

Memorandum

TO: PUBLIC SAFETY, FINANCE AND
STRATEGIC SUPPORT
COMMITTEE

FROM: Debra Figone

SUBJECT: Public Intoxication Task Force

DATE: December 11, 2008

RECOMMENDATION

- (a) Accept the City Manager's preliminary proposed composition, process design, and expected outcomes for the Public Intoxication Task Force (Task Force).
- (b) Direct the City Manager to return to the City Council with a final report on the Task Force's work in April 2009.

BACKGROUND

On November 18, 2008, the City Council held a public hearing to discuss the issue of public intoxication. At that hearing, many stakeholders and members of the public provided testimony on this issue.

At that meeting, by motion of Councilmember Campos, the City Council directed the City Manager to establish a task force that is charged with addressing the issue of arrests for public intoxication. The Task Force should be composed of stakeholders that include, but not be limited to:

- Member from the stakeholders groups who were represented at the Council meeting
- Chief of Police, San Jose Police Department
- City Attorney's Office
- District Attorney's Office
- Public Defender's Office, and
- County Department of Corrections

In addition to the preliminary Task Force composition, the City Council directed the City Manager to return to the Public Safety, Finance and Strategic Support (PSFSS) Committee at its December 18 meeting with a work plan that reflects recommendations regarding the proposed composition, process design, and expected outcomes of the Task Force. The Task Force has

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been charged with completing its work within 90 days of the Council's approval of the PSFSS Committee report (scheduled for January 13, 2009) and for the City Manager to report its findings and proposed recommendations.

Additionally, on December 9, 2008, the Santa Clara County Board of Supervisors heard a report from County staff on public intoxication. At that meeting, the Board of Supervisors offered the Task Force its support and services to help address the matter. The County Executive's Office and City Manager's Office are in discussion to move forward on this item.

ANALYSIS

Following the November 18, 2008 City Council meeting, a staff team began to further develop the concepts introduced by the City Council that evening. The discussion that follows is in response to the Council direction issued. It provides a framework for which the Task Force will proceed with its work.

Preliminary Composition and Outreach of Task Force Meetings

In accordance with Council direction, staff is currently in process of outreaching to the specific individuals and groups identified in the Council recommendation to invite their participation or that of their designee. In addition, several individuals with knowledge and expertise in the various aspects of this issue that would be beneficial to the Task Force are in process of being invited to participate.

At the time of this writing, staff is in contact with two professional experts to participate in an advisory/resource capacity. One individual is in the field of inherent biases and the other individual is an expert on alcohol issues in the Latino community. I may seek additional input beyond the Task Force members to develop final recommendations, such as the National Council on Alcoholism & Drug Dependence, Police Officer's Association, Independent Police Auditor's Advisory Committee and any other identified resources that would be helpful in this effort.

The initial recommended membership of the Task Force is as follows:

- City Manager Debra Figone, Chair
- Assistant City Attorney George Rios, City Attorney's Office
- Police Chief Rob Davis, San José Police Department
- La Raza Roundtable
- Silicon Valley DeBug
- National Latino Peace Officers Association Santa Clara County Chapter
- National Association for the Advancement of Colored People (NAACP)
- American Civil Liberties Union (ACLU) Northern California San Jose Office
- 100 Black Men of Silicon Valley, Inc.
- African American Community Services Agency
- Latina Coalition of Silicon Valley

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- Latino Leadership Alliance of Silicon Valley
- Silicon Valley Latino Democratic Forum
- Downtown Resident
- San José State University
- Downtown Business Owner
- Independent Police Auditor
- District Attorney's Office
- Public Defender's Office
- Department of Corrections
- Santa Clara County Probation Department

As mentioned during the City Council meeting, organizations or individuals who self-identified as having an interest in the Task Force will receive electronic and written communication regarding meeting schedules, discussion items, and other relevant information pertaining to the Task Force.

Staff recommends that the Task Force hold approximately five Thursday meetings to be held at City Hall during the evening hours (6:00 – 9:00 p.m.). Meetings will be open to all members of the public and must adhere to relevant Sunshine requirements. The proposed schedule listed below is for preliminary planning purposes only.

The meeting structure will be one that provides for a balance between open dialogue and rich conversation while ensuring the Task Force stays focused on the direction of the City Council. Consequently the number of meetings and topics discussed will be set accordingly within the 90-day timeframe.

Table 1: Preliminary Public Intoxication Task Force Meeting Schedule

Date	Time	Purpose
January 15, 2009	6:00 – 9:00 p.m.	Phase 1: Identifying the Nature of the Problem
February 5	6:00 – 9:00 p.m.	Phase 1: Identifying the Nature of the Problem Phase 2: Identification and Analysis of Solutions
February 26	6:00 – 9:00 p.m.	Phase 2: Identification and Analysis of Solutions
March 12	6:00 – 9:00 p.m.	Phase 3: Prioritization of Solutions
March 26	6:00 – 9:00 p.m.	Hold as needed

Note: Meetings will be in Room 1734, CH Towers.

I will Chair the Task Force and will use the support of a professional facilitator to ensure a collaborative and inclusive dialogue. I will use Shawn Spano, Ph.D. for this purpose. Dr. Spano has worked successfully in facilitating various public dialogues in San José and surrounding communities.

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Purpose of the Public Intoxication Task Force

The purpose of the Public Intoxication Task Force will be to develop recommendations for non-criminal sanctions and alternative approaches to arrest under Penal Code Section 647(f), and additional procedures that an officer should satisfy to obtain objective evidence to support findings to arrest under Penal Code Section 647(f).

Expected Outcomes of the Public Intoxication Task Force

Expected outcomes of the Task Force will be:

- Broad-based assessment of the problem of public intoxication in San José as it relates to arrests and evidence used to support arrests.
- Identification of possible solutions to the problem; to include solutions derived from multiple sources.
- Analysis of possible solutions according to agreed-upon criteria.
- Prioritization of solutions for the City Manager to recommend to City Council.

Three-Phased Process Design

A three-phased work plan is proposed for the work of the Task Force, which is briefly described below.

Phase 1: Identifying the Nature of the Problem (Meetings: January 15)

The first two meetings of the Task Force are envisioned to clarify the purpose and expected outcomes of the group, and an extended discussion of the nature of the problem of public intoxication in San José (e.g. causes, effects, implications, etc.). To initiate the discussion, staff will provide a summary of the public comments from the November 18 Council meeting. From there, staff envisions providing a forum for Task Force members to candidly and openly discuss the problem from a community perspective. Additionally, it will be important to be mindful of the role and function of police enforcement and the importance of good, proactive police enforcement. During this phase, time will be allotted to hear about the nature of the problem from the multiple law enforcement and judicial system perspectives represented by Task Force members.

The issue of public intoxication includes social, psychological, physical and medical dimensions that can easily extend discussion beyond the charge of the Task Force. Staff envisions some flexibility in allowing Task Force members to examine the problem from multiple perspectives. However, given the tight time frame (90 days), it will probably be necessary to find alternative ways of addressing those parts of the problem that do not bear directly on the purpose of the Task Force.

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Phase 2: Identification and Analysis of Solutions (Meetings: February 5 and 26)

With a more complete understanding of the problem in place, the Task Force will then identify a range of possible solutions, focusing initially on alternatives to arrest. Importantly, solutions will be derived from multiple sources, including but not limited to stakeholders, technical experts and other research sources. Effective practices from other municipalities who have addressed similar concerns will be specifically researched and given strong consideration. Once solutions are identified, the Task Force will develop a set of criteria for analysis, and then apply the criteria to each solution. Some examples of criteria are:

- Is the alternative legally acceptable?
- Is it feasible from a law enforcement and policy perspective?
- How will it be implemented? What does implementation entail?
- What is the cost? How will it be funded?
- How will it impact the community? Businesses? Police? Others?
- Will it be effective in resolving the problem?
- How will effectiveness be assessed and measured?

Phase 3: Prioritization of Solutions (Meetings: March 12)

In the final phase, the Task Force will prioritize the solutions based on the results of their analyses and advise the City Manager on how to shape the set of recommendations that will be brought forward to City Council. Note that in shaping the recommendations, the Task Force might combine different solutions, develop a program to implement solutions in stages, or come up with some other configuration or creative approach.

Following the March 26, 2009 Task Force meeting, staff will complete the City Council report and schedule the presentation for either an April 21 or 28 City Council meetings (contingent on Sunshine noticing requirements).

Status of Other/Related Referrals

Other recommendations approved at the November 18, 2008 City Council meeting are currently under development. Below is a brief status update of the referral directing a demographic survey.

Specifically, Council directed staff to “ascertain how and whether the City can accurately survey the demographic characteristics, including race, ethnicity, gender and approximate age, of people in the downtown Entertainment Zone during key hours of heavy nightclub activity...” Staff is currently communicating with the Survey Research Center and Demography Department at the University of California at Berkeley to determine how the City should proceed with this request so that the information obtained is statistically significant and valid. Staff will need to issue a Request for Qualifications in the next month.

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PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

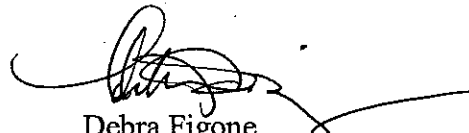
The City Council discussed Public Intoxication Policy and Service Delivery Models on November 18, 2008 and the main purpose of that session was to obtain public testimony/input for purposes of informing the City's work moving forward on this issue. Additionally, at that meeting, staff solicited participation from members of the public. Last, additional outreach associated with meetings of the Public Intoxication Task Force is described in the section above.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and Police Department.

CEQA

Not a project.


Debra Figone
City Manager