

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 1, 2006

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT:

NEW BILL:

Bill No. 2006-39 Updates the definitions of prostitution, pandering, and loitering for the purposes of prostitution. Proposed by: Bradford Jerbic, City Attorney

Fiscal Impact:

No Impact Augmentation Required

Budget Funds Available Dep./Division:

Amount:
Funding Source:

PURPOSE/BACKGROUND:

In response to court decisions, this bill will update the definitions of prostitution and pandering, as well as provide a constitutionally valid definition of the same concerning loitering for the purposes of prostitution.

RECOMMENDATION:

This bill should be submitted to the recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2006-39
2. Business Impact Statement

Motion made by STEVEN D. ROSS to Approve DO PAS

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

LOIS TARKANIAN, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

Councilwoman Tarkanian opened the public hearing.

Chief Deputy City Attorney Val Steed explained that this bill, and the one that follows, are a result of a court finding that the City ordinances governing the activities in question were overly broad and required changes. Deputy City Attorney Ben Little, Chief of the Criminal Division, summarized the Courts finding in Silver vs. District Court which invalidated the relevant County codes. Those County codes matched the City ordinances. Since corrections were being made to this ordinance, staff also submitted revised language consistent with a New York law



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found to be constitutional. Deputy City Attorney Little reviewed in great detail the revised definitions pertaining to the act of prostitution and the broadening of the statute to include lewd acts and touching of body parts whether clothed or unclothed. It is believed that this language will withstand a court challenge and allow officers the ability to act even when a determination as to touch and clothing cannot be made. A third person has also been incorporated. Public place has been defined for the loitering language. The manner in which a person can aid and abet prostitution has been spelled out within the code.

Councilman Ross verified that a cab driver and hotel personnel could be charged with aiding and abetting under the revised language.

Deputy City Attorney Little indicated that in other states the asking if someone is a police officer and the officers failure to disclose constitutes equipment. The new language focuses on the intent of the question to avoid arrest for prostitution and that intent is itself a misdemeanor. Requests to expose themselves or to touch either party for the intent of prostitution, is a separate misdemeanor.

Councilman Ross discussed with Deputy City Attorney Little that the City does not prosecute felonies or gross misdemeanors as that is the jurisdiction of the District Attorney.

Deputy City Attorney Little added that the last language revision involves acts of prostitution with drug activity to know, sell, buy and to trick-roll them. There have been fatalities as a result. Trading sex to drugs is a separate misdemeanor, drugs used for enhancing the act of prostitution is also a separate charge.

Councilman Ross expressed concern over an article claiming cheerleaders participating in a carwash could fall under the language proposed. Sgt. Chandler, Metro Vie Section, discussed the article and replied that carwash participants do not ask the questions prostitutes ask of undercover officers. Officers are trained to reasonably apply the code. Deputy City Attorney Little added that there must be an attempt to violate the prohibition against prostitution.

Councilman Ross also discussed with Sgt. Chandler his experience that focusing on enforcement in the City results in 90% more lock up time than occurs in the Country. Deputy City Attorney Little confirmed that this new language would strengthen the City's ability to deal with this type of criminal activity.

Sgt. Chandler advised the Committee that trick rolls in the last six months represents over ten million dollars in theft. Most victims are married and do not report the crime. In addition, the proposed revisions will be especially helpful with addressing juvenile prostitution. The STOP program focuses on 11 to 18 year olds and has been negatively impacted by the court finding. Deputy City Attorney Little noted that there is also an eight-hour John Program class being required through the District Court. Those participating in the program have a sharp drop in repeat offending. Another serious concern is that there are currently 418 prostitutes who are HIV positive.

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Lt. Williams added that Metro is now seeing second generation of prostitutes who are the children of prostitutes. Juvenile prostitutes are viewed by Metro as being victims. This language as proposed will provide teeth to address the problem.

Councilman Ross and Councilwoman Tarkenton recommended everyone involved on the revised language and closing the gaps that existed in the past.

Councilwoman Tarkenton closed the public hearing.

