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City of San José Rules and Open Government Committee.

>> Mayor Reed: Get things started. This is Rules and Open Government Committee for April 9th, 2009. First question is, are there any changes to our agenda order? All right, first is city council meeting for April 14th. I'm thinking we might need to start the closed session at 9:00. We have the follow-up on the IPA. And I'm guessing there's labor as usual. You may be gone --

>> City Attorney Doyle: I think I'm going to be in Sacramento. I don't have any litigation matters, other than the significant cases that I was going to kick another week. But we do have labor. And I don't know how long that's expected to take.

>> Probably at least 30 minutes.

>> City Attorney Doyle: Okay, then have you the IPA.

>> Mayor Reed: I think 9:30 will work, then. If we don't have any serious litigation to work on.

>> City Attorney Doyle: If something comes up between now and Friday I can let you know and then we can reschedule.

>> City Manager Figone: Perhaps we should confirm with Alex just to make sure.

>> Mayor Reed: Otherwise it will start at 9:30 and we can do that when you do the notice. Anything on page 2 or 3? Page 4 or 5? Page 6 or 7? I have a question about item 6.2. That's the airport ground transportation program and fee adjustments. That's for shuttles I think if I understand this right. And I'm just curious as to whether or not we think that's going to bring a big crowd of taxi drivers or if that's likely to be a big discussion item. That's just the shuttles but sometimes the taxi drivers get engaged in that, as well.

>> City Attorney Doyle: I don't know. The council authorized the D.O.T. director to set taxi fees, administratively. And that was done some months ago. So I don't know if the taxi companies would be interested in this. Or the drivers.

>> Mayor Reed: Just a matter of trying to figure out what the long items are for the agenda. I haven't heard anything on this, he yet. So maybe it will just be about the shuttles and not the taxis. Anything else on 6 or 7? Page 8 or 9? 10 or 11 or 12? Anything on those? Any requests for additions? I don't have anything in writing on the 14th. Did we have a referral? We do have one thing I spoke about in the council meeting, that is have the City Manager do more of a report on the budget situation. I have a statement that I put out that I don't anticipate that we are proposing to take any budget action or anything. But I think we ought to take the time to have a council discussion, can you fully inform the public, as well. So I don't know if that needs to be separately agendized but gets done under the City Manager's report. But I would like the council to ask questions if they want.

>> City Attorney Doyle: I suggest you set it separately.

>> City Manager Figone: Mr. Mayor, we'll use a PowerPoint to set out simply and then have council questions if you want.

>> Mayor Reed: I don't anticipate anything lengthy but let's have a discussion.

>> City Attorney Doyle: Is this a city item or joint city-agency item?

>> Mayor Reed: Just a city item about the General Fund. So I'd like to add that, then, as a separate item, 3.something, I suppose.

>> Lee Price: Did you want to set it for a time certain or have us add it to the agenda?

>> Mayor Reed: I don't think we need a time certain on it. But as long as the City Manager is there.

>> City Manager Figone: I'll be there.

>> Mayor Reed: Probably any time will do. Any other additions? Or changes to the agenda? No.

>> Councilmember Pyle: Move to approve April 8th agenda.

>> Mayor Reed: April 14th agenda.

>> Councilmember Pyle: Did I say that?

>> Mayor Reed: Motion is to approve April 14th agenda. All in favor? Opposed? None opposed, that's approved. Next then is the 21st draft agenda. Anything on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? Question on 4.3 on page 7 the envision San José 2040 general plan status update report. Is there a memo on this already?

>> No, the memo had gone out.

>> Mayor Reed: I just hadn't seen it. I thought maybe I'd missed it. I presume it will be out by Friday. Okay.

>> Correct.

>> Mayor Reed: Anything else on 6 or 7? Page 8 or 9? We have the PRNS pricing and revenue, requested to be heard in the evening. Is that going to be a lengthy presentation, complicated? Could get -

- could be a long thing, possibly. Been doing a lot of outreach on it. So it will be more than a couple of minutes, probably. Page 10 or 11? Well or 13? Requests for additions? We have --

>> I'd like to just go back to section 8, the Public Safety services. Right now we have the demographic study and the downtown entertainment zone status report. If the Rules Committee should decide to set the CPLE on the 21st which is later on the agenda, we would request that the CPLE presentation be heard first and we would coordinate the matter with the clerk's office.

>> Mayor Reed: First -- within this group, okay.

>> City Attorney Doyle: Mr. Mayor, just a reminder, under the joint items, the second reading of the ordinance which would increase the RDA cap as well as responses to the four objections will be on this agenda.

>> Mayor Reed: How will those responses to the four objections I assume we'll do that in writing before the meeting?

>> City Attorney Doyle: Well before the meeting, yes.

>> Mayor Reed: Anything else on 10, 11, 12 or 13? We have some requests for additions in addition to the CPLE discussion item which we'll take up in a minute. Presentation commendation to Kappa Delta fraternity.

>> Mr. Mayor, the last time this particular item came forward, it was referred as a library computer Web access policy. As it's reflected here on the request for adds it's reflected as if an item is coming from Councilmember Constant and we'd just like some clarification in terms of what's expected from staff whether additional analysis or a report should be issued. And Jane's here in case there's any questions of Jane or additional comments.

>> Mayor Reed: What did we call it the first time?

>> The first time we called it library Internet access and computer use policy and there was a staff report.

>> And that first came on in October of '07. We responded May 14th of '08.

>> Mayor Reed: Yeah, there's been a couple of hearings here.

>> Jane Light: On June 17th council meeting the item was dropped. I understand this was the same item that was dropped on June 17th from the council meeting agenda to be renoticed.

>> Mayor Reed: That's the way I understood it. Taking up the same --

>> Jane Light: Feeling it would be renoticed with the same language and title, people who would be looking for that item would recognize it. And kind of glancing at the recommendation, in terms of -- or the -- from the staff report, that language still looks pretty appropriate, too, about -- for council to consider a proposal from Mr. Constant, Councilmember Constant, which I haven't seen yet, but it will be out. And then to, if the council wishes to change the policy, give specific direction on how to do that.

>> Mayor Reed: Yeah, I think the language needs to be consistent with what we had before so people understand this is the same issues working through the system that you've been working on for quite some time. We don't have a memo out yet from Councilmember Constant. So that would have to be out by Friday in order to meet the ten-day rule, correct?

>> Uh-huh.

>> Mayor Reed: And if it doesn't get out we'll have to punt it off the 21st agenda to the new date.

>> Would the Rules Committee like us to recirculate the other memo? That was --

>> Mayor Reed: Some of us can't put our hands on the previous memo. Some of us probably can. I'm sure Judy has a council somewhere. Scott's got a copy somewhere. Reissuing that memo, I thought there was more than one --

>> Jane Light: There was a memo with a lengthy attachment due to the limits of PDF.

>> Mayor Reed: We still had one staff memo.

>> Jane Light: One staff memo which incorporates responses that came up during the Rules Committee.

>> We'll reissue.

>> Mayor Reed: It should be reissued.

>> I think that's a good idea.

>> Mayor Reed: But not until we get the memo from Councilmember Constant because if we don't get a memo by Friday then we'll take it up at Rules next week and figure out when we've got a date. But I anticipate he'll have something out.

>> Councilmember Chirco: And then the language will remain consistent from the original, and what was that language again, Deanna?

>> Well --

>> Councilmember Pyle: Public library Internet access and computer use policy.

>> Councilmember Chirco: We'll keep that same language so people will know that's the same topic coming forward again?

>> That's another question for the Rules Committee whether we should post A, Councilmember Constant's recommendation as reflected on the adds list, and staff's -- the previous item that was noticed as a B or whether just accept B, because there's two different types of policies named here that are referred to. We'd like some clarification on how to proceed.

>> Mayor Reed: Well, give us the A and the B.

>> Do the A and the B? The A would be improve the library safety and policy related by Councilmember Constant. And B would be the computer use policy which has two subsets, one is consideration of the previous items that the Councilmember Constant put out, as well as an alternative for the city council, should they decide to pass the currently policy, and that was accompanied by the staff memo with a lot of analysis.

>> Councilmember Chirco: Can I make a motion for what makes the most sense? That is -- yeah, can you -- but this one sounds like our libraries aren't safe and we're now having to look at what makes them safe, you know, the language here. But it doesn't speak to what the issue is, which was filters on the computers.

>> Right.

>> Maybe what I would recommend is that the City Clerk and I work with the council office to -- and the attorney's office to determine what should be best reflected on the agenda, and since it's requested for the 21st, we could always bring it back next week to make additional adjustments.

>> Mayor Reed: I would suggest that for purposes of getting out the amended agenda which needs to go out Friday, is that right?

>> Lee Price: Packet will go out on Friday.

>> Mayor Reed: Friday. We use the original language, A and B there and then add a C if that's what Councilmember Constant's talking about. But I believe he's talking about the same thing.

>> Okay.

>> Mayor Reed: He's just rephrased what he wants to call the policy, I think.

>> City Attorney Doyle: Yes, the Brown Act just requires you have a generic subject matter jurisdiction. What you want to call it at the end of the day --

>> Mayor Reed: It is the library policy, if the council wants to call it something other than library policy we could do that. Nancy.

>> Councilmember Pyle: I just want to -- unless Judy wants to go first.

>> Councilmember Chirco: Well, I'm concerned when you start calling something library safety and child protection policy. I know we had gotten a letter and I see Trixie Johnson is here in the audience about the league of women voters concern about language that is not clear and creates confusion about what an issue is about. And also when you start saying library safety and child protection what is that relating to? Is it saying our libraries are currently unsafe? There are lots of concerns raised by this title. When we're talking about a specific item that we've been talking about for a year and a half. I'm not comfortable -- I would defer to the City Attorney, but I think we need to be clear with our language as City Attorney has often pointed out to me.

>> City Attorney Doyle: To quote the president, language matters. The subject matter is the library Internet and computer use policy. That's the policy we've been talking about in the past, that's the subject matter. If at the end of the day you want to adopt the policy and you want to call it the library safety and protection policy that's fine but it's a subhead under the subject matter, which is the library Internet and computer use policy. But again, it's the Rules Committee how you want to agendize this. I think at a minimum you need to have the library Internet access and communities policy in the title so that for Brown Act purposes it's identified as to what you're coming back with as something on the table before.

>> Mayor Reed: I think that's where we're headed. The language is whether or not we need to at something additional to this. And it seems to me that once we have it on the agenda if Councilmember Constant or anybody else wants to propose as part of that action that we change the name of the policy that would be within the scope of whatever's on the agenda. And so that wouldn't really have to be agendized specifically because it's within the scope of the agenda item. So I guess that leads me back to why we don't need to have an item C on the list, as I understand it. Nancy.

>> Councilmember Pyle: I just want to follow up with Judy's thinking as well. Because when you say library safety and child protection policy, that's tremendously misleading. Does this incorporate all of the

children that are basically running loose at the library? Some of the libraries? You know. Does it include children on elevators?

>> Mayor Reed: Running loose is not the way Jane Light likes to describe it. [Laughter]

>> Councilmember Pyle: I think there are people guilty of using the library as a babysitting service. So I think it's tremendously misleading and I think it gives an impression that is absolutely -- number 1, that are the libraries safe? And number 2, that we need to police them. I think people are tense in the current world and we don't need them to feel less safe than they already are. Just for that purpose alone I would like to add that to the reasons that Judy submitted also.

>> Mayor Reed: Deb.

>> City Manager Figone: It is my sense, without knowing definitely what Councilmember Constant had in mind, if you take it under its old merits, the consideration by Councilmember Constant to change the computer access and Internet policies. What proposals he had would fit under that language. I think we should go with that and see what he has to issue in time for Friday's packet distribution.

>> Mayor Reed: So we'll use the language from the old, original agenda language. That should be sufficient. And we make sure we have a memo by Friday, otherwise next week on Wednesday we'll take that up.

>> City Manager Figone: Now maybe if he's evolved his thinking, our memo may not address his new proposal and then the council would have to do as you choose, in terms of any staff analysis.

>> Mayor Reed: Right. Council could say we're not there yet and do some more staff analysis as the council can always do if they want. All right, other additions, I have the redevelopment item responding to written objections to the admitted merged findings, item B is the property interest disclosures, is that a new thing, or are these the property interests disclosures that we do all along the way? We did some not too long ago.

>> City Attorney Doyle: These are just routine when we discover that certain disclosures need to be made. I don't know, Gary --

>> Gary Miskimon from the redevelopment agency. This is the rote language that has been in there before. We do that for property interest disclosures that may affect the vote. I'll check with the attorney's office.

>> City Attorney Doyle: The only thing here is not listed is the ordinance adoption.

>> The ordinance will be heard in connection with this item.

>> City Attorney Doyle: Okay, the objection should be taken first before we adopt the ordinance.

>> It was on the agenda before we got this language, to the clerk's office.

>> Mayor Reed: And on the disclosures, this is just in case there are any.

>> That's correct.

>> If I may suggest then, we need to move the item from the consent agenda since it's going to be heard after 9.X.

>> Mayor Reed: Yeah, the second reading should not be on the consent. Okay? Any other additions or changes? I have some people that want to speak on this draft policy. Or this draft agenda. Caroline Martin and Lisa Jensen.

>> Good afternoon, mayor, councilmembers, I've been here before. I'm a member of the library commission, was the chair last year. I just wanted to remind you that the library commission voted over a year ago, February 13th, 2008, to recommend that the city maintain their current library Internet access and computer use policy. And we did it after a very careful consideration from community input. We did an in-depth review of all the data and everything about the incidences that may or may not have happened, filtering options and cost. I am really glad to hear that you've made a decision to keep the same title because I know you've all gotten e-mails, a lot of interest on this issue and I think we need to keep that consistent so everybody can follow it as it goes. But basically, I'd like to see this done. Kick it to the curb, send it to the council, make a vote on it and make a decision so it isn't just out there wallowing forever. I thank you so much for your time. Good to see you.

>> Mayor Reed: Lisa Jensen and Trixie Johnson.

>> Good afternoon Mayor Reed and councilmembers and special welcome to Councilmember Chirco. My name is Lisa Jensen and I love our public libraries. It saddens me that San José is asked to take on the nanny road for an unnecessary problem. The proposal as I have seen it in the past, does not propose to address a real danger to children and teens using the Internet which is chat rooms. Such as the one recent used by a South Bay teacher to connect with over 100 young girls, one of whom he lured into a sexual relationship. Please ensure that this item is added to and remains on the council's evening agenda

for April 21st to allow for a full honest discussion about the proposed changes to our existing library Internet access and computer use policy. Please ensure the policy changes are available to us no later than Friday, April 10th as this is an item of significant public interest. Thank you.

>> Mayor Reed: Trixie Johnson and Schuyler forest.

>> Hello. A lot of what I was going to talk about has already been addressed. I'll skip to it and talk to you about a former councilmember. You're being asked to change a very significant and long standing policy. If I were asked to change a policy, I would want to know the specifics of what's going on now. I would want to know specifically what I'm being asked to do because otherwise I couldn't assess the impact on my constituents. What their experience at the library is going to be, what their service level will be and how it will be different from what they're getting now and last I'd like to know how that particular change addresses the problems that have been addressed. So I hope when you see that policy document on Friday that will address it in a manner that allows you as a councilmember to make a good decision. Thank you.

>> Mayor Reed: Schuyler forest. I'm sorry?

>> I'll decline.

>> Mayor Reed: Okay. Anybody else? All right. I have one more question on the timing issues. At least I thought I had another question. Well, 4.2, the tree removal permit process, trying to figure out if that's going to be a long discussion item or if there's been a lot of community interest. I know there's been some community outreach. Is this going to be an hour or is it going to be five minutes is what I'm trying to figure out.

>> Joe Horwedel: Mr. Mayor, I would assume it's probably closer to an hour. Staff is coming to not have the council adopt an ordinance or anything but we would like the council to have some debate about how to deal with trees on private property. We know that at least one councilmember has been pushing out into the community to come attend this meeting, and with concerns about the proposal. So we'd actually you know anticipating the debate dialogue around the issue.

>> Mayor Reed: How about the fee part of that?

>> Joe Horwedel: That's I think what's triggering the councilperson's interest in the item and that's why we want to talk with the council about it. Do we use General Fund to deal with this issue, do we stop regulating altogether, keep regulating or put more of the cost on the property owner.

>> Mayor Reed: Okay, that's good for an hour.

>> At least.

>> Mayor Reed: A few questions there. Anything else on this agenda? We will come back to the CPLE item as a separate agenda item.

>> Councilmember Pyle: Move to approve the April 27th agenda with noted corrections.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion is to approve the agenda as amended. As we've discussed here. All in favor? [ayes]

>> Mayor Reed: Opposed, none opposed, that's approved. Okay. Redevelopment agenda, April 14th.

>> Mr. Mayor, members of the committee, if I may, the agency currently has no items planned for April 14th and with your concurrence we would publish an agenda cancelling the separate agenda for the day. Those items that are in common would be covered in the city's agenda.

>> Mayor Reed: Okay, any objections to cancelling? Apparently not. April 21st. I know we have to have some work on April 21st. Let's turn to that. Anything on page 1? Page 2 or 3? Page 4?

>> Mr. Mayor, if I may members of the committee, item 6.1 refers to a lease amendment with the San José credit union. This is actually in the fourth street garage. And we've discovered that this item needs to be a joint item with the city. And so prior to publication of the agenda we'd plan on moving 6.1 to become renumbered at 8.1 on this agenda so it will be a joint and city and agency action. No change to the item, just approval of the lease as you see written right now.

>> Mayor Reed: Do we get all of the bond cap items --

>> Right, those are ton city council's agenda separately, those are covered plus the ordinance for the cap action, is also on the City's agenda.

>> Mayor Reed: As a joint --

>> It will be considered jointly, that's correct.

>> Mayor Reed: Okay. Any other changes?

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve as amended. All in favor, opposed, none opposed, that's approved. Completes the agenda review. We have no upcoming study sessions to look at right now, although we do have one on Monday. We've already seen that agenda. Legislative update we have none for today, which means no bad news from the state today. Which is a good thing. Nothing for meeting schedules. Anything from the public record the committee wants to pull and discuss?

>> Councilmember Chirco: Move to note and file.

>> Second.

>> Mayor Reed: Motion is to note and file. All in favor? Opposed? That's approved. We have no appointments to boards, commissions or committees. Item 10.1, the process for initiating designating a landmark recommendation. I have a report back from the City Attorney on that with a memo. And I'd like to recommend that we direct the staff to modify the ordinance, to change the word "shall" to "may" in the provision which says, shall initiate, the procedure for the designation of a landmark so nominated. Which is the only way the ordinance makes sense. We've been through this discussion, a couple of times. We say, why does it say shall, when we don't really have to? I think we just ought to change that ordinance and then we're at least that little confusion can be put to rest. So that's what I'd suggest that we do.

>> Councilmember Pyle: Is that a motion?

>> Councilmember Chirco: I have a question. Does it create any problem with something that's already in process? I think that's a good clarification, because it does go to council, council is the one who does the action. But since there's already something in progress, does it create --

>> City Attorney Doyle: This is a procedural change. It's not substantive change. So it is something you can do, and if the committee and the council or somebody wants to change it, as a process, it's okay. I don't -- there isn't any kind of vested right or any kind of constitutional right or any kind of claim that could be filed. So I think a procedural change is something that wouldn't affect anybody's rights. It's just the council can still forward it but it gives the council the discretion to say, do they want to or not, as opposed to the shall language which requires that they initiate the process.

>> Councilmember Chirco: Thank you. It was just a question that came up as I was looking over this because there was something in process. But no, I think it's a good clarification because the council is the body that decides.

>> Mayor Reed: It is not in a pure legal sense when it comes to council action.

>> City Attorney Doyle: I don't want to get into legal explanation. The court can't tell you you had to do it. It is directory. To clarify it so it's clear to the council, if the council wants discretion whether to do it or not, the word "may" should be better.

>> Councilmember Chirco: Nancy made the motion. I'll second it.

>> Mayor Reed: All in favor, opposed, none opposed on that. And then the staff is still working on broader issues and other issues dealing with this issue. That will continue, continue on. Right?

>> I hadn't planned to speak on this but I just had a question in regards to how this applies, because there was an item dropped from yesterday's agenda and somehow connected to this item, yet you had other landmark items that went through yesterday. And so I'm -- it's unclear to me and I haven't been able to get a clear answer as to what the situation is, specific with station 1 because that was dropped from the agenda by somebody, that isn't clear, my understanding it was the administration but I'm not clear how that applies to station 1 and why station 1 was dropped and what happens to it now because the best I can tell it doesn't show up anywhere again.

>> Mayor Reed: I for one don't believe we should take the station 1 issue up, until the ordinance change, or the other work that's done, the work that's underway by the department, looking at the ordinance that's supposed to come back to us in August.

>> Then how do you selectively pick one, then, to sort of retroactively apply this? That's what's unclear. Either all of them should be going through or none of them should be going through. It seems like.

>> Mayor Reed: It's just a procedural issue, we're going change the procedure, I think, I hope.

>> Then there's no time line for station 1.

>> Mayor Reed: Correct. Anything else on that?

>> Councilmember Chirco: I just have a question. Maybe Joe would be the one to speak to this. As we go through and we're updating our historical landmarks, would there be a mechanism within that conversation for these kinds of dialogues?

>> Joe Horwedel: There are conversations going on right now with the many different interest groups with historic preservation. We've been working with PAC SJ, consultants and with chamber of commerce

development community, around historic preservation and some changes we might do to the ordinance. Staff has got a number of those, proposals that we're moving forward with, that we're changing the code. This was part of the puzzle with that. I think it's really the question or response that the City Attorney gave, that it really is a procedural issue at this point, that can go either way in responding to what to do with fire station 1. I think the community is looking for, should it be a landmark? With the changes that have been proposed would allow the council to have that conversation, up at the front of the question, rather than after a long lengthy process through multiple stops. So from that end, I don't think it cuts out the process but I think the question is when will that conversation occur?

>> Councilmember Chirco: Thank you. I think that's helpful. And Brian, I hope that was helpful to you. In other words, it's not a conversation that's terminated. It's a conversation that will be part of a broader conversation. And as we do the work on the historical landmarks updating that ordinance, it will be part of that whole picture.

>> Joe Horwedel: Well, we're going to clean up the process itself so it's much clearer about what those steps are, and providing some flexibility for the council to be able to essentially short circumstance that process and have a conversation and decision much earlier in the process. Because the way it's set up today, it has too many loops in it where the landmarks commission says it should be a landmark. Council then is required to refer it back to the landmarks commission, for their opinion of whether it should be a landmark. The issue is having that conversation at the council, whether it should be a landmark or not.

>> Councilmember Chirco: Thank you Joe. I think this is conversation that we should have at the council. I am liaison to the landmarks commission.

>> Joe Horwedel: Now that we've been -- have done the big loop talking to a number of the groups, we're going to meet with the commission individually as well, we're going to bring all the interested parties in the room together for the next steps of that work.

>> Councilmember Chirco: Thank you for the explanation, Joe.

>> Mayor Reed: One other thing, the items approved by the council were all requested by the land owners, I think there were four of them that we went through yesterday. Item 10.2, is the consortium for police leadership and equity. We have a recommendation from the City Manager. We've got a report and then put it on the city council meeting for the 21st is one of the things we need to consider. So turn to the City Manager. There is a memo that she's done. From April 6th.

>> City Manager Figone: Thank you, Mr. Mayor, members of the committee. Today's report and presentation is designed to do a few things. First of all, introduce to you a preliminary scope and a way to get started with CPLE, which is the consortium for police leadership and equity. We also, in the report, touch on a few of the other efforts that the city administration, on behalf of the city council, is engaged in, and so I wanted to just give you that comprehensive view of several other key activities that we're either directly involved in or facilitating or partnering with other agencies. And I do, if you would indulge me, just want to take a moment to touch on a few of the points that I have any report which, at least in my voice, tell you why it was important that CPLE come in when we initiated that work, or that -- that effort. Because I know it has caused some concerns. So first of all, let me just say as your City Manager I do want to acknowledge that the statistics on police arrests for public intoxication, resisting arrests and distributing the piece that has been reported in the Mercury News, are of concern. They are of concern to me personally. I understand that they, and I acknowledge that they've raised concerns in the community. They're ones I take very seriously. They do raise questions. However, I cannot tell you, you know, what the answer is. And so I think that although there are a variety of hypotheses for what these might be, I think we're in a unique position at this point in time to have CPLE help us. They are a group, recently formed group of accomplished social scientists from leading universities around the country. They are independent of the city, I think that's important for the moment in time that we're in. We're not paying for their efforts. They're being paid for through a foundation. We won't control their findings. We can certainly have a say, I think, in the research approach. But I do think what's important is that they're able to maintain an objective and independent stance. As was quoted in the Mercury News by one of the leads, Phillip Gough, we are independent, the police department doesn't pay us. We don't have to end up liking what we're saying, we don't have to put a pretty face on everything. The goal is to improve issues of equity, particularly racial and gender equity within policing, law enforcement agencies and between agencies and the community they serve. So CPLE will set its own direction in 28 it works. The city council will have an opportunity to hear that direction, they shape their work based on input from the community. With that in mind I think we should all have some expectations from them. Clearly I expect them to seek input from across the community, including our most vocal critics, as

they seek to understand the police department and their practices and policies and where we can make improvements. I expect them to be honest and candid about their findings so the police department can benefit from their work and any improvements that they identify. Let me talk about the public intoxication task force. As you know, the council directed the administration to identify alternatives to public intoxication arrests as well as to develop objective criteria to be used when those arrests are made. There was a very clear specific narrowly defined direction to the administration and the task force. And there are members of the task force who believe that this direction was too narrow. They've advocated for a more comprehensive review around the underlying causes to the disproportionate number of arrests among Latinos. I'll be very honest to you. If that had been the council's charge to begin with, I would have recommended you not just give us 90 days, I would have recommended we bring more resources to bear from the beginning. And it really wasn't for me personally until about meeting three of the five that we had planned that it became clear to me that there was a lack of alignment between the council's initial direction and what was really troubling us, at least a large portion of the task force members, and that's very unfortunate. And perhaps something that was missed in the process. That said, I think that we should complete the task force work. We have produced 282 records through random sampling method. You've received previous memo on that process, we've delayed two meetings to give everyone time to do the analysis on the reports, and I do believe that when we come back together, although I don't expect it will be smooth sailing, because of some of the concerns about how CPLE was introduced, I do think that the work of the task force can come to a successful close. I'm committed to ensuring that the council is made aware of anything that the task force members want you to be aware of. But I also want to ensure that we stay true to your charge and really close that chapter and open a new chapter with our CPLE work. The -- so I will continue to reach out to task force members who are concerned about my role in introducing CPLE and do what I can to mend fences. But that said, I think the CPLE is a good thing for the city. And I think that they will bring to the city a set of expertise and a body of knowledge that we can truly benefit from this moment of time that we're in. We -- what I would just like to leave you with is that there are many other efforts underway in addition to the public intoxication task force. The memo talks about the community summit that La Raza round table initiated, about at the same time as the statistics were appearing in the paper. That group also had concerns and they have chosen to initiate a community summit, at the point in time that I met with La Raza last fall and heard their concerns as they were thinking out loud about what they wanted to address issues of criminal justice, education and social services, I indicated that the city would be a partner in that effort. We facilitated their receiving a grant and, out of manager's office budget we brought forward some matching funds. So we are a partner in that effort. We are not the driver in that effort. The demographic study is one that's already been through Public Safety, finance, strategic support committee. That will be before you for decision as to whether or not you want to proceed on the 21st of April. And then the downtown entertainment zone deployment model update, we have another effort underway. I brought a consultant in to help us look at best practices in downtown policing and entertainment zone policing. So many, many issues in play, all at the same time, and many efforts underway to respond to issues that have been raised by the community. Let me just say in closing that whether or not the issues raised are real, perceived, there are many things that still need to be answered. There is an issue of credibility that need to be addressed, the issue of trust, and I'm committed to providing whatever leadership I can to ensure that we retain our credibility in the eyes of the community. Because when credibility is lost, there's no easy way to regain it. That said, I am with concerned. And what I would like to appeal to the council and the community that we maintain cool heads as we move forward. The city has always risen to the greatest challenges in a very thoughtful way and I would like us to continue in that same vein and spirit. And I guess the last thing that I've thought a lot about is that day in and day out, you have over a thousand men and women in your police force doing a fabulous job in the field. San José has a great reputation. We have a generation of really very solid efforts among our police department to become really one of the best in the country. Now, that said, we, even though we have a great policing model, there's always room for improvement. And even in the best system, we can develop blind spots. We can become sometimes complacent. I'm not saying that's happened here. But clearly, we've gotten a wake-up call through the issues that have been raised. And when management gets a wake-up call, it's important that we pay attention. And I have asked the chief to not wait for CPLE, but to do all that he can to be reviewing our current practices, the data, policies and procedures, that we have in place to just start, effect change in areas that we can affect. So we are, at a moment in time, where we need to pay attention. But I would say it's very important that we watch our language and our public statements to ensure that our officers know that we support them and that we

are not tarnishing their character in the eyes of the public in our attempt to resolve these issues.

Deanna can answer any questions you have today specifically about CPLE. But I again would like to take a few moments to let you know my perspective as a City Manager and what I'm committed to resolve. Thank you.

>> Mayor Reed: Thank you.

>> Councilmember Nguyen: Thank you Deb. Since we're going to be concluding the meetings with the public intoxication task force, do we anticipate a report-back?

>> City Manager Figone: We will be coming back with the public intoxication issues specifically around objective criteria and alternatives to arrest. And then, if there are other issues which surface out of the task force's review of the records or anything else that they would like the council to be aware of those will be brought forward.

>> Councilmember Nguyen: And then, do you see any value in asking some of the task force members, the ones very active to be a part in -- partnership with CPLE, do you find any value in doing that?

>> City Manager Figone: Yes, I think there would be value. I think what I would like us to remain room for is how does CPLE think we should best engage the community. And I'd like their thoughts on that, also. But yes.

>> Councilmember Nguyen: In what capacity?

>> City Manager Figone: Well, I don't know how they go about their research, quite frankly. So I think that what we need to hear from them is how do they engage the community. And also, retain their independence. And so you know, I'm not sure that I'm answering your question. I've not personally spoken with CPLE yet. So I'm -- you know, we're just really sharing the thoughts that I would have about the questions I would have for them in order to answer your question about community engagement.

>> Councilmember Nguyen: Do you think it's probably more appropriate to ask them these questions? Will they be present at the April 21st meeting?

>> City Manager Figone: Yes, they will.

>> Councilmember Nguyen: Then my last question is, what type of information will CPLE have access to? Whatever information they have have access to, will that be kept confidential? Meaning they'll be looking at this information behind closed doors, will names and private information be redacted?

>> I'm going to defer to Stein Denato who has worked more closely with the methodology. But the information as he walks up to the microphone, the information that they will have access to is largely influenced by what they decide to research. And so they need to first understand, from various stakeholders as to what information they feel is necessary for them to look at and have information to conduct their research. But I'll let Steve go into more detail.

>> Thank you, Diana. Steve Denato from the police department. Deanna is correct. Based on what they negotiate through the respective council, university and the city. And that negotiated scope of research is based in large part on the community engagement and the concerns and the questions that are raised through the community engagement process which I'm sure they'll go into detail on April 21st at the council presentation. I know from listening to a presentation in the past that based on our experience, the Denver police department, they did look at a high number of different types of data sores, they looked at individual officers' records, they looked at complaints related to individual officers, they looked at psychological information of individual officers, they looked at CAD and arrest data of individual officers and off of a research design which allowed them to correlate information to individuals but then also in the course of doing that make sure that they stripped out any personal and identifying information so that all personal and private information was redacted and was treated therefore responsibly. They have rigorous standards. Once it goes off the paper record and goes into the computer system it's been properly sanitized so there's no harm done or liability done to the city in the process of doing the research. They also conduct interviews with members of the police force, sworn and unsworn, it is qualitative, sophisticated long term but they have rigorous frameworks to provide for confidentiality, security and so forth.

>> I'll just add also that one of their research methodologies that caught my attention was putting police officers through certain exercises to see how they respond. So it's not necessarily having access to records but also making observations and tracking their response in different scenarios.

>> Councilmember Nguyen: So one last question. Many key stakeholders raised the concerns of the issue of urgency. We have this issue going on, going on for the last couple of months and with CPLE, they're not going to come back with their findings or outcome for the next year, year and a half. How do we remedy this urgency issue?

>> City Manager Figone: I think we should talk about that on the 21st. I've asked the chief for a method to address the strategies, what he's initiated in the 647 F, what supervisors sign off, there might be some things that will help management to pay attention to what seems to be other areas of penal code that have some disproportionate numbers. So I've not yet seen his strategy. But that is something I think we can talk about on the 21st.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: Couple things just to follow on to that. April 20th CPLE, I'm looking at the schedule, CPLE people will be in to talk to councilmembers and the mayor, I presume the manager and any other staff before the meeting on the 21st. So we'll have that. The 21st is the council meeting. The 22nd -- the 22nd they'll be at this committee meeting as part of our work trying to figure out what departmental statistical reports might be good to have. And then we have the committee reports, the first one would be August, to Public Safety, finance and strategic support. And then regularly after that. Then there's another date, May 19th which is when you anticipate the public intoxication task force would come back to the council.

>> On May 19th is when we'll issue the report, anticipating this as an early distribution item. We're proposing to be before the council on June 2nd.

>> Mayor Reed: Okay.

>> The other in response to Councilmember Nguyen's question about the urgency. The committee reports offer an opportunity to hear some initial observations that CPLE is finding. And as Debra said, in the chief's strategy we may be able to pilot some additional action items or hear initially from CPLE and inform how we would move forward.

>> Mayor Reed: I would expect CPLE and this is what I would anticipate making part of the arrangement, they see we got a problem they can tell us that. They don't have to wait for a year. If there's something that needs to -- some attention immediately, I think that ought to be part of the conversation, of steps that we need to take or just things that we've missed. The other thing is, I think it's important, when the public intoxication task force reports back, that we do get the procedures, policies and the changes that the chief's already implemented, whatever those are, as part of that report. As we may not be aware of all of them. Then another question is, I know that the public intoxication task force may be looking at a sobering station. San Diego uses it, appears to be successful in some regards. If the task force thinks the sobering station is a good idea, and the manager thinks it's a good idea and we don't hear about it until June 2nd we're behind the power curve for this year's budget. How do we deal with or anticipate the feed to make budget decisions around some of the recommendations in the budget process so that we can't -- we're not in a position where we don't have any resources to implement anything that we want to do?

>> City Manager Figone: That's a great question. I think as we're buttoning up the budget, mayor, we should have some place hold of dollars or at least a place holder process to entertain those recommendations.

>> Mayor Reed: Okay.

>> Mayor Reed: The report isn't real clear, because I don't think there is clarity about the dates for the La Raza round table's summit work. So that's really not been mapped out in terms of the schedule yet. I did participate in the first of the -- I don't know what they call that, the study session or the -- it was the session that we had.

>> City Manager Figone: It was a design session.

>> Mayor Reed: They had a term for it, the design session and there were really a lot of good people that put their time into this. So I get high expectations that we'll get some quality work out of that effort. Did you have anything --

>> Councilmember Chirco: No, I think it's covered.

>> Mayor Reed: So the question for us today is whether or not we put this on the agenda for the 21st, right, is really the issue?

>> City Manager Figone: Yes.

>> Mayor Reed: With the scope and the time line and the schedule that you've recommended. Let me ask the chair of the Public Safety and finance and strategic support committee if that's okay in terms of the agenda for that committee.

>> Councilmember Nguyen: That would be fine.

>> Mayor Reed: Okay. Then we should move it ahead I think on the 21st.

>> Councilmember Chirco: And I will second Madison's motion.

>> Mayor Reed: Okay. Do we have a couple of people that want to speak to this before we get done with it. David wall and Schuyler forest.

>> I need a point of clarification, ruling from the bench as to procedure. In this CPLE document there is an issue of the demographic study but I do not know if it's appropriate to make comments at this time period.

>> Mayor Reed: Yes, you may.

>> I oppose the demographic study because I think it is a complete waste of money. But if you're going to go forward with this, please consider including having a police background check of all the club owners as part of this demographic study to see if they bring their clientele from other locations from where they had previous business, one, and two, to see if they have any pending litigation in other geographic locales. In other words if they had to close an operation in one city because they did a bad thing, they come to San José and start up causing the same bad thing. I think that would be reasonable. The cost of this background check should be borne by the club owners themselves. Thank you.

>> Mayor Reed: Schuyler forest.

>> Thank you, Mr. Mayor. Members of the rules committee. I actually just have two very quick questions, and one comment. So to the City Manager, in your memo you detailed the process by which the 200 reports were generated for the public intoxication task force. And one of the parts of the process that you referred to was the redaction process. Can you tell me, out of the total time spent, what part of that was the redaction process?

>> City Manager Figone: You know, Schuyler, I cannot. Maybe Stephen, can you answer that question? If we can't answer it, we can get back to you.

>> And my second question is, what date did the city or any city staffer have their very first conversation with the CPLE about this proposed new partnership?

>> City Manager Figone: I can't answer that question, either. I know that the chief went back for a session, and signed a letter of intent.

>> We attended a conference in New York City on the 26th and the 27th. But we held off on signing. It wasn't the CPLE back then but he did attend a conference up at Stanford University, it was the formative stages of the CPLE back I believe in '04 in which they were trying to have a collaborative process for the practitioners in for the researchers, that was the genesis of CPLE. That was late in '04.

>> He began the conversation specifically with regard to its current proposal.

>> No, no, just in general about how issues that were common and shared from the academic perspective as well as from the law enforcement perspective could be better served by combining both vertical fields to talk about it and share their experience and research.

>> I understand that. But when was the conference begin about this proposed partnership?

>> I don't know offhand. I'd have to check with the chief.

>> Please.

>> Certainly.

>> Mayor Reed: Let me add one thing, we had a conversation at the Rules Committee when we were talking about the statistical reports and one of the things that we asked the chief to do was to talk to the people. I don't know if it was CPLE or the people about the statistical reports. So if any came back we'd have some idea from this outside group about the particular report. So I don't know what the date was of that but that's another date. Those are Rules Committee meeting so --

>> Okay, and just one brief comment. All members of the council and the City Manager will be receiving a fax today, you probably have it in your in box but I did want to give you notice. There's better than much discussion at the table about engaging the community by the CPLE. I just wanted you to know that based on the way the CPLE was rolled out and concerns that we have there are community members on the public intoxication task force who are at this time declining to have the CPLE. That is the ACLU of Northern California, NAACP, the Silicon Valley debug, the African American center, the La Raza round table. Thank you.

>> Mayor Reed: Anybody else on this item? We have a motion to put it on the 21st agenda as we discussed. All in favor, opposed, none opposed, that's approved. Let's -- we have one item left, under open government issues, we need to look at the scheduled change on the sunshine reform proposals. That's 12.2. I had a question about the April 22nd record, statistical reports, CPLE people somebody is going to come here as part of that, right?

>> That will be available.

>> Mayor Reed: Anything else on this schedule?

>> Move approval.

>> Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. The only thing left is open forum. Anybody wish to address us under open forum, Mr. Wall?

>> Again, it first requires a procedural clarification. I don't want to ask any question that's already been discussed today. But I'm unsure when agendas or draft agendas are presented if you can speak on different items. To that end, I'm just going to mention it in general. On the April 14th agenda, we have a bunch of contracts listed. It would be very nice, in addition to the amount of contract, what fund designator that these carry. That's at ease for tracking and also, for comment and recommendations how moneys could either be better spent for the community. It's not listed by any designator. And that's just something that some citizens have a commanding knowledge of. Whereas some others don't. It would be very helpful to you, if those designators are placed down so you could actually see what funds are coming out of to do what contracts. My opinion. And always good to see you back Judy. I pray for your speedy recovery.

>> Mayor Reed: Anybody else want to speak under open forum? City Clerk.

>> Lee Price: Yes, thank you Mr. Mayor, just wanted to mention just for the good of the order that next week after the April 14th city council agenda, beginning at 5:30 in the rotunda we will be hosting an event to recognize all the members of the city boards and commissions. So I just wanted to take a moment to remind you of that. We'll have an opportunity to recognize all members of boards and commissions but in particular, those who have served, and moved on to do other things. So it will be a brief presentation. But I look forward to all of you being there for that. Thank you.

>> Mayor Reed: Okay, that's it, we're adjourned.