. The idea would be to put those two together, basically remove the unit or eliminate the unit of traffic investigations and take the functions of traffic investigations teams, place them within the chain of command of the homicide unit. And then take out the auto theft unit, the few detectives we have left in that, and place that over in the robbery unit. The idea again eliminating some of the commanders that don't necessarily need to be there. Because we're going to have to eliminate all ranks if we were to look at the layoffs that we're looking at. That's just one example. We've also taken our narcotics covert investigations unit, which has generally been responsible for a lot of the covert surveillance in the department over the years as well as the narcotics enforcement. That has continued to shrink over the many years and we have less than half the detectives we had many years ago. The idea was to increase the capability of that unit by merging it together with some our other units so that you have a greater force, specifically our vice unit in the office of the chief there's an enforcement piece of that move those vice officers that do similar work and move them into a new unit we're calling the covert unit for CRU, give them greater numbers so they can do greater operations but at the same time they'll be responsible for all the investigations that vice was doing in addition to the narcotics work. So again we're

eliminating some supervisors, some managers within that trying to streamline and in accordance with the auditor's recommendations. Those are just two examples there. I'd like to cover a couple and if there are people who have other questions, our air support unit we recognize that we're looking for programmatic changes and programmatic cuts. You just can't continue to just cut bodies, you have to look programmatically. And the air support program, as valuable as it is for our department, and I was here before we had air support, and I've had it, and I tell you what: It's better to have it. Nice to have a high platform so people can see, you eliminate some risk when you have pursuits because you're able to follow it from the air, very, very valuable. The problem is, it's a fairly expensive program, generally speaking we spend 1.4 to \$1.5 million per year, primarily on personnel cost. But we also have to retrain our pilots. We have officer pilots as well as officer observers, you have rent, you have fuel, those sorts of things. If you were to take that off the top, we save ourselves like somewhere around \$1.4, \$1.5 million. We were planning on doing that, worst case scenario in July, as part of the budget cuts. The idea came up, if we're going to end up grounding that helicopter, it probably made sense to evaluate the impact of that significant service delivery reduction in an atmosphere apart from when everything else is, you know, being eliminated, identify it in isolation. And so the staff came up with a very good recommendation that I approved of, which was to go ahead and effective March shift change, which is this Sunday, to go ahead and ground the aircraft, ground the helicopter and then see what the service level reduction impact would be. Because it is a sensitive piece of equipment, as you can imagine, you have to run the fuel through it, you have to run the oil through the lines, all that, we're going to have to run the helicopter weekly. We also have to get it to hover, we have to fly it a little bit with the pilots to maintain their certifications, but that won't be their full-time job. In fact we have already moved them back to patrol effective Sunday. So their primary assignment in the piloting service will be in patrol. But they will be able to come back on their home day every other week and operate the helicopter to make sure that we maintain it. At that point we'll identify the impacts over three months, and depending on what the situation was, we may end up eliminating it. At that point we should investigate selling the helicopter, which will also save us some ongoing funds that we've identified for replacement of the helicopter, because the current aircraft would have to be replaced probably within the next 18 months, anyway. Another item I want to talk about is our main lobby hours. These are just, as expected, when you start to reduce staff, you are going to reduce service levels. And we've identified some changes in hours within our front lobby operations and some of the functions that we have at the police department. Again, rather than going into a whole lot of detail, if you have

questions, I'll be happy to answer them. Assistant chief urban is with me. We have other staff available, Lieutenant James Randall from our metro unit is also here if you have any questions.

>> Councilmember Nguyen: Thank you, chief. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, chief. Can you remind me on the helicopter, if you, instead of have a sworn officer be the pilot, you had a civilian be the pilot. What's the differential on savings?

>> There's a significant savings in that. That's one of the issues we're going to evaluate during this three-month period, gives us an opportunity to look at that. The sheriff's office, if you've read in the paper, they actually have a civilian pilot that's on contract. We like that option. We think that is something that if we're able to maintain that service, the helicopter program, and we may or may not be able to, if we do that that's something we like to do, we want to evaluate that. We have also looked at a regionalization of this program. The idea being you know that other cities and jurisdictions within our county do utilize our services and we really haven't charged for them and it's not -- it's a great asset. You know when you're up in the air you tend to cross city lines and it really does help and we've been able to assist departments on many cases. Having said that the sheriff's. One half of the week with their helicopter we run the other half and we work very well together. I'll make one note to you before we made this operational decision and notified council we also made notification to the sheriffs so that they knew and then to the county chiefs association, so they would be aware if it, and then also the Highway Patrol, because in reality not only the sheriffs will still operate their helicopter at least one half of the week, the Highway Patrol does have a helicopter that is responsible for the Bay Area. So they're not down here all the time, but they are available for air cover when needed.

>> Councilmember Oliverio: Fair enough, I appreciate that. I just think that clearly a civilian pilot would lower the cost and still enable the police on the ground to have the support of the observer. Now, on the observer side, it probably needs to be a police officer. Can you explain why?

>> Yes, I think again if we're able to maintain this program it makes sense to have a civilian pilot on contract. But in order to first of all you have to know the geography of the city and know the landmarks, take somebody who's been involved in the street, tactical decisions that are being made on the ground have to be understood by the observer, so they can guide the pilot to where they need to be, where to shine the light, those kinds of things really do require sworn experience.

>> Councilmember Oliverio: But the pilot definitely is something that could be civilianized?

>> Absolutely.

>> Councilmember Oliverio: And then on the consolidation of the departments, I would imagine then you would have the flexibility as chief, to even if a certain department has different responsibilities, and as an example, you gave homicide, auto theft, and auto investigation of crash accidents, then you as the chief could move people to what seems to be the hot item in that particular period of time. You'd have that flexibility to -- since they're all under one team, to then move them as you wish?

>> The analogous situation is what we've already done to metro and violent crime teams into metro, is they have multiple responsibilities now with a larger group, smaller combined but still larger than what each individual unit was. But as different units -- or as different problems arise, perfect example. Fountain alley, we've had a number of operations and complaints about activity in fountain alley. We've been able to address those, and at the same time when you're doing that though you're not necessarily involved in some violent crime work, some gang work. But then again, it's literally moving from problem to problem. It is a service level reduction. Nobody should be mistaken that when you push -- the analogy was pushing a balloon out, you hold it down on one end, it sticks out on the other end. So you're having to continually move around problem to problem, but the issues do get addressed.

>> Councilmember Oliverio: But regardless of what may happen in the future, as far as the unfortunate layoffs that may transpire based on the budget deficit, if you had any police department in the country of a similar size,

can have a completely different structure on how they call their departments and how they organize their team. So in the end you could have a police department of X people and have 25 departments, or you could have that same number of police officers in that department but have it a much different number. It's a matter of how you're calling units and that you're structuring them, et cetera.

>> Again, our primary focus has always been and we plan to maintain is patrol services. But when you get into specialized function within the department, again, when you start to consolidate, first of all you save on the level of managers, the lieutenants in particular. But also gives you a little more flexibility on addressing specific problems. But again, it's still a reduction in service overall.

>> Councilmember Oliverio: Sure. And those people who will be out of the management or the supervisorial positions, so they will just go down in rank, or do they go back to patrol, or depending on their skill sets they'll be in investigations, and just not the rank it was before?

>> What we like to talk about is the position, not the individual would be removed. And so therefore if that position is not there, that particular lieutenant might be reassigned. Because I can assign the command officers, will either be assigned to patrol or to another function at that rank. Again, we'll have to see what the budget situation is, because we may end up having to demote people, but that would be based on at this point seniority in rank.

>> Councilmember Oliverio: Thank you, Chief.

>> Councilmember Nguyen: Thank you. I just wanted to briefly commend you on the helicopter program. I think it's important that you're starting this on March 20th and see what type -- what kind of impact it's going to have before we decide to take an extreme move whether or not to eliminate it. I think that's a good thing. In terms of the change of hours of operations for the main lobby, I see your office is doing or your department is doing you know the appropriate adequate outreach so that the community knows that you know that they shouldn't come to the department after 5:00 and this is going to start when?

>> If I could just -- it's basically already started. The idea is, that we're always a 24-7 facility so there's a phone outside and anybody that comes to the police department 24-7 will be able to reach somebody up to communications, an officer will there be if somebody comes there and needing help, we'll be able to respond. We have signage out in front that identifies the hours, but council you've identified something that perhaps we could do better to message the public so to make sure they don't come down there. We do have it on the Web, for people who want to come down to the police department but we'll do what we can to increase the public awareness of that fact.

>> Councilmember Nguyen: Thank you. Are there any questions or comments? No. Can we get a motion?

>> Councilmember Oliverio: Motion to accept the report. And I imagine this one will be cross referenced as well since it's such an important Tom topic City Manager?

>> Deanna Santana: This is a report that was delegated to the committee. There is no formal action that's necessary for council, it's just a notice of shift change.

>> Councilmember Oliverio: Motion to accept the report.

>> Councilmember Nguyen: We have a motion to accept the report. All those in favor, opposed, hearing none, motion carries. We'll move down to our last item, item 4, report on medical marijuana zoning land use policy.

>> Joe Horwedel: Thank you, Joe Horwedel, director of Planning, Building, and Code Enforcement. Wanted to walk through with the committee the land use and zoning options related to medical marijuana that we have been working forward, and alternate discussion at Rules Committee last week of bringing the issue to city council for resolution on a faster schedule than was previously talked about. One of the things that is really critical to that, there's two critical pieces to dealing with medical marijuana, first is the land use related issues of where that would happen, and the second side is more the regulatory of the actual collective itself. That is regulated by title 6

in the police department. Today I'm going to focus on the land use side and some different options related to that. First I'm going to talk about the legal context of what we can deal with in planning and zoning side, as well as some of the police department side, some benchmarking with other cities, we have been looking at how they have been dealing with regulations, and then item by item to help with the committee's discussion and ultimately with the city council's discussion. As you're well aware, marijuana is a federally controlled substance that is really -- the challenge of how it is controlled and regulated at the federal level is kind of the quandary we're in. We don't have land use provisions that allow collectives. We have the protections under state law that allows qualified patients to utilize medical marijuana and actually grow it for their use and describes collectives as a way to work through that. And definitely there's a lot of case law that is working through the differences of how federal rules and state laws relate to this. And that's part of what makes it a little bit challenging. The state did enact a new set of regulations related to medical marijuana. In this case it added a prohibition for medical marijuana collectives being located within 600 feet of a grade k-12 school, and that's property line to property line. Sometimes the question comes up, is it door to door? We actually went back and reread the statutes, and it is property line to property line. It does allow cities to regulate that more restrictively and it's one of the things we wanted to talk about today is how much should we do that, if at all. Couple of cities that we looked at, Berkeley, Long Beach and Sacramento, and San Francisco of how they deal with it. Berkeley allows it in their commercial zoning districts. Right now they have a limitation of four in the city until they finish their licensing program. They did include a separation requirement which is something that's been talked about from time to time with San José of 600 feet. Long Beach also allows it also in the industrial zones with no cap on the number of collectives that exist in the city. They have some very stringent separations of 1500 feet, a thousand feet. As you see, a thousand feet applies to a wide range of things, not just schools but also parks and other collectives. So it's a pretty stringent standard. Sacramento allows it in the light industrial and heavy industrial zones. So it's even broader. They do have a variety of distance requirements, very convoluted how they get those together again with no maximum cap. And in San Francisco is allowing it in all their commercial industrial mixed use districts. Again they have the thousand foot separation and in the community facilities serving persons under 18. It's a different way of looking at the question that's been talked about separation or sensitive receipt or sensitive use. In San José, staff is recommended previously the commercial general the CG zoning district as the district we should be allowing the collectives to occur in. That we have looked at some of the industrial zones. We do not believe that we should

allow them in the heavy industrial or the light industrial zones. If we're going to go broader than the commercial general district, then staff would recommend that we look at the downtown zoning district, the DC primary. The combined industrial commercial, and then the industrial park categories. These are areas that generally are not adjacent to residential. These are areas that generally not adjacent to schools. And that also, have better access to transit, so that you were not sending patients into areas that really are not set up for the public to be coming in to, in late hours, which we've heard testimony in the past. And it also is most productive of our most critical hard to replace zones light industrial and heavy industrial. On the issue of sensitive uses and separations, our staff recommendation is to use the AB 2650, the 600 feet and then there are some other things that have been talked about in the past. The 500 foot separations from residential use, trails, parks, libraries, other collectives, churches, as you can see here. The one thing I will caution the committee on and when we bring this to the council is that the more separation requirements you put on, the much more difficult it is to locate these. We did some early analysis a couple of months ago, looking at -- under the old numbers before AB 2650 happened. And when you started drawing the circles away from residential, from schools, not even dealing with another collective, is that you ended up with about three or four locations in the city that you were able to do -- to locate the collectives in. So it's one that it kind of -- it runs in parallel to the question about what is the total number of collectives that would make sense, is it ten, is it 100, is there no limit? This is going to be one that is going to be really challenging. We're doing work on now mapping the 600 feet from the commercial zones as well as the combined industrial/commercial the downtown zone to look at distances from schools. We'll have that when we come to council. Unfortunately my staff person that does GIS is also doing redistricting. We're kind of jumping in between that. Clearly this is one where there is a number of policy options. We do have flexibility about the 500 feet if we want a separation from use or we can just choose to use the state number and stop there. On cultivation we have been recommending on-site only as the administration as a way to help have chain of custody of medical marijuana that dealing with sourcing of the material, that one option certainly is to go through and allow cultivation in other zones, essentially is offsite cultivation. That would require some changes to title 6 regulations that we had drafted thus far and I think as a part of the discussions that are going on with Oakland, that's one of the challenges that they're having with the federal government is on this point. Can you have large wholesale cultivation locations and still comply with the state statute. On the approval process, this is one where we have recommended doing a what we call a zoning verification. There would not be a permit issued with the land use

side of it. It would be purely a verification that is the collective in the proper zone, does it have proper separation from whatever the adjacent use is. If it's only schools we would look at that. Or if there were other separation requirements we would assess those. And sign that says it complies. And if it doesn't comply, you know we would say it does not comply. And then title 6 would deal with the actual regulations of the facility around security, the operators, you know, making sure that they are who they say they are, and that reputable individuals. And it -- one of the things we think is important with this is that it would not run with the land. So as a collective changed that, potentially they merge with each other, you would not be able to transfer that. They would have to go through and still comply with that, or get revalidated with those transfers. Certainly we could require a conditional use permit. Some cities have done that as a way to deal with separation problems. Instead of meeting a 500 foot separation from say a residential area they've used the conditional use permit to make that decision of the door to door, you know what's the walking distance to the neighborhood. The conditional use permit a means to do that versus the zoning verification, we would literally just do the simple GIS exercise. If you doing the conditional use permit you are you in the public hearing realm, and then deciding is that something the Planning Commission is going to deal with, the city council is going to deal with, versus the zoning verification would have no public hearing, no protest on that, it's a simple yes-no like a building permit. The one issue that we continue to hear a lot about is what is the total number of collectives that should be allowed. Thus far the staff has recommended ten based on the title 6 regulation process, working through. And it's really looking at what is a reasonable number. Across the city, to provide access, for medical marijuana, looking at the regulatory side of what does it mean from a staffing standpoint to provide oversight of these, clearly having 100 is really difficult to go and ensure compliance with the rules. But that is one of the things that you know is an option for the council and the committee, is recommendations on increasing or decreasing that number, what is a reasonable number around that. Kind of context we have five hospitals in the city but we probably have over 100 pharmacies, drugstore type chains. That is one depending how we approach that question I think we can rationalize what is the right number on it but it's one we still need to work through that question. Clearly there's still options out there and these have been talked about at Rules, have been talked about at council that the city could just ban medical marijuana establishments, today, none of them are legal in the City of San José. There is a call for that. We have not gone in that direction. Other cities have. Also have talked about implementing a limited moratorium on collectives until regulations are adopted. We have kind of done that and said businesses that existed or collectives that existed

prior to a certain date and the council acted that we would look at from a code enforcement standpoint and not put them at the top of the pile. And instead we would focus on businesses that were opening after the fact or the ones that had been around but had been creating problems for the neighborhood. It does have some challenges for the moratorium for something that technically isn't legal to begin with. It is something more we can talk about. Today the discussion with the committee is around do we have the right zoning districts should we look at some of the industrial districts do we want to add distance requirements between the sensitive uses beyond the state-required school separation, onsite or offsite cultivation, should we look at a use permit versus just a zoning verification, and your thoughts on maximum number of collectives.

>> Councilmember Nguyen: Thank you, Joe. Here we are at it again. I have a couple of questions. First of all, can I just ask, we have a lot of various medical plazas throughout our city. Where are they located in terms of zoning? Is that mostly in like commercial area? The reason I'm asking these questions is because I also recognize that there are a couple of collectives or dispensaries that are located in medical plaza at the moment and obviously in these medical plazas there are pharmacies, dentists, doctors offices, so to me, it would -- would make sense that, you know, there's also a collective or dispensary because they are catering to patients who have, you know, these types of needs and so where does medical plaza fit into the whole discussion of zoning?

>> Joe Horwedel: Well, medical just a generic doctor's office type use fits in with certainly the general commercial as we would recommend here. We also allow medical offices in our office zone, the CO district. And then our two normal commercial districts, the CP the pedestrian and the neighborhood commercial districts. We did look at looking, or considering collectives, in those zoning districts. Especially the office we didn't recommend because it -- the commercial office district normally backs up to residential. It is designed for small like the two-story, one-story office buildings that you find in neighborhoods as opposed to a downtown. So we didn't go there because there's been so much concern about residential interface. Same with the commercial pedestrian and neighborhood. Those are generally found in the neighborhoods themselves. I think to the extent that the council is comfortable with not putting a residential separation then I would recommend you reopen or rethink, staff certainly would rethink those commercial districts because it is very similar to how where dentists offices, chiropractors, your basic care provider when you go see the doctor are located in those zoning districts.

>> Councilmember Nguyen: And then questions on the light industrial. I think that we should include light industrial in, you know let's move forward until April the 12th and you know, we can also impose the 600 -- we haven't determined a number for it but 600 feet in the light industrial zoning. A lot of them, I wouldn't recommend heavy industrial paws we have a lot of heavy equipment and definitely we don't want people to go into those areas. But light industrial versus industrial park or the combined industrial-commercial, I don't really see that much of a difference as long as you know it's more than 600 feet away from a sensitive use so I like that to be included and brought back for the discussion on the 12th, and then we also received questions about whether or not we should allow a collective to locate within 600 feet from another collective. Because obviously I guess it's competition. We all think competition is good but in this particular case, I think that we should have a more thorough discussion that whether we should allow another collective to be in the same or you know similar spot. And then for the cultivation, sit possible, we right now at the Rules Committee we established an application fee for you know for these collectives to go ahead and apply, and when we're done with determining how many numbers of collectives we're going to have in our city, but would it be possible to also develop an application fee for those collectives who want to offer onsite cultivation? I don't know, but I think that's something that we should look at, as well.

>> Joe Horwedel: I think the fee structure we've put together so far has assumed onsite cultivation. It would be more if somebody was going to do an offsite cultivation, the cost for the city to go and do the review of that. And then you get into the question is had a also cultivation for a collective that's also located in another city that we might not even be regulated kind of the distribution of these items.

>> Councilmember Nguyen: I guess I misunderstand, then. So the application fee currently also involves onsite cultivation?

>> Joe Horwedel: We're assuming onsite cultivation. All the regulatory structure goes into how to secure the material.

>> Deanna Santana: If the council were to decide to allow for a separate site for cultivation, then we have said in our previous reports that we would like the opportunity to go back and understand how that would change our regulation, and adjust the fee upward, likely.

>> Councilmember Nguyen: Uh-huh. Okay. I understand at a in Oakland they started the whole process of doing offsite cultivation. I don't know what the status is but I think that they were asking for somewhere in the ballpark of \$250,000 for the permit if you wanted to do offsite cultivation. If we're looking at how we can generate revenue for the city I think that's a possibility but I don't know how messy it is up there right now. I don't know if staff has any update on what's going on in Oakland as to the offsite cultivation.

>> Deanna Santana: I can offer just some casual observation. I would invite the attorneys to add in a little bit more of the legal detail. You are correct they were scheduled to issue permits for cultivation earlier this year. My understanding is they received a letter from the District Attorney's office that caused for them to go into closed session and we heard that they were postponing their decision to implement the cultivation permit as well as the fees. And the -- we also understand that the city attorney's did not sign the ordinance, that enabled cultivation, and since then we have learned that the city attorney's office has stopped providing legal advice to the council on this subject. So.

>> Councilmember Nguyen: What was the reason?

>> Deanna Santana: I'm just able to -- I'm sharing with you what I know. There might be some more legal input that any of the attorneys can provide, but that was clear indication to us that there were -- that the smoothness of implementation wasn't as originally had thought out and we have always said all along that our cultivation assumes onsite as well as the permit fees.

>> Councilmember Nguyen:

>> Joe Horwedel: The last piece I will add on that a requirement, prop 26 prohibits cities from going through and collecting fees on that and using it for other purposes. It can only be used with doing the regulatory cost. We do have the tax and so that's one of the questions that how tax would apply for cultivation that's going outside the city for a collective. I don't know if that's been sorted through but we couldn't use a permit fee to put into the General Fund.

>> Councilmember Nguyen: That makes sense. Thank you. Councilmember Oliverio.

>> Councilmember Oliverio: Hi Joe, going down your PowerPoint and so on. AB 2650 is that from your understanding it's property line to property line regardless of the working route versus the distance on the.

>> Joe Horwedel: It is the distance on the map. I checked it while we were at rules committee last week, pulled it up and confirmed that.

>> Councilmember Oliverio: Again you'll come to council in April.

>> Joe Horwedel: April 12.

>> Councilmember Oliverio: Will be part of the staff report that will release early say based on your GIS and the present locations, how many are within the state law requirement?

>> Joe Horwedel: We're trying to do that analysis right now of all the ones we're aware of and map them and do the 600 feet and get a sense of who complies and who doesn't.

>> Councilmember Oliverio: And then in the staff report, beyond AB2650, which pertains to K-12 will staff look at any of the other things that council had discussed in the past, whether it be residential, library, et cetera?

>> Joe Horwedel: We had prepared the maps already that looked at general commercial zoned land that was more than 500 feet away from schools and away from residential so it ended up with little splotches around the city that met that criteria. I don't know that we did it with like parks and whatever but when we did that that's when we ended up with three or four sites around the city.

>> Councilmember Oliverio: And will your staffer come back with the option of light industrial, how many that would be in the situation? On 2650?

>> Joe Horwedel: My goal is that we come to the council with a series of maps, here's the impact of adding combined industrial-commercial. Here is the impact of downtown, of combined industrial-commercial, industrial park, light industrial, heavy industrial, so you could at least see what parts of the cities kind of turn on and turn off with that.

>> Councilmember Oliverio: Joe if I remember correctly liquor and lines licenses about 150 from residential, is that right?

>> Joe Horwedel: That sounds about right.

>> Councilmember Oliverio: Concentration of alcohol and census track so I guess there is some precedence, not having a concentration of some thing. Looking at bail bonds for example but that's a special situation which I don't know where that is. But going further here I'm certain of a -- back in October of 2009 I thought industrial would be a safe location, based on the fact it doesn't cause disruption to some folks and then clearly a trail would be a difficult one since trails are these very long things that snake through the city and I don't know if that -- that would cut out a lot of the different locations possibly.

>> Joe Horwedel: And that would be part of my caution back to council. I think there were some things that were suggested that when you stop and look at the consequence of what you take off the table versus is there in fact really an issue there, there's some that I think we would want to take off such as trails.

>> Councilmember Oliverio: Then on cultivation do other cities only require onsite cultivation?

>> Joe Horwedel: That I don't know.

>> Councilmember Oliverio: Maybe Angelique or Deanna.

>> Angelique could you come to the table please?

>> I think the question was, what do other cities do with respect to offsite or onsite.

>> Councilmember Oliverio: Or do any cities require it to be only onsite?

>> I think it runs the gamut. We have looked at cities that require it just be contained within the facilities and there are some cities that don't. We've looked at so many cities and it just depends what their policies are.

>> Councilmember Oliverio: Do you require a city that requires only offsite?

>> Not offhand. There are hundreds of them but I would have to compile a list for you. It runs the gamut and it can go both ways. It just depends on what the council wants.

>> Councilmember Oliverio: I think that at the council discussion, that might be something interesting to know so that you -- either it is or it isn't, that the different cities that have been dealing with it, and the council can make that judgment at that day, to have some of that background. Angelique or Deanna, how many cities are managing medical marijuana roughly?

>> Deanna Santana: That was a question that we were trying to answer right before the meeting, and we were fact-checking. We do know that more cities tend to ban than to regulate. And I know that we were trying to get the answer to the question. We'll make sure that we have a response --

>> Councilmember Oliverio: My guess, ASA, Americans for safe access, will know that question, and they'll probably be able to answer the question on the Oakland thing that came up earlier.

>> I think the preliminary numbers that we came up with, these were done several months back, I think we had like 100 or something cities actually ban them and maybe between, a rough estimate, I think like 30 actually, regulate them and then the remainder have moratoriums while they try and figure out what to do.

>> Councilmember Oliverio: And for the purposes of San José and our staff discussion we're really focused on the state of California even though there's 14 other states that manage it because that's a different law to their statutes. Okay, and Joe, on land use approval, under zoning under a conditional use permit that would certainly allow a Planning Commission the flexibility to grant location, that's a variance of 500 feet, for example. Now, would a C.U.P., once that's done, that runs with the land or can you make a C.U.P. part of a zoning verification process?

>> Joe Horwedel: A conditional use permit does run with the land so regardless of who the owner is it stays on the property for the term of the use permit.

>> Councilmember Oliverio: Can you make it that the zoning verification go to the planning commission or is that purely a planning director's ministerial action?

>> Joe Horwedel: It would be really a ministerial action, it either meets or it doesn't meet.

>> Councilmember Oliverio: Okay.

>> Deanna Santana: Councilmember Oliverio, can we go back to the original question you asked us around the onsite cultivation? One of the key drivers which our policy recommendation is based on is the desire to have a closed loop situation and assuring that the medical marijuana was easily traced to its source. We had struggled to what's the best regulatory recommendation to council and acknowledging that we didn't know a lot about regulating medical marijuana. We started with the onsite cultivation. We have always said there would be a policy of offsite cultivation, but it would effect the regulation permit fee. And so what the key driver here is the close-looped system.

>> Councilmember Oliverio: No, I understand staff perspective, and that's again why in October 2009 I mentioned that onsite cultivation should certainly be an option. My only question was, when you bring discussion for council, it would just be nice to know on a simple matrix or whatever, or say three cities do it this way. You know, something, I just think as far as the -- I'm just trying to help the council discussion be more -- have all the facts there, questions that may come up, type of thing. But yea, I understand the idea of the closed loop, and I think that's it. I just look forward to the council discussion that we're going to have in April and I know there's probably a number of speakers.

>> Councilmember Nguyen: Councilmember Chu.

>> Councilmember Chu: Thank you, Madam Chair. I want to restate my position. I still believe it is a federal controlled illegal substance. If you want to treat it as a medicine, it should be regulated by the federal. It's kind of - - as we go along with trying to come up with an ordinance it's really proven that it's really too complicated issue for the city to handle. And also, I don't believe it would generate revenues, because I believe there is a social cost associated with it. I know that there's other cities that does it, and I can also point out there's some other legal business in the state next to us, in Nevada, that I definitely would not bring them to the City of San José, those business may have been easy to regulate. It could generate higher revenues, and you people can argue that is really not just a need of medicine. But it was a need of basic human instincts. But those -- so I would strongly opposing it and I would register a no vote.

>> Councilmember Nguyen: Just one final clarification question Joe. Let's assume we will return a zoning district for this establishment. They would still have to comply with the sensitive use meaning that it would determine they can locate, this establishment can be located in the commercial general zoning, they still have to be away from -- 600 feet away from a school or park? That's correct.

>> Councilmember Nguyen: All right, let's take some speakers from the public. Loren Vasquez.

>> Hello, Public Safety committee nice to see you again. Just like to thank Mr. Horwedel for his hard work because every time he does staff report, I'm happy to see what he's come up with and I feel like he actually has a good grasp of the issue and I respect the recommendations that he comes up with even though I might not agree with them. So just keep in mind that we're talking about patients and safe access to medicine. And the more restrictions you put on the less access there is. So I would like to see all zones, except for residential, and commercial-pedestrian because that's for window shopping and heavy industrial because it doesn't make sense, it is not safe. I think if you put a residential buffer, 500 feet, you're going to cut out a lot of areas of the city. If you're already in a commercial zone, you're in a commercial zone. Why do you already need to be 500 feet away from residential zone. When it comes to sensitive uses really what is the reasoning, what is the assumption behind restricting from sensitive uses. It's hard for me to come up with them. I think a legitimate reason is to avoid unsupervised teenagers. Younger children they have parents with them, they are going to a daycare center, they are completely supervised. Maybe unsupervised teenagers they get uncontrolled, they linger. Libraries, community centers serving people under 18, great sensitive use to avoid. Onsite cultivation, that requiring it for a population of a city this size, with the number of patients we have is not practical. You're going to have 100,000 square foot warehouses behind a retail store. That's what you're setting up, that's with a cap of 10. That's even with a cap of 30 or 40. It's just because of the number of patients and the demand for medical cannabis in this city. Onsite cultivation should be allowed, but we also ask that you allow offsite cultivation. And I think if you don't you might be violating patients' rights to collectively cultivate, because the point is we have patients who can cultivate at their homes, they produce some extra medicine for the collectives, they bring it to the retail center, it's redistributed to other members.

>> Councilmember Nguyen: Thank you. Time is up.

>> Councilmember Oliverio: Madam Chair, thank you. Just for ASA briefly and Joe really quickly, or the city management, on the offsite cultivation, so let's say you had one location, and your second location was in light industrial, and really all that warehouse did was do cultivation, versus I have 25 people at 25 different separate private property parcels, it would seem to me that if you were going to allow offsite, that knowing where that other location was would be a lot simpler for the closed loop. Is that acknowledged as kind of more simplicity? Versus you know, any different number of parcels on people's private residence, for example?

>> Joe Horwedel: I think so. I need to wrap my head around that and think about it. I think the concept, it makes more sense that way.

>> Councilmember Oliverio: And just say my direct question to you, if an offsite cultivation is allowed to be in a separately building but not as opposed to the collective model for people, how would that work for ASA?

>> We would absolutely like to see that, but that's what they were trying to do in Oakland, and that's when the DOJ interfered, when the city actually attempted to regulate those commercial cultivation sites. It's when they let it go on in people's homes where don't ask don't tell that the Feds don't really get involved, it's when Oakland took that extra step to actually officially get involved. And that is the difficulty. So most cities regulate the individual patients by requiring record-keeping procedures inside the collectives.

>> Councilmember Oliverio: Okay. Thank you just for the perspective. And then just to stay on that, so then if you have the collective with the onsite cultivation, and they were all fairly large buildings, and that sort of gets you out of the Oakland situation? So Oakland was licensing large grow-houses, in the scenario here it sounds like and what I just heard that if you had the offsite location that was fairly large then you might trigger the Oakland issue but if you only mandated that the collective, if you mandated onsite cultivation then they would have to be of a certain size and then that would you allowed and you wouldn't trigger the Oakland issue?

>> Hi, Renee Gurza with the city attorney's office. I haven't personally spoken with the Oakland City Attorney's office, so what I'm about to say is just based on what is in the public record and, as Deanna mentioned, what has been written about the Oakland situation. It was when Oakland started to undertake a regulation of actual cultivation, that the Department of Justice did get involved, because it was going beyond this model of in California, recognizing a defense to criminal prosecution, that you may possess and cultivate, so that you can't be criminally prosecuted for possession of a controlled substance. But that having it on your person and cultivating it for your medicine, for your personal medical needs, as opposed to then going out and what some people might call having an agricultural business, I think the Department of Justice, it away was at that point that it raised a red flag, that it was beyond a defense to prosecution, to actually commencing a business in California. It was based on newspaper articles that was written about it. Did that help your question?

>> Councilmember Oliverio: I think that helped, tackling this as a level of complication, right, what would be best is to when it comes back to council is to sort of answer some of those questions as they come up. If you chose onsite cultivation, we would have to manage it if it did work, if you leave a lot of question marks council will make a decision inevitably which may not be as well thought out as it could be. So I think it is good that we took this time to come to committee to first take some of these questions, so that when it gets to council we have everything crossed as well as could be.

>> Deanna Santana: I would just offer that as we have said many times, we are not experts on regulating, we are overcoming a high learning curve. And so we have always said that we are open to hearing from council on the policy matter of offsite cultivation. But we do want to make implementation manageable and mindful of the existing resources that we have to uphold such a regulation. And on its surface while it does make sense that having a limited number of larger-scale cultivations that are within the closed loop for the collective, simplifies regulation, what we haven't talked about is the remaining 25 that you referenced earlier, there's no assumption that those are gone. And so the regulation and the enforcement would stay with the 25, and the newly developed 10 collective cultivation sites. And so I'm taking that that's part of the reason why Joe said let me have some time to think about it because there is still the dynamic of what's existing and then, what's coming on board. So because of that and the existing budget environment where we just know that there's going to be a lot less of us

around here in the coming months, we're very mindful about not taking on more than we can chew and growing into a regulatory program over time, as council has the ability to monitor and add to it. I -- we've -- that's been something that we've been very clear about.

>> Councilmember Oliverio: If I might ask the chair one more question. Chief Ober, I know from the police department perspective you've been following and have been out in the community discussing closed loop, et cetera. When we come to council will you have spoken to some of your colleagues, in other cities, to get their viewpoints on how they're managing closed loop, how they're managing onsite cultivation? I imagine there are a number of cities that are dealing with the traditional prop 215, which allows people to collectively grow it in their own home and bring it into the collective. And will you have some sort of background by the council meeting?

>> Yes. I can explain that a little more now if you would like.

>> Councilmember Oliverio: You took the time.

>> I think that I have spoken to some of my colleagues in other places and the concern when we look in other places where they are regulating where it has not outright been banned is the amount that they're dealing with in all these different groups. You asked earlier about the issues of what has triggered Oakland, did something trigger that? Well, it's all a violation of federal law and so anything could trigger it, so whether we have four or six or 20, any of those things could trigger what the federal government decides what they're going to go after and whether they're going to prosecute that or not. So I don't know if we put a certain number whether that would or would not trigger what they're going to do. With regard to the open source the closed loop situation, quite frankly that is something that I had asked and that we discussed, and the problem is, for us to regent, to ensure that that is actually coming from where it's supposed to be coming from so that we're ensuring that the city is not saying that it's okay or that somehow we're supporting some illegal activity where that's coming from another source, and it's very difficult for us to do that if we don't control where that marijuana is being grown and provided to the collective. If it's just that they can get it from anywhere, that creates an issue for us to regulate that. So that's one of the big issues with the closed loop, with not having a closed loop system.

>> Deanna Santana: And just to connect the dots here I think the item that preceded the item here on the operational and performance changes, a lot of the changes that chief talked about are happening in Chief Hoper's bureau. And so you will be faced with all the different consolidation of units and managing that and right from there managing the reduction in workforce. And at the same time, simultaneous -- so I just want to be mindful that we are -- we know that we're moving forward but we're also dealing with a couple of other major changes for BOI.

>> Councilmember Oliverio: And then chief in your study so far have you visited any of these facilities in other cities onsite visit?

>> No.

>> Councilmember Oliverio: Would it be possible for you to conduct at least one onsite visit prior to council just to see how it's working in the field or maybe someone in your department?

>> Absolutely. Actually others in my department have absolutely been onsite vista. I myself have not.

>> Councilmember Oliverio: Will you take a --

>> Yes.

>> Councilmember Oliverio: Thank you very much chief.

>> Councilmember Nguyen: Okay, we'll continue with the speakers. Paul Stewart.

>> Vice Mayor Nguyen, members of the committee, I'm going to give my comments in sort of reverse order. I think the first thing the committee has to look at as part of their recommendation to the council are the number of collectives that are allowed in San José. It is the fact of the matter that ten is insufficient to serve both the

population in general of San José and the patient population as estimated in San José which is between 55,000 and 75,000. And it grows on a monthly basis. The reason I say the reverse order is once you've made that determination, then you go to the application or verification process. Which should follow a zoning verification approach, with specific noticing requirements, that allow for further reach than would normally occur under that, and specific review items beyond that which the city would normally require. Collectives are going to be under closer scrutiny to begin with than any other business that occurs in San José. And therefore, you want to make sure those collectives that are ultimately allowed are the ones that are following prop 215, SB 420, the AG's opinion whatever statutory regulations the city comes up with. And so in addition to, here's a couple of ideas. Whether you like them, or not, what the hay? Number one, how long have they been in business? That speaks to their commitment to compassionate care, but if you don't buy that philosophical argument, it also speaks to the fly by nights that have showed up from L.A. that have increased that number up to 100 that have no intention and are operating probably by skirting the law. Number 2, do they have a business license and when was it issued? Do they have a reseller's permit, and when was it issued? Have they been paying BOE taxes, i.e, regular sales taxes, and how long? Do they provide and this is going to be somewhat at odds with the proposed ordinance ancillary services? Do they have hospice counseling? Do they have general services counseling? Do they provide certified massage therapy? Do they provide acupuncture, do they provide, for lack of a better place, a place to chill, just to come in, watch TV, et cetera, create a community center sort of ideal in the collective? That goes beyond the simple sale, exchange for medicinal cannabis. The last thing is are they involved in the community, have they established for example a community outreach officer that's available 24-7 to just SJPD and community officers --

>> Councilmember Nguyen: Thank you Paul. Your time is up.

>> Good ideas, for variation, the measure should be measure U up to 30 not a hard number.

>> Councilmember Nguyen: David Wall.

>> David Wall: I believe Councilmember Chu is on point. Everything that you're doing is a function of federal law. And at any point in time a federal hammer can come down. A wise old jurist once said, if you substitute convenience and/or expediency for the law you give license to injustice. Here, a whole myriad of injustices will occur because you either want to substitute city policy or directions for the federal law. At no point in the discussion has there been any methodologies to direct the police department for asset seizure of all of these clubs. All of their assets. They're operating illegally, that's what the federal government does. You talk about revenue. There's nothing like seizing assets and taking it away from illegal businesses. This will not be popular but leadership is usually very alone and very unpopular. But to continue on this path will only invite more problems. If this drug is needed, it should be regulated as a drug. Thank you.

>> Councilmember Nguyen: Chris coster.

>> Hello, my name is Chris colter. Thank you all for being here. Mr. Gomez, I don't know if you remember me, I used to work at Selectron, I took you on a tour of our manufacturing plant back in the day. Nice to see you again. There are a few things that I wanted to speak to. As I put it up at the Rules Committee meeting with Councilmember Oliverio, if you get a regulation in place, there are some fly by nights out there that will organically just go away because they don't want to do that. Don't limit it to ten now to drop it down to that you're just inviting lawsuits. If you do it organically through the process you're going to get rid of a lot of them. For consumption onsite, as Loren said earlier, it's just not practical to do it that way. You would be cutting off a source of medicine from the patients themselves. There are ways to go about it. I think at it sort of this way. It is sort of Safeway and tomatoes. I can grow my own tomatoes. For years I was doing a great job. Last year, the weather, it sucked. I couldn't bring any -- I couldn't give any to any friends. In years past I was going away tomatoes and zucchini. That's what collectives sort of do when someone grows something. If you give a great yield, lovely, you can pass that on. That's what they're designed for. I'm sorry -- here we go. Next one. Oh, for the sensitive uses, I think the main problem, well, you're going to be getting rid of a lot of the dispensaries that are causing a lot of problems. I think the main problem that a lot of people have is smoking onsite. I was in East Palo Alto the other night. Luckily, as they're looking into this, they reached out to San Francisco to see their best practices. They interviewed two gentlemen, I think you can actually even go to East Palo Alto's Website and find the link. They

had a video from two gentlemen that are in the Planning Department or I'm not sure exactly what. They said their best advice is, just don't allow consumption onsite. That's causing the majority of their problems. I would change that from consumption to smoking onsite. I'm a patient. I have just medicated. Did I harm anybody? Did I cause any problem whatsoever? There are other ways. I think smoking's the main problem. If you want it, get rid of the smoking onsite, fine. Thank you for your time.

>> Councilmember Nguyen: James Anthony.

>> Hi. Couple of quick things. As we go through this process, the last draft ordinances that we've seen from staff are about nine months old now. They come from the June 22nd meeting. But I do see some progress and development there. It was interesting to hear that staff has looked at Berkeley, Long Beach and Sacramento. I would urge you to look at Stockton, Napa, Richmond, Sebastopol, and I'll happily send you the Stockton ordinance, Joe. Stockton just came through a competitive process in which they ranked nine applicants for three permits. I sat there in Stockton City Hall on Tuesday and watched them do this live. It was pretty dramatic. And the three who came out on top are now going to move into a land use process which in that case would be a conditional use permit, with Planning Commission hearing, you could do that in San José, or PDZ if you do more of that. That would also involve a background check with the police department and an annually expiring operator's permit. Which kind of gets us around the land use issue, I'm not convinced this is an issue anyway. If you say this is permitted as of right, if you present verification, that would run with the land also. Do you have this annually expiring permit, that we're giving you, that's what Oakland has, an annually expiring permit, and like we're talking here, no piece of paper from the Planning Department. Stockton is going to do both, there will be full public hearing, Planning Commission review, appealable to city council but there will also be an annually expiring permit with law enforcement oversight with annually how are you doing are you going to get your permit renewed. That's something to look at. I think I got that to the city attorney's and I'll get that to you also Joe. Cultivation onsite requirement, none nowhere not at all. Only in Colorado actually. And this is because this has always been the kind of gray area in California, is if you cultivate in a centralized efficient manner in a safe manner, you draw federal scrutiny. And so patients cultivate privately on a scattered-site basis and then they bring the medicine together and they distribute it. The only city that I can think of at the moment that seems to

have a workable approach to how to license cultivation is Mendocino because they can do it outdoors and because they limit it to 99 plants per site. And that makes it so small-time that the federal government's just not interested.

>> Mayor Reed: Thank you, James.

>> And if you'd like to hear more about Oakland or statewide cultivation I can probably answer your questions. Thank you.

>> Councilmember Nguyen: And our last speaker is Pat Noop.

>> Hi, thanks for all your hard work. I just wanted to say -- oh -- thank you. I would like to see you open it up to more areas like Mr. Horwedel said, commercial general, there's only a few sites. And who knows if they're even available? If you do just light industrial, is that really safe access, there's no buses. If you open it up to commercial neighborhood, I mean you can still do your sensitive uses. But at least you're opening it up and you can evaluate each applicant on its own merits. And you can still weed out -- there's going to be so many that are going to be weeded out just because of sensitive uses so why limit yourself already. Open it up already and look at each applicant so you get the best, in the end you want the best collectives for the city. As far as the gentleman as far as the ban, it's shown all through the state, regulating gets rid of problems. Regulating actually is a benefit to the community and it's the way to go and I hope you open it up to more areas so we have safe access for patients. Thank you.

>> Councilmember Nguyen: Thank you. And that concludes the public comment. We'll go back to the committee. Councilmember Oliverio.

>> Councilmember Oliverio: Joe, the second to the last speaker brought up the idea that you'd have a -- you know we talked about the C.U.P. process and then you said it would go with the land and his idea was, if you have an annual permit it doesn't really make a difference. Could you explain that?

>> Joe Horwedel: Well I think part of what he was describing is what we are proposing through title 6 through the police permit process and that's one of the things we have to talk about is what is the term of that approval, how that would work. I'll follow up and understand, we'll look at how Stockton's doing, see if that's purely often the land use side and where is it on the police side of that.

>> Councilmember Oliverio: And can you give me the pro and con from your perspective as the planning director on having a process at the traditional planning commission process with outreach, community meeting, all that jazz, versus just doing it by a verification?

>> Joe Horwedel: Partly as Mr. Stewart said, is how do you start analyzing the question. If you look at medical marijuana as something more analogous of how a patient obtains penicillin, we do not go through a use permit process for CVS to locate a pharmacy. If you look at medical marijuana from a how we regulate alcohol then I think you go through a use permit process. Because you're looking at how the business is operating, what's going on around it, concentration, there's lot of things that operate together. Are there spill-over impacts that are happening in the parking lot from the business. And I think right now, you know, it's in that middle spot, that there is concern we hear from some members, you know, some members of the community about how certain collectives have operated because they've had that this spillover in the parking lot. And through code enforcement and the police department, we spend a lot of time on those. But I think we also have a large number that we don't have land use impacts. But I think the issues that the police department are concerned about are very real issues about where the cannabis comes from, is it coming from reputable sources or from organized crime? That is something that really is a concern that we need to as a city you know think through. But whether it's a land using issue or not, you know, I don't think it is that. And that's why we've talked about a police permit versus a land use separation. Personally, I think is how we two through and really address what are those things that would cause a community to be concerned about it and deal straight-up with it I think is important. I do have a real concern about you know especially if we're talking 30, 50, 100 collectives and bringing them in front of the Planning Commission and holding public hearings, I think council is aware of the reasonable accommodation process, and that's structured to not hold public hearings, or avoid getting into big public hearings on it, but even those still have

them. Very emotional battles, that are around lots of fears and not necessarily specific things. I think a lot of things people are concerned about are what we try to regulate through the police side of this and making sure we have reputable operators that we have control of the material that it's not coming from illicit locations versus you know that there's problems. But just like with alcohol, we do have the problem of underage selling, you know people hanging out in the parking lot and that sort of stuff. So I think we've got to work through that policy question on the 12th.

>> Councilmember Oliverio: Thank you.

>> Councilmember Nguyen: Okay, I think that concludes the comments and questions from the committee. Can I get a motion?

>> Councilmember Oliverio: I think the motion would be to accept the staff report tabbed supplemental memo and to bring that to the council in April. And then obviously staff's heard a variety of comments from the committee, and take it how you want.

>> Councilmember Nguyen: You're not going to second that? Okay I'm going to second that motion.

>> Councilmember Oliverio: It's the take it how you want part.

>> Councilmember Nguyen: All those in favor? Opposed, one, motion passes. Thank you. Okay. We have one speaker under the open forum. Mr. David Wall.

>> David Wall: There are a couple of memos, light reading for you for today. One in particular, deals with the water pollution control plant which you should pay very, very close attention to. Unlike any other city operations, water pollution control is very, very sensitive. Not many people that you could hire from the outside can operate that plant. There has been a variety of upsets, toxic upsets, over the past year or so, maybe two years, which is indicative of varying changes that they haven't been able to get ahold of. This is being taken care of by very

sound people. But what is very problematic is what's going on with the hiring of retirees for the position of general operations supervisor. This is indicators of a very substandard management culture emanating from the very top of the administration. From the City Manager, from the assistant City Manager, both deputy city managers, and the director of environmental services department. In my opinion. This is -- can't go on. The GOS that is currently a retiree, his contract is running out. They've hired another retiree to take this person's place. At what point in time is it going to be cost prohibitive to keep doing this? But better off it begs the question, what type of management are you paying for? And not only that, the director or the engineer in charge of the reclaimed water project, that's a very sensitive project, is also retiring. Now, do these employees sit back, by a city policy of waiting a month and then coming back as a rehire at a greater rate of pay because they're no longer getting their benefits, they're a highly paid consultant, is that what Mayor Reed had in mind by doing what he did? I do not know. But any manipulations of this water pollution control plant --

>> Councilmember Nguyen: Mr. Wall your time is up.

>> David Wall: -- can be disastrous.

>> Councilmember Nguyen: And at this time, we are adjourned.