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>> Ed Rast: Call together the Sunshine Reform Task Force meeting. Agenda item 1 is approval of the meeting minutes. Let's start off with January 18th, 2007.

>> Virginia Holtz: Virginia Holtz. Move approval.

>> I will be abstaining because I was not present.

>> Ed Rast: Do we need more time to take a look at them? Call for the vote, all in favor, all opposed, we have one abstentions, Brenda and Judy. Meeting of February 1st, second item. Do we have a second? Discussion?

>> I'll be abstaining as I was not present at that meeting.

>> Ed Rast: Mary Ann.

>> Mary Ann Ruiz: I have a minor correction to state, the spelling of my name.

>> Ed Rast: That's not minor.

>> Mary Ann Ruiz: Well, the spelling is close.

>> Ed Rast: the motion maker and the second amended the motion. Is there any further discussion? All in favor? All opposed and we have one abstention, two abstentions. That is Judy and Susan. Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. I know we were talking about moving the public meeting section.

>> Ed Rast: That's what we're going to talk about.

>> Ken Podgorsek: Are we going to talk about that next? Go ahead.

>> Ed Rast: Comments from the chair. We had three from my understanding very successful committee meetings. On public meetings, closed sessions, and public information. Each of those groups came back with a report and recommendations. And one of the things I was going to suggest tonight on some of these things, especially in public meetings that we've been over many times, if we get to a point on some of these that we cannot agree, we'll discuss it for a period of time and then make a motion. And if necessary come up with a minority recommendation on it. The other thing to think about it is we still a couple more weeks before the report to council goes forward. So we will try to identify if there's any outstanding issues on a particular item. One or two people on either side of that issue, and we'll move forward with a motion to approve it. And then suggest that those people maybe in the next week or two meet and see if they can come up with some sort of a compromise. And if we can't we'll just continue, stay with the motion and go forward with that recommendation. Of course we can talk about that as we go along. Let's see. The other thing is that we -- let's go ahead and have the review of the meeting material from staff. Sheila.

>> Sheila Tucker: Sheila Tucker City Manager's office. I'm going to make this brief. I know Tom will spends some time on the public information packet. The last document is going to be the subcommittee recommendations for public meetings. That will be our first document for this meeting. The second document, I kept intact all public information items and once again Tom will walk you through what those materials are.

>> Ed Rast: Thank you Sheila. Dan or Tom.

>> Dan McFadden: Dan McFadden. On Wednesday we had a meeting with the senior staff, we had an hour and a half session where we brought them up to speed on the work of the task force here and we presented for a half an hour. Sheila presented on open meetings and Lisa on closed session. Tom on public information. Eva talked about phase he 2 in the future and then Lee talked about budget and then we had an hour of questions and answers. And we have received some e-mail. So I think it was a pretty good session. It was the first one that we had with the departmental staff. And we'll have one or two more hopefully here in the next month.

>> Ed Rast: What was the overall tone? Were there questions?

>> Dan McFadden: There were questions for sure. I think the tone was in would represent a change in procedure, process. But I think it was positive. And they had some questions like we did on ancillary body as you can well imagine. And the rationale behind some of the decisions. But we didn't really get -- we had to move along, we talked broadly about away we were doing and where we were going and asked for them to actually e-mail specific questions and concerns. So we're following up on that now.

>> Ed Rast: Dan, I assume from your comments that there's less concern as there was when the task force originally started. You indicated the task force, there was a lot of concern from senior staff.

>> Dan McFadden: I think we all get used to this as we go along. [laughter]

>> Dan McFadden: I think you know, there is, you know, it's what you don't know. So we were able to lay in front of them the product to date. So they were able to see what we're doing and I think that makes a big difference. And I think we conveyed to them that the Sunshine Reform Task Force is concerned about getting a comprehensive ordinance but they're careful to not overburden the staff. It is a balancing and we had a general discuss. I think you know, we're going to have to do some more work as we bring more in, and as it reaches down into departments. But I think it was a very good exercise.

>> Ed Rast: Tom. Do you have any comments or Eva?

>> I think Mr. Pulcrano has covered it well, thanks.

>> Ed Rast: I missed that I'm sorry.

>> I'm sorry Mr. McFadden has covered it well. Wrong Dan, my apologies.

>> Ed Rast: It seems that Dan Pulcrano is an employee, the time he spends in City Hall. [laughter]

>> Ed Rast: All right. Okay, the next item is wrap-up of discussion of the public meetings, review of the committee recommendations. Ken Podgorsek.

>> Ken Podgorsek: I talked briefly with the chair asking the consideration of whether we should move this item to after the public information. Partly because I was concerned that I don't want -- I think we can get through public information tonight, and I'm -- I was a bit concerned that you know maybe we might get stuck on public meetings again. But with the indulgence of the members, we can get forward.

>> Ed Rast: Let's go forward.

>> What you have is a document on the public meeting recommendations. Let me tell you what the major changes are. First, we, after our last meeting it became extremely apparent there was no way to deal with nongovernment bodies without defining indemnify in a third category. We separated nongovernment bodies out into a totally third definition. This freeze up a lot of discussion. So what we're going to do is I'll go through the three definitions. I won't read them. You have them before you. The committee recommended, that are slightly different than the previous. All of the policy body A through E is exactly the same as I remember it. We have added item F, that item F is related to any body that allocates or advises a policy body or department head regarding the allocation of over \$200,000. There are grant programs in the City of San José that allocate more than \$200,000 in funds. We had a letter from the council of nonprofits asking us to take a better look at it, being a -- being executive director of a nonprofit, and I have been aware for a while that there have been some challenges in terms of getting information out prior to meetings. A lot of the commissioners and frankly to be honest with you not even just as much an issue related to the public as it is the people sitting on these bodies are getting this information literally at the meeting rather than ahead of time so they could actually do it and they're being asked to make recommendations on funding projects. The public meeting committee felt that this was a fair way to deal with it, and if they are allocating more than \$200,000, that would be fair. If everybody doesn't mind I'd like to take this in one section at a time and see if we can get buy-off on any section. Let's talk about policy bodies. Anybody have discussion about the language or definition of policy bodies? Since there's no discussion on that, is it fair for me to say that we have a consensus that we're okay with the

language? Okay. Let's move on to ancillary bodies. The language in ancillary bodies related to government bodies has not changed. It still applies, we pretty much came to an agreement as to the language for ancillary bodies for those that are part of the City of San José government aspect, pretty quickly in this process. So there is no -- there is no change in this language. Is there any discussion on this language? Since there's no discussion can I also make the further assumption that we have a consensus? Virginia? Go ahead.

>> Virginia Holtz: Point of probably getting todayers thrown at me.

>> Don't worry about it.

>> Virginia Holtz: In looking at ancillary bodies and public bodies, I had assumed probably wrongly about the role that commissions and boards play and which category they would be in. There's some commissions that are strictly policy bodies such as the Planning Commission because they are in the city charter. There are others that are not in the city charter, they're by ordinance. Their mandate is to advise and make recommendations to the City Council. And then some are just strictly advisory and don't deal with financials, they are more programmatic or, on one narrow issue. So my question is, are we going to lump all those in as policy bodies?

>> I can answer that. And in fairness and also as a sense of disclosure, this was a conversation that Ed and I have had multiple times. Because we've looked at this list and go, you know, in fairness, this is an advisory body. It doesn't really need the level that's under policy. What we have here is a situation of how the City of San José defines those bodies currently. And they currently define those bodies, good example under current, parks and recreation commission is an example. They don't -- they're advising the council. It mighting legitimately a policy body, it might not. Ed and I have talked about and we can't do it under this -- in this discussion right now because one, it brings up a Hotel whole Nother can of worms. Bringing that discussion back into a later meeting and to analyze those, what's a policy body and what's an ancillary body and help the City of San José, maybe re-look at that. Because there are bodies in those 60 bodies that quite frankly I don't think personally need ten days' notice and need this extra. We also want to be aware of the fact that we're not trying to bog down government. So we need to also look and see how things go through government. You know, when does it become too much? You know, if you've got ten days ten days ten days ten days that's 40 days. And then if you have a continuation, that's another ten days. That's 50 days. When you look at the stacking, we got in a short conversation about that at the meeting. When are we actually you know being detrimental to the actual workings of government, and sunshine is only positive for government if it creates positive government. It's not good if it clogs things down. So with that in mind, Ed and I fully intend to, on a later agenda, bring back that issue. And look at it as its own subject, and see if we can as a task force maybe suggest litmus test.

>> Ed Rast: To avoid having all those groups have to have -- be under the policy or ancillary body outside of city government to do it, that you're going to have those groups that are nongovernment bodies come before a policy body. But that's not the form of government right now. So you would have to take a look at how we suggest that they be assigned to a policy body, and depending on the policy bodies they're assigned to, that would indicate with oversight that that would be a true policy body. And ones that don't have assignments, are ones that have in their title right now advisory commission would potentially as you suggest go down into the ancillary to help clean up the process and avoid the stacking. But we didn't want to get into a lot of that right now because that's another two or three hours worth of conversation and we need to move forward.

>> Virginia Holtz: I'm satisfied with that and will look forward to further discussion.

>> Ken Podgorsek: Thank you. So then I will take at this point I'll take that we have at least a consensus. We're not on motion but consensus we're ton right direction.

>> Tom Manheim: I want to go back to policy body, narrow issue. On the new language you added here that talks about allocation, the examples you were talking about I take it were you really granting to an outside agency, is that what you're looking to capture?

>> Ken Podgorsek: You are correct.

>> Tom Manheim: You might want to literally use language that is more specific. The term allocation in our world wouldn't work for what you're trying to capture here, I think. We allocate money all the time internally. It's a budgeting process.

>> Ken Podgorsek: I get it. Bob -- are you okay with that?

>> Sure, yes.

>> Ken Podgorsek: I totally understand. Let's go back to policy body quickly. We'd have to add the language, Lisa, we'd have to add the language, anybody that allocates to a noncity --

>> Tom Manheim: Grants.

>> Ken Podgorsek: Grants or advises, grants would be just change the word from allocates to grants. Lisa.

>> Lisa Herrick: Lisa Herrick. City Manager's.

>> Ed Rast: The thing you need to clarify is are all the money given by the city to nongovernment bodies, only grants? Or is there other terms that they use? In other words, like a subsidy, are some of them subsidies or other things? Because we're talking also about the redevelopment agency here.

>> We'll come up with language that captures it. I think the intent is clear. You want to make sure that you're capturing any decision by the city to provide money to any noncity group over \$200,000.

>> Ed Rast: Dan Pulcrano.

>> Dan Pulcrano: I want to make sure we don't throw the net so wide that office supply purchases are included. Grants, you know, operating subsidies or whatever the proper terminology is. The other thing I was going to suggest that I think would narrow it and I think might be a good thing would be to throw a 20% threshold in there, so if that \$200,000 represents 20% of that organization's income. To that extent it is material. If you are talking about an entity that is tens of millions of dollars or hundreds of millions of dollars that receives an allocation, that can't an argument can't be made that that is an NGO of the City of San José.

>> Ken Podgorsek: I understand where you're going, it's a different subject. What we're talking about in this case is, an organization, I'm going to use an example. Let's use the one that was brought up to us by the council of nonprofits. The healthy neighborhood venture fund. I'm going to throw a number out, it's probably not fair, they probably allocate \$500,000 to various nonprofits a year, various organizations throughout San José, of which none of those are \$200,000 in themselves. But the whole fund that they're allocating is more than \$200,000. What we're suggesting, I know Lisa understands this, is that not any one group is getting \$200,000, it's that if they are responsible for allocating total funds more than -- sorry, granting total funds more than \$200,000, that they then would become themselves, they would fall under a policy body.

>> Dan Pulcrano: That wasn't my idea, I was suggesting goodwill. Goodwill is a large organization. If the City of San José gives \$200,000 but that's only a very small part of its annual budget, I don't think that we can claim that the agency of the City of San José in any respect or --

>> Ken Podgorsek: No. The policy body is the granting -- is the body making the advice, not the recipient. We are not on NGOs we're still on ancillary bodies or policy bodies.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: Bob Brownstein. We have to be careful when we do this language, because some of these granting bodies give grants to the city as well as to external groups. In other words, the city gets

CDBG grants. The city gets Healthy Neighborhood Venture Fund. So if the city and external elements are committing for the same grants we would want those to be covered.

>> Tom Manheim: I understand that, Tom Manheim. I understand that.

>> Ken Podgorsek: Any other comments on policy bodies? Any other comments on ancillary bodies? Let's go to nongovernment bodies. As you will notice the initials changed. We finally came up with initials that didn't flow anybody office. The initials are now NGB or NCNGB. Noncity nongovernment bodies. We do realize there is a possibility the city could put themselves, for instance if they -- I'm not saying they're doing this but if they decided they wanted to get rid of the fire department and they wanted to join Santa Clara central fire district, that would be a noncity nongovernment body, what is it NCGBs, noncity government bodies. And other cities have done this. San José is not likely to do that but other cities have done that and there are other services in mind. So let's talk. We realized that they have to be dealt with a little bit different so in the process of doing that. Let's talk about what changes are here. First it's own definition. This allows us to just focus on this, and also allows us to just look at it from you know, what we expect of these bodies without bringing in the other confusion. You're going to notice one thing has been taken out and I do feel this has to be there. In one of the previous, when we're talking about nongovernment bodies, we talked about the inclusion of if it was more than 50% of their, if they were performing a city service and it was more than 50% of their total operating budget, it became very aware -- during our committee meeting, I brought to the committee's attention something I had not thought of before. There are at least 20 neighborhood associations in San José who receive less than \$10,000 a year that could -- you could say they're performing services that would be -- that could fall under the City's auspices. Yet they're receiving less than 10,000 and they're probably receiving 90% of their operating budget in a grant from the city. I know it's not our intention to subject small neighborhood associations doing beautification projects in their neighborhood to this level of oversight. We played with the concept and the idea, okay, could we do that? Is there a way to right that? And to restrict that out? Restrict out, so that we weren't covering that because that's not the intention of a task force. And every way we played with it came back to the same answer. The \$200,000 threshold is really what we're trying to capture. People that are getting -- at least what we're putting as a reasonable amount of money from the city to do a city service. And we're not really looking to catch the guy in the middle. Part of that reason why we did the 50% thing, there was some fear that the city might use this as a way to circumvent some of the things we're putting forward. But you know, in all reality, the city is not going to circumvent us for \$100,000 is the way we look at it. So you know, is the way we see it. I want to bring that forward because that is one major change and I want to discuss that first before we go on to some of the other things. We believe this was inside the intent of the task force. So let's bring that up for discussion. Wow, this is --

>> Joan Rivas-Cosby: Joan Rivas-Cosby. I thought this was a fine idea. When I was reading this I thought the subcommittee had done a wonderful job of taking everybody's comments and coming up with a compromise and finding a way to address everybody's concerns so thank you.

>> Ken Podgorsek: All right, let's move into the definitions, just so everybody understands, the definition of a nongovernment body. A board or multimember body that governs, exercises authority over city services that has been delegated to it by a policy body and receives more than \$200,000 in City of San José or redevelopment agency funds, per city fiscal year. And then there's examples of those types of bodies.

>> Ed Rast: Susan Goldberg.

>> Susan Goldberg: So the City of San José school district is listed --

>> Ed Rast: Nongovernment body.

>> Susan Goldberg: I'll shut up and wait.

>> Ken Podgorsek: Dan, this is an appropriate spot for your comment.

>> Dan Pulcrano: My suggestion is we throw a 20% threshold in there, so that it's 200,000, and whatever amount the city is allocating represents more than 20% of the annual budget of the NGO.

>> Ken Podgorsek: I don't buy it.

>> Ed Rast: Susan Goldberg.

>> Susan Goldberg: I'm not sure I agree with that. Because I think what we're looking at is the expenditure by the city. And I think what we're interested in is capturing how the city is using its money. So if the city is spending \$200,000 by giving a grant to some organization, I think we want to assist on the more disclosure of what that organization does, whether or not -- I mean no matter how much percentage of that organization would make up.

>> Dan Pulcrano: It's covering private corporations first of all. And you know, the acceptance -- frankly I don't think large companies are going to -- you know, they'll just stop doing business with the city if they're --

>> Ed Rast: All right. Dan, I think -- what you're looking at is the \$200,000 I think if you're looking at some of these organizations that -- we'll go down a little bit further into the requirements and I think it will become clear down there.

>> Ken Podgorsek: I think when we get down, into the requirements, what we ask these NGOs and NCGBs to do, I think you'll realize that we're not -- you know we're creating a public transparent process without burdening them or without -- and I don't believe that we're going to have people just you know, wholesale, we're not going to do business with the city because this is ridiculous. We can get into that.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: I disagree with Dan's point because the implications are, the entire, everything in the city could be dedicated to halliburton, their budget is giant, \$25 million a year. I think there's conceptual point here, not because they are wholly the creatures of the system but because they will be making the kinds of policy decisions that the public has a right to expect to be done in the open because of the kinds of policy decisions that the city would do in the open if the services were provided in-house. And that is the reason, the later language says that explicitly. That's what we want to have in the open, the kinds of policy decisions that the City Council or other policy body would be doing, in public, if they were doing it as opposed to delegating it to somebody else.

>> Ken Podgorsek: If I can move forward. Dan, I'm sorry.

>> Dan McFadden: Dan McFadden, City Manager's office. In our review on Wednesday with senior staff there were concerns regarding ING and large corporations like that that are dealing with investment, retirement funds, that kind of thing. And it may be that these folks will not agree with this. I don't know. But I think there will be subsequent discussion of this when it gets to council, that's all I can say.

>> Ken Podgorsek: Can I ask Dan a question on this? We thought about ING. Now, ING currently reports to one of the policy bodies. They would give their reports to a policy body, if I remember correctly the retirement board, correct?

>> Dan McFadden: Yes.

>> Ken Podgorsek: What we're asking is that they be assigned to a policy body whose role will be the public arm and the oversight. Of course ING will not bring anything normally fitting in the retirement board, closed session, it would fit that of course they could go into closed session. But if there is no reason to hold that meeting in a public setting, then they don't have any more burden than they have now. They're currently reporting to the retirement board.

>> Dan McFadden: That's satisfactory to me but I suspect it will be commented on later. A

multigovernment body that, most of those are nonprofits that you have listed as examples. Do you mean a private or nonprofit?

>> Ken Podgorsek: I would say private or nonprofit. The inclusion of private or nonprofit would be appropriate. Any challenge with that Lisa?

>> Lisa Herrick: Lisa Herrick, attorney's office. No problem at all, I think this is simply --

>> Ken Podgorsek: Just a typo?

>> Lisa Herrick: I was looking at the other thing. Actually, I think it tracks what we wanted to. A board or multimember body, limited liability company or other entity.

>> Ken Podgorsek: Nonprofit would be the other entity. If you think it's clear to add --

>> Ed Rast: A private corporation, a public corporation, the difference is one is on the stock exchange, one is not. And nonprofit would further clarify. Because you get public private corporations, public corporations which are listed on the stock exchanges and then nonprofit.

>> Lisa Herrick: Lisa Herrick. I can certainly incorporate the intent of what it is you're trying to get at.

>> Ken Podgorsek: Noncity body, it became apparent to us that the City of San José could contract with nongovernmental agencies to do city services. It's done quite often with other cities. I know it's done throughout the west valley in a number of cities. They contract with the county to do both policing and fire services. They have two examples here I guess we must have contract with elk grove and San José unified. Just remember the definition, what gets them there is still the same as the NGBs. And just remember again what it means, they're going to be assigned to a City of San José policy body to discuss only those actions. Go ahead.

>> Susan Goldberg: I guess my comment, I'm not sure if this makes sense, but my comment, the San José unified school district already has to have public meetings. They have to follow the Brown Act.

>> Ken Podgorsek: I know exactly where you're going.

>> Susan Goldberg: I was a little surprised, I understand the tiered structure you've created.

>> Ken Podgorsek: The challenge is they may not in their regular meetings they may not cover the item, there may never be an agenda item in a regular basis for the service they might be providing for the City of San José. It might be, might not be. What it does is closes that possible loophole and it says that you know, a couple of times a year a representative from San José Unified is going to have to come to the policy body and say here's what we're doing. There is some aspects of, if you're going to change certain key items related to the service that you're providing to the City of San José for its citizens, that you need to go to this policy body and explain it before the changes. That creates a public process that is key and focused only on the service that they're providing to the City of San José. That in this way they don't have to take their board time to do it, they're taking City of San José policy body time. So it dropped out an objection.

>> Susan Goldberg: I'm all --

>> Ed Rast: Let's see if I can clarify it, by an example. The City of San José is talking to San José school district about aquatics program, because we don't have a lot of swimming pools. What would happen is they in turn would contract with the San José unified, and what would happen is that would probably be assigned then to the parks and recreation commission as the oversight because that's under the parks and recreation. So San José unified would come to the parks and recreation commission, which is the public body they would be assigned to and therefore report on what that program is and how they spent the money. We would have oversight and since parks and recreation commission is under the policy body area we would have oversight of that particular area for the particular services provided to the citizens by San José unified.

>> Ken Podgorsek: Without them --

>> Ed Rast: That removes the problem everybody's been discussing about other groups being overburdened and not doing business with, their own requirement would be to come to parks and recreation commission and report on that particular service they're providing for the funds we're giving them under the rules that we've got. Judy.

>> Judy Nadler: Judy Nadler. You have to say what you've done, if you got money last year, what you did with it, how many people you served, et cetera. That's just a process that allows public to know what happened to that. Show me what you did with it.

>> Ed Rast: Susan.

>> Susan Goldberg: I'm fine with all of this. I just wanted to make sure there wasn't some weird unintended consequence of somehow exempting the school district from having public meetings.

>> Lisa Herrick: Lisa Herrick, city attorney's office. This is addressing the decision that noncity governmental bodies make about the funds they receive from the City of San José. Any other funds that the county of Santa Clara --

>> Susan Goldberg: Like classifying them in some different way --

>> Lisa Herrick: Not that we would have that authority anyway. We could probably tell them you don't have to have your meetings under the Brown Act. It wouldn't be very effective.

>> Susan Goldberg: I'm just saying --

>> Lisa Herrick: It's a fair question and an interesting concept and I think we've all said at various times, that the real proof will be when this is tested and how it works and there will be glitches and we need to regroup and figure out what to do next. But the committee did a lot of hard work to try to figure out how to get there.

>> Ed Rast: Part of what we're trying to do here is take a look at the concerns we had about oversight for City Council committees or commissions so they get into the oversight and that they actually see where our funds are spent. So that puts it back into the oversight, and that handles not only sunshine on one side but the oversight on the other. Dan Pulcrano.

>> Dan Pulcrano: I'm a bit troubled by this section, frankly. I think one, it doesn't provide the kind of oversight that we're hoping for. The 1 through 6 points, I feel, are fairly meaningless in terms of requiring disclosure, because they're allowing secret meetings to be held on just about everything and then a small number of decisions, policy decisions. There's no transactional transparency. If you can't see thousand transactions are being made, only understand the policy governing those transactions, then there is in fact no transparency. That's the first thing. And I think essentially what this section has done is cast the net overly wide. I don't think we need to be worrying about groups like Catholic charities or large sanitation providers. That can be done contractually. The reason it's important that it be a significant portion of their budget is because that the degree of political influence over which the political bodies of the city have over that body, they have the ability to exert constant influence over it if they are funding 20 or 30 or 50 or 60% of their budgets. That's when the opportunities for corruption occur. They're subject to political influence and then the misconduct can occur at the transactional level, the awarding of contracts, sometimes through a handshake and a wink and we need to make sure that all those transactions all occur in the full light of day, that we don't expand the definition so wide that we have to reduce did level of requirements. And that's what I think this section has done. That's why I'm not in favor of it.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: Yes, Tom Manheim. It was a question and I think this was the intent of the six items that are outlined --

>> Ken Podgorsek: We're not quite there yet. Go ahead. You want to do it?

>> Tom Manheim: It was simply a question of whether this is -- you're asking these bodies to come back

to whatever oversight body there is, for any decision involving these things or only when they have discretion. Because generally when we have a contract with another agency it's pretty prescriptive exactly what they would provide, you know, in the case of pools it would probably have language about who has responsibility for maintenance, what hours will they be open and available, all of those kinds of things.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: Yes, the issues described in 1 through 6 will have to be approved by a policy body. Now, they could be approved through the approval of a contract that says, this contract has very detailed language in terms of levels of service and that's the approval. And then the only role that the city would be playing is an oversight role. It could be that the contractual language is not that specific in terms of one of these. And in that case the nongovernmental body will have to return to the policy body in order to get policy body approval for whichever one of these was not that specific in the contract, and therefore, there till has not been a chance for the public to be involved in the decision being made.

>> Ed Rast: Let's address Dan Pulcrano's concern. You're concerned that an organization that receives a significant amount of money, that the city would -- would have control over them because they would have a very large percentage of their budget. That would be groups that are under \$200,000. Because everything over \$200,000 is already in this definition. So you're thinking about somebody who receives \$100,000, --

>> Dan Pulcrano: The City of San José is not going to be the oversight body for a billion dollar a year corporation even if it gives a million dollars a year. That's got to be contractually. If they're receiving a grant amount of city funds and spending those funds. I don't think we want the large charities and the, you know, providers of commercial services. That's not the goal here. I think -- and this type of oversight program that's being proposed here would not have stopped the types of problems we've had with cost overruns by facility operators for the cities, for example. It wouldn't have prevented it. It's saying the arts council should be the oversight body and make sure every single arts group that's funded 50 city conducts its affairs in a good manner. I don't think the arts council is capable of supervising that many organizations. It's going to need the help of civic advocates, activists, watch dogs and others. If the transactions are secret, the meetings are secret, there is not the manner or means to do that.

>> Dan, are you proposing that this section should not be there or what are you proposing?

>> I'm proposing that we narrow the definition to provide for some materiality and increase the oversight, smaller number of groups be included and the NGOs and that they be groups that receive a certain dollar amount and that dollar amount represents a certain percentage of their budget. And then that we require transactional transparency in addition to policy transparency. Because policy transparency without transactional transparency is meaningful.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: Well, first I don't agree that policy transparency is meaningless. I think the kind of policy transparency that is needed here would have prevented cost overruns in the past because adoption of budgets and amendments to budget that would place the city at financial risk would all have to be brought before a policy body. You can argue that the policy bodies might have blown it. At least it would have happened in public before a policy body, instead of the way it did happen, which was in camera, just decisions by the boards of nonprofits. Secondly, I think it's honest to say this approach was a compromise based on the debate at the last meeting. There were a number of people at the last meeting who had serious concerns about organizations actually having to do -- organizations that the city delegates services to, actually having to open their meetings and have people at those meetings. And people wanted something less intrusive than that. And that concern that was expressed strongly at the last meeting, was the reason that the subcommittee stepped back and instead of calling for the meetings

themselves being open that we took a step back and say okay, we'll have the policy body hold the meetings in open session, and clearly focus on the policy question. So we could move more stringently in the direction that Dan was describing. We were there, we didn't have consensus, we had serious lack of consensus. Other people on the committee seem to agree. But my sense was the reason we took this other perspective is because we were trying to reach a consensus position and were faced with strong resistance,, if they get the City of San José to actually have their board meetings open and them having to have that kind of direct scrutiny as opposed to this slightly less direct scrutiny.

>> Ken Podgorsek: Ken Podgorsek. I want to make two very quick comments. First one is, I, for a variety of reasons, have a very difficult time saying that if you're a large company, even though you're getting a small percentage, you are going to, just because you're a large company, you're going to be inherently more honest and we don't need any kind of -- we're not looking at everything they do, only looking at what they do in San José. So I have a very hard time with that. The other thing is, I want to just draw a point. We have done most of you are work through this body, you know, through consensus and through the most part mostly unanimous. You know, it is absolutely legitimate in this process for us to take something forward. Have a split vote, and send forward both a majority and a minority opinion. Let the council weed that out. In a perfect world, it would be nice if that didn't happen. But this might be a circumstance where that is the case. If that is the case we need to embrace that but we cannot continue trying to draw a consensus if a consensus is not ever totally drawn. I want to make that point. Susan.

>> Ed Rast: Susan Goldberg.

>> Susan Goldberg: I was going to say Dan that while I wish that every group that gets a lot of money from the city did everything in the open, I think the practicality of that does raise some serious issues. And the reason that I thought this was a good idea is because it does force into the open, not you know, the question of what plays the rep is going to put on, but how they're spending their money. It forces it into the open with a lot of notice so that people can attend those meetings if they want to attend those Peteings and have something to say about it. That's what I thought about why that tiered situation was okay because I thought it was possible. And I thought it was a darn sight better than where we are now. As for that 20%, I've got to say, I really strongly agree with Bob and with Ken on this. I don't think it's about the percentage of the money. I think it's about how San José is spending its money. And that's what needs to be addressed.

>> Ed Rast: Dan McFadden.

>> Dan McFadden: Dan Muni, City Manager's office. On the six points, the ones that give me heartburn are the last one. The catch all point. We have to explain that. I would rest easier if you took significant out of there. I have no idea what a significant loss is. If you want to say significant risk, even that would be difficult. But I think it's very difficult to, you know, try to pin that down, and I think I'd take modifiers out of there. If there's a risk of loss, they should let somebody know. Their little point is to throw away, I think one of the famous members of our audience said the perfect was the enemy of the good. I've used it since then. I think in trying to pin this down to the last word we're losing sight of the program here. I think a lot of what was done in the subcommittee is excellent. And we shouldn't you know pull it all apart because of trying to tighten it down for that last percentage. That's it, editorial.

>> Ed Rast: Lisa on the issue of number 6, significant, is that going to be legally -- do we have any legal problems enforcing it?

>> Lisa Herrick: Lisa Herrick, city attorney's, I think not.

>> Ed Rast: Virginia.

>> Virginia Holtz: I support what the subcommittee has done, what it does is get at those entities that are -- do get the funding, and as was pointed out, many of them are contracts but in some of the process

of contracts, is that they don't get reported back to the policy body, because they're folded into a larger picture of a budget. And I can think of a number of things, you gave an -- we gave an example here of the swimming pool. It seems to me that what happens if they do contract for swimming pools, those will go to the department, parks and recreation department. It will go to the staff now. But that level of information doesn't get moved to the commission. Here, we've offered a place where it will come out into the light of day. So that's why I appreciate what the subcommittee has come up with and I will support this.

>> Ken Podgorsek: All right, what I want to do if at all possible, I'm trying to think how this goes forward.

>> Ed Rast: We have a comment from Dan and then public comment. Dan, go ahead.

>> Dan Pulcrano: My problem is there's no open books requirement and no audit provisions. I think without that there is no oversight. If you can't actually audit the monetary transactions. And I think by including private entities in that, we've essentially removed the ability to do that. I don't think that corporations and private entities, you know, I think there is a difference frankly between nonprofit organizations and private organizations and the reason for that is, is under the nonprofit code, a nonprofit organization is pledged to support the public interest, that they are not for the benefit of their shareholders, they're not a private entity, first thing. In exchange for that they're exempt from paying taxes. The public is paying for those subsidies, by giving a public benefit. Secondly, the fact that shareholders assets are at risk tends to be a governing influence on the behavior of the the directors of privately corporations. Assets are at risk which is not the case with a nonprofit organization, which, if they experience financial failure will generally come back to the public entity and ask for more funds. And that's where I think we need to protect the public funds. So I think it's reasonable to ask for certain requirements from publicly funded and tax free organizations which tend to depend on public organizations for funds when they get in trouble.

>> Ken Podgorsek: I'm going to move this forward, I'm sure you'll know this but I'll make it public. Nonprofit 501 (c) 3 public corporation are open. My 990s are online and are publicly accessible. All you have to do is put in, any of my past 990s, that's true for any other 501C 3 who have more than \$25,000 in cash or actual assets. And they're just publicly accessible.

>> The annual statements?

>> My 990s.

>> But not the transaction.

>> Ed Rast: Legality me ask a question to Tom or Dan. My understanding when the city contracts with these groups, these nongovernment bodies, there is a memorandum of understanding, doesn't that have an audit provision and an open books provision?

>> Tom Manheim: Tom Manheim. It would affect thity's ability to audit that agreement.

>> Ken Podgorsek: You say it doesn't have public -- much, much.

>> Dan McFadden: We've tried not to force formal audits on the groups because it's real expensive and it's a real burden. There are lesser levels of, you know, of review, and that's about all I can say about that. I would hope that we wouldn't get into requiring formal audits on all this.

>> Ed Rast: We've got a public comment and maybe we can get some idea and get some comment.

>> I'm Patricia Gardner, executive director of the Silicon Valley council of nonprofits. Nonprofits have a lot of rules. We have a lot of rules that guide our principles for 501 (c) 3 status. I have heard rumors that this committee is considering a lot of more rules for nonprofits. Let us know what your plans are about this because some of these may be difficult for our agencies to comply with. The regulations that the city is currently requires of nonprofits is so expensive that many of the -- excessive, that many of these nonprofits don't want to contract with the city any more. Are we going to try to do good business practice with our nonprofit partners who are matching your contributions two to one, you're going to give you more

restrictions, very difficult for us to do that. We want to work with the city. Please don't make it so hard that we can't. And we're getting to that point and I'm just really clear that we're clear on that point right now, to the point that we've had to hire an attorney to work with the city attorney's office to clear up contracting issues, it is that severe. So that's on this comment.

>> Ed Rast: You had an earlier one then.

>> But the reason I came today was be sure that this committee includes in your sunshine ordinance, the city staff and city committees that work on expending grants to nonprofits. In particular, the healthy neighborhood community fund, CDBG, I want to let this committee know that we have asked for one solid year, for the staff to release their reports seven days in advance of their meetings, they continue to not do so. A serious, I cannot beg this committee enough to stop that practice of the city giving us information, sometimes less than 24 hours, I have had notices in four hours of a meeting. I have been told they don't have to give it out publicly. I'm very -- appreciate your committee's work to ensure that this happens.

>> Ed Rast: Patricia, just to address that, Ken can address some of it. That's our concern also. Because we as residents or citizens go to City Council, in the middle of the City Council meeting we'd be handed a small telephone book size report. It is going to be -- we have either a four-day or a ten-day requirement depending where city staff reports come. Ken can answer.

>> Ken Podgorsek: We understood that concern. Neighborhoods in general have had a lot of challenges in this and he we've also heard similar comments from commissioners being frustrated. They go to meetings being asked to make decisions and having literally no time to review. That's the next section we'll go right into. I think you'll be very happy with those numbers.

>> I guess my question is they're going to recommend funding again in a few short weeks. And I don't know when all of this is coming to play. And I'm just letting people know, right now, today, that it is happening now, as of last week and there will be voting on another three or \$5 million in June and I'm just letting you all know that the practice is still continuing at the city. We've asked for a year, we've had no change.

>> Ken Podgorsek: I will say this, this is not going to move forward fast enough to take care of that particular challenge. But I would ask staff to possibly have a discussion with the PRNS director, and discuss with him in the spirit of the where we're going in this city, to bring sunshine and open government, yesterday I had a conversation with Lee Price regarding a posting an agenda for something I'm doing some facilitation for councilman Sam Liccardo. That particular thing I'm facilitating will fall under the ancillary body provisions, I've asked Councilmember Liccardo's staff to follow the haven't had to do in the past. And I don't think it's wrong at this point to ask staff to really leek at what's coming forward, see where the writing's coming and start putting them in today.

>> Mark Linder told e-told me verbally that they were planning to do that but I want it in I writing.

>> Ken Podgorsek: Is HNMF under City Manager now?

>> We have your testimony and it will be followed to the City Manager tomorrow at noon so I'm sure he won't be lost. He will take interest of it. Will we look forward to it? Yes, we will follow up on the phone. There are different organizations that fund. Usually you get from a series of sources you get funds. There are other organizations that require audits, you get multiple audits. It really gets burdensome, I want to second, what's before the committee.

>> Ken Podgorsek: I've been asked by the chair to wrap this up.

>> I agree with you about the burdensomeness of the requirements and one of the reasons I did propose a 20% threshold was that every single nonprofit that got a grant of over \$200,000 would not be subject to the requirements. I only fee that those groups get at a really chunk of the city, other agencies that is their business to do the oversight of nonprofits that are not substantially city-fudged. I think the city only has

business requiring oversight of that narrow number of groups that receive a huge chunk of their budget from the city.

>> Mary Ann Ruiz: I really appreciate the effort that this subcommittee has done. You've taken a really complex area and all of our comments. So first I'll thank you for that. I understand that the aim is for more transparency in their groups, however I have some concerns actually that were raids, which is how much time and how realistic is it from a commission point of view as well, to share magnitude of, if you look at parks and recreation, how much funding, how much group? We're hearing reports of all of these different groups. And I just don't know if it would be an overload, and there's realistic time to have a meaningful discussion with so many different groups on where did money is being spent and how it's being spent or would it just turn into a reporting mechanism. That's my first concern. After I heard her I could see where that would be a burden for the nonprofits, where they would have an additional reporting requirements, they would have to come before the board once a year, twice a year. Also when I look at the six areas, if I lack at number 4, number and qualification of staff, we talked about aquatics which is extremely important but from a parks and recreation point of view, if I'm looking at aquatics and they say we have five lifeguards and their qualifications are X, I just don't know that that's going to add to what we need to look at from a policy and commission point of view and I don't know if we're really qualified, either. So number 4, I don't know how much that would really add towards transparency. Except if it's in the form of the financial budget. But in any case, if we have some sort of threshold in terms of what groups are reporting to the policy body that would help. I just don't want it to become burdensome.

>> Ken Podgorsek: Let me throw a couple of things out at that then we'll move on. The \$200,000 number to be really frank with you, is an artificial number. I don't necessarily think it's a number that has any real specific meaning. I think it's a number we chose because \$200,000 in many respects seems like a lot of money and you know should have oversight. So I'm not questioning whether it's a good number or bad number. But it's a number we chose so we should at least accept the fact that it's an artificial number. And it's possible if we're casting the net too wide, that number should change. I'd like to offer that everything we're doing here and we're sending forward honestly is a pilot. If the number is casting too wide a net, it's going to become apparent and that number might need to be changed. With actual, factual information rather than you know exactly. And then it might be very obvious. Let's talk about the one comment about number and qualification of staff. Let me give you an example where that would come up. Let's say we contract with an organization to deal with a community center and let's say that organization thinks that reasonable staff time is to have their person who does the appointments be there from between 1:00 and 2:00 on Thursday afternoon. And then, just so you know, I know of one circumstance that was the case. Their person to take appointments for using the community centers was one hour a day, one day a week. The public might have an objection to that. So you're right, I'm not sure that parks and recreation commission is totally and absolutely qualified to really get down to the nitty-gritty on staff. But I think common sense would rule and say, you know, you really shouldn't only have two lifeguards if you've got a thousand people in the pool. Maybe five would be better. And so that's my thought there.

>> Mary Ann Ruiz: What starts to happen, the community starts to raise the problem and that's when we address it in the meeting.

>> Ed Rast: Mary Ann, this is a public process and oversight and sunshine, part of that process is for the public whose money it is to be able to come to the policy body to bring up the issues and then a lot of those issues would be then directed back to staff to research them and then come back again and hopefully after the first couple of rounds of it, you're not going to have a lot of those issues come again so each year it would become less and less of a burden. I agree the first year would be pretty bad. Also you adjust the numbers up and down or whatever, and we see how it actually works. I think once the pilot's

done we could have very good solid oversight and the opportunity for the public to come and say this is working great or we've got a problem with it. That gives you the early notice on issues like the rep and the Northside and everything else that we don't have right now. The issue you run into is we can go around for many more hours or we can kind of I think move forward. I think that's one of the things we want to do. Brenda. You have a comment.

>> Brenda Otey: Everything we're putting out there is subject to a test at some point in time and will have to be revisited if the impact is too substantial on some organizations. I'm concerned as to the standard. What I've heard here is whether \$200,000 is a false number or not, my concern is that you would be placing fewer requirements on larger organizations and more requirements on smaller organizations, because the amount is a larger portion of their budget or a smaller portion of their budget. I think that tends to exclude large corporations, which may be profit-making, and therefore, just because it's not -- if the money's going to a -- in a nonprofit, versus it's going into an individual's pockets, it doesn't make me feel good that the money is going to an individual as profit, versus if it's a nonprofit organization. And the amount is significant, may not be significant to the organization but it's significant to the public and to an individual to say that this is an amount that we need to keep an eye on, no matter whether it's going to someone whose budget is only 2% of or whether it's 50% of it. It's still significant to the people spending the money, that it be -- there be a level of oversight.

>> Ed Rast: Judy.

>> Judy Nadler. The public saying, \$200,000, they have an opinion of what that's going to be used for. What I haven't heard discussed yet this evening, what we should keep in mind, I consider this not just rose colored glasses but I think we have to understand that the staff, the city staff, the administration, the department heads, they are charged with the responsibility of only, they filter out, they're the ones that say, this is a matter that is worth considering. So I haven't heard that yet. In some sense sort of marginalized the expertise we have within the city government, the approvals.

>> Ken Podgorsek: The chair has asked me to wrap.

>> Dean Monroe, Mayor Reed's office. But I'm actually speaking as an executive director of a nonprofit, for the last 16 years or so as well as a chair of a nonprofit for several years. I've said this before. The sports authority, the organization I'm responsible for a nonprofit public benefit corporation, 5 '01 (c) 3, we have a 15-page contract with the city that outlines our scope of services, a few other things, this contract we have there's nothing burdensome about it whatsoever. If you want to track a nonprofit as I've said before you have to see the contract they have with the city, you want to see their budget, our budget's mandated to be public, ditto with the financial, you want to find out if they're spending their money consistent with that budget, the financials, that tells you that as well, and lastly you want to see the agendas. If you have that contract those two financial documents as well as go to their meetings can you see everything the organization is doing. An organization really have to lie and deliberately decide they wanted to deceive you, if somehow they weren't going to reflect in that open meeting and so on what was going on. So none of this stuff is burdensome. You have to do financials anyway. The city is going to require that. You have to do a budget. The city requires that. All right so with us, it's open to the public records act here but if a reporter called us up we would share it anyway. The contract is public information. As I said a couple of weeks ago that adhering to the Brown Act with the Internet has never been easier. Before it took somebody 15 minutes to go to City Hall with the agenda, they had to have a tack and place it on the bulletin board and now it's even easier. So maybe I'm missing something here and maybe there are more burdensome specific contracts that the city mandates but my experience, running a couple of nonprofits that has not been the case.

>> Ken Podgorsek: Now we're going to try to wrap. But I want to make this comment and I will and this is

it. I will say that when we were putting this together, I'm extremely aware of the burdens the nonprofits had with the City of San José. I run a small nonprofit, our very, very tiny grants. I know what those challenges are and none of those are going to be, none of what's in here is going to create any burden for a nonprofit or make it difficult. Now, it's possible, it's possible that as this vets out and as it's tried there is unintended consequences that may be changed in the future. I read this over and over and when we were in the process of developing it I thought and put in the shoes of somebody who would be in this place, would I consider this a reason not to take a grant from the City of San José and very clearly my answer was no, I would not -- this is not anything that would stop me. There are other requirements of City of San José has relative to grants or other things that I would -- that I have decided not to take grants because I thought those requirements were burdensome relative to the grants so let's move on. Here's what I'd like to try. I'd like to try to put a motion on the table accepting this language with the modifications, accepting it in concept knowing it's going to come back to us at the Saturday meeting. So I move we accept the definition language in concept tonight which a final review to come at the Saturday meeting.

>> Ed Rast: We have a motion on the table, do we have a second?

>> Bob Brownstein: Sec.

>> Ed Rast: Bob Brownstein seconds. Comments?

>> I think I'd like to see this motion tabled. It needs some work and I think we should put a little bit more time and thought into this as to who's covered and what the reporting requirements are before we vote on this.

>> Ken Podgorsek: I'd like to motion called.

>> Ed Rast: Any further discussion? All right, call for the motion. All in favor? Aye. All opposed? Abstentions. The motion passes. Dan, you have an opportunity as we talked about to make comments, or to come back at the meeting to bring it back up again.

>> Ken Podgorsek: To be clear on the motion we still have to do final approval on the language. I want to go to attachment 1 and we can do this hopefully in five minutes. But if we can't do it in five minutes we can't do it in five minutes. I want to point out, what this is is we filled in the matrix. The areas in gray are areas that we have agreed to previously. So the areas in white are new or we haven't agreed to them. Rather than going through each section, I would like to ask task force members, is there any section that you want to bring forward for discussion?

>> Susan Goldberg: I just have a basic question. NA means --

>> Ken Podgorsek: Not applicable.

>> Ed Rast: I would suggest we take a look at ancillary bodies, the second column going down, the third item, staff reports, put four days in there, put four days for supplementary and three days in for the council memos. And that way that --

>> Ken Podgorsek: Ancillary body would get a council memo?

>> Ed Rast: It's possible. I don't think it is. The reason I would say that would happen possibly in the future is if we reclassify some of those 63 into the lower group. Councilmembers can send a council memo to any --

>> Ken Podgorsek: There is absolutely no harm in doing that because if it never applies it's not a challenge. In other words what you're doing is taking into the possibility that it would occur. So you're suggesting adding --

>> Ed Rast: Staff reports in that column, four days for supplemental and three days for council memo.

>> Ken Podgorsek: And I am assuming you would still have nonapplicable, staff reports of \$1 million or more?

>> That is my question, too, because if you're suggesting that we allow four days for staff reports of a 1 million expenditure then I'd have a little problem to that.

>> Ed Rast: I'm open to a larger number. It's the base bottom line.

>> Ken Podgorsek: I'm wondering is there any circumstance that an ancillary body as we've defined or maybe expand it later would ever get a staff report for an expenditure of over \$1 million?

>> Ed Rast: I'll give you an example. Senior or youth, they would ask for an alternative on it --

>> Tom Manheim: Tom Manheim. A \$1 million expenditure would have to go to the City Council for approval. It would get a public airing at that point. Any decisions by any other bodies would be simply advisory for the council.

>> Ed Rast: The issue there, on ancillary bodies or any bodies, we don't want the situation where the report is handed to us a minute or two before.

>> Ken Podgorsek: Then let's make it four days. Because we know the expenditure of a million or know more has got to go to the City Council, we know it's going to have the full ten days there. So we don't have a weird scheduling thing with an ancillary body, why don't we make staff report expenditures of a million or more, four calendar days, consistent with the other staff report and consistent with the noticing requirement. Why don't we make supplemental staff reports 48 hours or two days.

>> Ed Rast: Fine with me.

>> Ken Podgorsek: So in case something has to come they have to be at least two days ahead of time. Let's make council memos, although I can't -- I guess a councilperson could send a memo to a advisory body, let's make it four days.

>> Ed Rast: do the council memo and ancillary two days so it's equal to the supplemental.

>> Ken Podgorsek: Okay.

>> Ed Rast: Four, four and two.

>> Ken Podgorsek: Four, two and two. Any other categories?

>> Is the supplemental staff shows that that's new information that they provide at the meeting? So how is this -- so what if there is new information and that would be relevant to what the policy body has in front of them? How are they informed about it?

>> Ken Podgorsek: Verbally I guess.

>> Ed Rast: What we're trying to do for lack of a better term, have no surprises staff information. In other words the ancillary body or policy body have no surprises that we've seen previously. As a matter of fact in a lot of the commission they walk in with the satisfy report the day of, as you've seen.

>> Ken Podgorsek: Not good for the commissioners either.

>> Ed Rast: And your responsibility to the public to make a good decision is jeopardized when you don't have a chance to read it. Afterwards somebody comes up to you and says, what about this? Oh, yeah, we'll cover that at the next meeting. Which is what I'm trying to avoid. I'm sorry, anybody have other questions?

>> Lisa Herrick: Lisa Herrick, city attorney's office. I was going to respond to Mary Ann's come. I think the intent was the item would go over to the next meeting to the extent there is some new information that didn't meet the threshold. That's my answer to the intent of your last question.

>> Ed Rast: Tom.

>> Tom Manheim: Further clarification, if supplemental brought in new information that was substantive, what Lisa said regarding holding over would certainly happen. It's for the record frequently correcting minor things that have been either left out or misstated. Whenever a supplemental comes forward we look at it and try to determine if this is something that was substantive or something that was a minor correction.

>> Ken Podgorsek: Any other areas? I have a couple that I'm going to pull out because they're a little different. I want to pull out recording and photography. Which is on the second page. Just to explain that. It's a language, we just refine language based on conversations or based on task force discussion. Under policy body, you know, definitely the Brown Act, city government rules you can read it if you have any questions. Related to the ancillary bodies, we're giving them options, action minutes or recording the meeting. The city staff is going to find it easier to actually record meetings and store those recordings for two years than they are to actually do action minutes. And we actually think both are absolutely find. Currently the staff isn't quite up to speed to record every meeting. But there is according to what I've been told multiple times by Ed, the city has a site license for an easy way to record all meetings, it's getting the council up to speed. I have a feeling this is where it's going to go but we wanted to give them the option.

>> Ed Rast: Susan Goldberg then Dan.

>> Susan Goldberg: Why not get everybody used to the idea, recording is where it's going, it's all going in that direction. I don't think it's a gigantic butter, other than any staffer taking minutes. And I think a lot of important business could go on.

>> Ken Podgorsek: The challenge is some of these meetings aren't necessarily going to be held in City Hall. I know this device is portable. If you go to the meeting and for whatever reason the device doesn't work then you know you have to go to the default. We've all been to the PowerPoint presentation and it stops work in the middle of the presentation. It was related to the laptop, power could go out. What I'm saying is, it gives them -- our feeling is that they're going to go to recorded meetings just out of ease. It just gives them an option.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: Tom Manheim. The challenge is less the recording device and more the people in the room. You look around here and you see the number of microphones. That is much more the issue. But I think Ken's point is a good one which I think inevitably we're sort of moving in that direction. But an absolute requirement right now could be challenging for some of our larger groups.

>> Susan Goldberg: Well I guess I would just say again I think it is some of the larger groups where it really is even the more important. I mean, you know, this is important city business going on in these groups, and I just -- you know have a concern that if there isn't this record, then that -- you know, that is not the right kind of access.

>> Ken Podgorsek: I'm not entirely pressed with this kind of technological. You take this technology, microphone, stick it in the middle of the room, you might end up with a lot of recordings that you can't really understand. So I want them -- again, let's use the concept, this is just for ancillary bodies. Policy bodies have to be recorded, it's just ancillary bodies, which we have agreed have to have sunshine but not that level of scrutiny. We are putting forward a pilot program. As time goes on this could be one thing that could be addressed. Maybe we're finding that the reporting you won't need it.

>> Susan Goldberg: I'll fall on my sword over another issue.

>> Ken Podgorsek: We thought about that. Your point is well taken, it really is. Public testimony. We came up with a concept of the uneven concept, that we think works. And doesn't violate anybody's First Amendment rights. Under policy body. Up to four minutes may be extended to a individual or organization, one representative is willing to yield his or her time. Thank Bob for that. You know, that way we're not violating anybody's First Amendment rights, and we are acknowledging the fact that sometimes public testimony could be better proved by one person doing four minutes than two people doing two. Much, much.

>> Dan McFadden: I'm trying to get recognized Dan McFadden. When I'm asked what are other

quasigovernmental bodies.

>> Ken Podgorsek: Planning Department.

>> Dan McFadden: The cost of doing video and the organizations, all that --

>> Ken Podgorsek: All those bodies to the best of my knowledge meet in the City Council chambers.

>> Susan Goldberg: It's not video anyway, it's audio, isn't it?

>> Ken Podgorsek: Quasijudicial we recommend video. It's because they're actually taking a judicial function, that was the concept behind it. They're actually end body here and they're actually assigning fines or relieving fines or whatever. And to the best of my knowledge, both of those bodies meet in the council chambers.

>> Just speaking from personal knowledge, after unsuccessfully appealing a traffic ticket, that happened in an office.

>> Ken Podgorsek: I'm okay with looking into that further. To be honest with you, since I was also on the back side of one of those, I'd love to have them on video.

>> The Clerk: Mr. Chair, if I could, Lee Price City Clerk, there are other commissions that do not hold their hearings in council chambers. So I'm not saying that that might not be a good idea. However, it is a resource issue and I think we need to say that. Because taking those meetings and moving them from, say, the conference room here on the second floor and my office where we do audio record using a laptop computer and take meeting minutes, to the council chambers, would require additional resources from the City Manager's office to do the video recording and telecasting of those meetings.

>> Ken Podgorsek: I'm certainly okay with staff reviewing that further. Because I'm sure no matter what the outcome you're going to recommend to council based on that review anyway.

>> Ed Rast: The key was the Planning Commission being videoed, that was the one we were very clear on. The other ones take a look at resources.

>> Ken Podgorsek: And maybe we could refine it.

>> Ed Rast: Do you anticipate a problem with video recording the Planning Commission? We don't have the resources right now?

>> No. Other than that, no.

>> Ken Podgorsek: So in moving on, that was the only other one that I really wanted to call out. Is there anything else anybody else wants to call out? Now let me tell you, just so you guys are thinking it through, let me tell you how this will be used. This matrix will then be used to plug in to the various section of the documents. We've already decide on the meat and the rest is just language. Mary Ann.

>> Mary Ann Ruiz: Thanks for pulling this together, appreciate it. Going back to page 1 staff reports expenditures of a million or more, it may have been discussed but how do we avoid incremental expenses, \$500,000 each six months?

>> Ed Rast: Fiscal year. If you did 500,000 June 1st and \$500,000 January 1st --

>> Ken Podgorsek: I don't know if that was in there.

>> Ed Rast: That was the intent.

>> Mr. Chairperson, Tom Manheim. Just a comment. Keep in mind again, that these sorts of expenditures of that amount are going to the council. I don't think the council would tolerate us coming back every six months on something. It's -- I do understand the concern but it's -- I don't know that those sorts of things happen, it would be pretty unusual for large contracts like that.

>> Mary Ann Ruiz: Well, even so, if we could -- because this is new, and while it may not have been experienced before, people start to get creative. And I think if we can --

>> Ken Podgorsek: There is no creativity in the City of San José.

>> Mary Ann Ruiz: When we talk about a million dollars within a year, if we could be clear, it's a fiscal

year, I think it is too high, I think \$750,000 is even high. But I just think \$1 million is, I think that's -- I'm really uncomfortable with that threshold. And I'd like to be clear that these will not be or that's within one fiscal year.

>> Ken Podgorsek: I mean, here's the challenge with with that topic. We came up with this. That topic was specifically related to large expenditures as approved by the City Council and to use our favorite functional institutional whipping boy is the grand prix was the example, you know, where all of a sudden one day you know you read in the paper that at 2:00 in the afternoon they're going to make a decision to expend \$4 million and all the community activists in town are going, excuse me? So we came up with the concept. Go ahead.

>> Ed Rast: Sheila you had a comment.

>> This is not a decision made by the task force. This is an original form referral.

>> Ed Rast: There is a proposal, I don't know if it's been approved, I didn't follow it, for the City Manager to have approval up to a million and the City Council to have it over a million.

>> That was rejected. February 6th the council did approve increasing the City Manager's approval for \$250 for services. A million for capital.

>> Ken Podgorsek: My thought is, I understand where you're coming from. But we'll create a confusing document. Because they're going to have to -- if they would regularly come to you for a \$500,000 expenditure as part of what do you think about this, they're going to fall under the four day staff reports rule anyway.

>> Mary Ann Ruiz: What I'm suggesting if we could say 1 million or more in a fiscal year I don't think that's too much.

>> Ken Podgorsek: I don't have a challenge but my question is is that going to be in conflict with the current --

>> Mary Ann Ruiz: I think we can make that recommendation if others agree to that.

>> Dan McFadden: Dan McFadden. Operating and capital, we're close to \$3 billion a year. \$1.5 billion capital. We move a lot of contracts and a lot of money through. And I'm afraid if you set the bar too low you're going to get a lot of clutter.

>> Ed Rast: remembering, it's not that we're discounting, it is a good program, we need the staff to take a look at how effective it is and come back at some point.

>> Ken Podgorsek: As the staff is going through the program need to go out to the various commissions and ask them for their input, what's working, what's not working. This might be something that comes out you know, when you're on parks you're looking to say we really should have more oversight on expenditures related to parks more than \$500,000 or more than a million dollars in the fiscal year. It's just that I'm concerned that we might find ourselves bogged down or send language forward that doesn't -- I don't know.

>> Ed Rast: For lack of a better term it's kind of putting the stake in the ground and say, let's look at this. We can move it back and forth, we need to kind of put it down and then come up to a decision.

>> Ken Podgorsek: With that I obviously have now gone over my ten minutes. Is -- I want to put a motion on the floor. That we send forward to staff this matrix with the following changes to be applied to the entire public meetings document. And then brought back to us in a final form. With staff reports expenditures of 1 million or more four days under ancillary bodies, supplemental staff reports two days under ancillary bodies. Council memos regular meeting two days under ancillary bodies, and that all the other language in here stay intact, as-is. That's my motion.

>> Ed Rast: Did you want to put in per fiscal year on the 1 million?

>> Ken Podgorsek: I'm concerned that it's in conflict with what the council -- I mean I actually agree with

that.

>> Mary Ann Ruiz: We can make a recommendation and they can say this is what we choose to do. That's going to be my recommendation and I'm really uncomfortable approving or agreeing without that.

>> Ken Podgorsek: I'm okay with putting that forward as a recommendation.

>> Ed Rast: Do we have a second?

>> Mary Ann Ruiz: I second it.

>> Ed Rast: Discussion? David?

>> Dave Zenker: Dave discerning. I guess my discussion \$1 million versus 750, I'm concerned bogging down this issue tonight on that. I agree with Dan I think there are a lot of expenditures in the city that we could end up casting the net a little bit too wide on this and my concern is, it's a reform proposal that's gone before council that's pretty much a done-deal. And I think it could be -- certainly could be a recommendation we bring forth. I'd like to keep it out of this at this point. Doesn't mean we couldn't recommend it later. I'd have a hard time supporting the motion if we throw that in.

>> Ed Rast: You're saying you want the \$1 million as is take ited?

>> Dave Zenker: Yes.

>> Ken Podgorsek: I accepted \$1 million for are fiscal year.

>> Ed Rast: Not the 750 portion of it.

>> Dave Zenker: I guess I'm not paying attention.

>> Ed Rast: That's why I asked for discussion. Other discussion? Motion on the floor.

>> Ken Podgorsek: Call for the question.

>> Ed Rast: All in favor? Opposed? Abstentions? The motion passes unanimously.

>> Ken Podgorsek: And in closing we expect that staff will bring back to us I hope for our Saturday meeting the public meetings document that we sometimes call document A, with all of these things taken in regard and put forward so that we can make a final approval and send that document forward to the council. Thank you all for your patience on this very interesting topic.

>> Ed Rast: I'd like to thank the committee that put this together, Ken and Bob Brownstein and Lisa for the hard work that you've done. Lee ah.

>> Lisa Herrick: Lisa Herrick, attorneys office. I will do my best to get this turned around for the Saturday meeting. There's work that I'm trying to do on the closed session committee on their recommendations. And it might -- since this group has made some decisions about the closed session committee's recommendations, if I'm not able to complete that, I --

>> Ken Podgorsek: The first Thursday is fine with me.

>> Lisa Herrick: I would suggest bringing back the closed session committee's recommendations would have priority.

>> Ken Podgorsek: I agree, this could be the first meeting in March.

>> Dave Zenker: My question is how are these lining up for the time line for the memo that needs to go to council March 20th?

>> Ed Rast: Sheila would you comment.

>> Sheila Tucker: Sheila Tucker, our meeting would be march 1. If we come in with the ordinance language and there's not significant amount of discussion on the 1st, we can make last-minute changes and issue that staff report the next day on Friday. That would be the optimistic outlook.

>> Ken Podgorsek: Sheila, I hear you get comp time at the City of San José. You can work overnight.

>> Lisa Herrick: I do not get comp time. [laughter]

>> Ed Rast: Let's see we're on the next item, discussion of the public information provisions. Tom

Manheim.

>> Tom Manheim: Thank you. I'm going to pass around a document, ask Sheila pass it around the other side. Partially because my voice is giving out I'm going to be mercifully brief. Let me briefly walk you through the documents that you have since it's been a while since these were first distributed. Document G which is the document that has a cover memo from Dan McFadden dated October 17th and underneath that single page is document G, is the original staff report on public information. It is laid out with the -- I see people looking around. There are more complete packets in the back if you don't have these. These were distributed electronically. My apologies. Document G account original staff report. It lays out the public information section using the San Francisco headers, and it -- and many some of those you'll be addressing in other sections when you get to it. So the ones we're looking at are limited to definitions of public information, release of oral information, the public review file, what should be kept for public review, Internet access, the worldwide web, which the committee has done a very good job putting information for you, is recommended to be held over for the technology section. Lobbyists on behalf of the city, that's not about people lobbying the city, those are the city's lobbyists in Sacramento and Washington, D.C. and the reports they're required to file. And then an additional section on additional public outreach which falls really into two categories. The policy 6-30 which you probably heard referenced here is the policy that governs private land use and development issues when they come forward. And in that policy, we go beyond the state requirement in a number of ways. The state minimum requirement essentially is, you notify people in the 300 foot radius. We expand the radius depending on the project to 500 or a thousand feet and use a number of other vehicles to make sure that we're doing thorough outreach to reach stakeholders. The other area of outreach that we do is for public projects. And when we talk about public projects it's important to realize we're talking about everything from a sewer repair where you tear up the street for an afternoon to get it done, to building a new -- the substation that's being built down in south San José, or a new community center. So on public projects we have, what we do is, we have different policies governing the kind of projects. We have a matrix that's included in this report that really lays out the kinds of research we do. We are very -- I think we do a very good job in this area in terms of public outreach despite notable instances, where we could have done better. But in general the city really does an extraordinary job of engaging stakeholders from the ground up so they're involved in decision making. And one of the ways we do that is through these various policies which really allow us the flexibility to look at the project that we are trying to get word out about. Think about who the stakeholders are and try to figure out the best way to reach those stakeholders. So rather than having one prescriptive policy, we do have different policies and I would argue they've been fairly effective. So all of that is laid out in document G. You also have the supplemental staff report which clarifies the clerk's role when we're doing -- responding to public records acts. Document H is a matrix comparing the Milpitas language as well as San Francisco and Oakland languages, document I are other reform proposals that were sent out to the task force, when we put out word that the task force was interested in getting new proposals. You have the subcommittee recommendation. And the last thing which I just passed around is what I refer to as a simple organizational chart of the city. You got that in the original distribution, but I wanted to make sure you saw it in color and talk about it for just a second. If you look at the Oregon chart, at the top, what you have is the mayor and City Council and the mayor's staff and the council's staff. They're above that red line. What the red line designates really are the people who are in red are the people who are appointed by the City Council. They are hired by the council, they are fired by the council on any day with the exception I guess who is the auditor, which gives him a little more protection. They are directly responsive to the City Council. Going down a level in green, everything below that red line essentially are city staff or redevelopment agency staffs. And those people, all of those

people report to the six council appointees. But the City Council, because there's been a lot of confusion, the City Council does not have the ability to hire or fire any of those people below that red line. As you're talking about for instance calendaring, that might be helpful, this chart may also be helpful. I want to pass that out as my voice fails I'll pass this on to Virginia Holtz.

>> Ed Rast: That is a great chart. We ought to try to get that up on the city Website as soon as we can.

>> Ken Podgorsek: I know some neighborhoods that want that chart.

>> Ed Rast: It really clearly points that out. Virginia.

>> Virginia Holtz: The subcommittee met to look at everything the task force and the City Council members have brought forth. Many of our recommendations tonight come from earlier recommendations of the task force, and so are consistent with the issues we've brought forth. There are seven areas that we are going to talk about, and we have a recommendation for each one of them. I'm going to cover the first four sections, and then the calendar -- and then I will cover the -- and off sequence, the one on lobbyist, because it's talking about the city lobbyist. And then Dave Zenker will continue with item number E, the calendars for certain officials. The ones I'm covering are pretty straightforward. And I don't think there's going to be any controversy but we never know. Given that stance I'm going to suggest that we move to the definition of public information. There is no, in the Brown Act there is no definition for public information. It's public records act. In both Milpitas and San Francisco, they used the public records act as the definition for the public information. And we're suggesting that we adopt that same definition. And I will read it to you. It's on page 1 of the section, document H if you care to read along. I just thought it would be easier if I did this quickly. The content of the, whether provided in documentary form, or in an oral communication, public information shall not include computer software developed by the city, as defined in the California public records act. And then it's government code section 6254.9. I'm going to just, since I'm leading the meeting and I'm just going to move us through this quickly and say I recommend we approve this right now. Is there any questions?

>> Bob Brownstein: I second that.

>> Ed Rast: Bob Brownstein seconds.

>> Dave Zenker: To identify documents that are on computer tape disk on video or audio recording. We took the public information definition and added that.

>> Bob Brownstein: I second.

>> Virginia Holtz: Discussion? Are you ready to vote on that? .

>> Ed Rast: All in favor, opposed? Abstentions? It passes.

>> Sheila Tucker: Excuse me, who seconded?

>> Ed Rast: Bob Brownstein. Virginia.

>> Virginia Holtz: B, release of oral information. We recommend endorsing the existing practice used in the City of San José which is on page 3 of document G, if you want to turn to that now. There's not language that would be written, it's just the standard practice of the city. So what our recommendation is that we take the practice the city is using, and it's beyond what the Brown Act requires, and move it to the attorney and to our legal counsel to work out language that would be the intent of the current practice of the city. And I guess what we would -- if the task force so moves, we would like to just recommend that in concept now, and then they could come back with that additional language.

>> Second.

>> Ed Rast: You are making a motion?

>> Virginia Holtz: I am.

>> Ed Rast: We have a second from Judy Nadler. All in favor, opposed, abstentions, it passes unanimously. Virginia.

>> Virginia Holtz: Item number C, public review file. We recommend adopting this language which is in Milpitas and San Francisco ordinance, page 3, this willing constitute a change in the San José practice because the City Clerk does not currently maintain a single file where all policy bodies submit agendas, minutes and memos to the public file for all review. We would like to try having one place for all those documents to reside. Understanding that that might be very challenging, so the City Clerk's office --

>> Ken Podgorsek: I heard Lee has a big office.

>> Virginia Holtz: But we would recommend the public review file be residing in one location. And that that would be the City Clerk's.

>> Ken Podgorsek: Notwithstanding my joke, Lee would you like do comment on that?

>> Ed Rast: Lee is not there.

>> She had to leave. I'm taking notes for her.

>> That would be a great time to move.

>> Ed Rast: City staff, Tom Manheim.

>> Tom Manheim: I think this is fine. As I understand the direction, right now, we have a number of different departments who manage some of the notification for these soon to be identified policy bodies, they could continue doing that work, as I understand this, the request is that a central place be designated for all of the records. And so I think it would simply be a matter, a protocol for making sure that information gets to the clerk's office.

>> Ed Rast: Do we have a motion then?

>> Virginia Holtz: I move.

>> Ed Rast: You moved and then -- you second.

>> Nadler.

>> Virginia Holtz: Judy Nadler seconded.

>> Ed Rast: Any discussion? All in favor? Opposed? Abstentions? Motion passes. Virginia.

>> Virginia Holtz: Item D, the Internet accessing, worldwide web, we recommend deferring that to the technology section. I don't think that requires a motion. We're register deferral under technology.

>> Ed Rast: Let me ask a question, Dan, under technology?

>> That was correct. That was consistent with what we discussed.

>> Ed Rast: Fine, Virginia.

>> Virginia Holtz: Then if you'll move to the last page of our recommendations, item F, which is called lobbyist on behalf of the city, currently the practice that is required by state law or federal law, is met through our lobbyist, we have a lobbyist in Sacramento. And reports semi annually, available online through the Secretary of State. The city employs a lobbyist firm in Washington, D.C., and they report on a six-month basis. And their reports are online through the senate online services. San José reports, the lobbyist reports to the city on a semi annual basis but if it's legislation reports to them through their committee system. We just recommend that you endorse the existing practice of the city.

>> Ken Podgorsek: Second.

>> Ed Rast: Ken Podgorsek seconds. Discussion? Call for the vote. All in favor, opposed, passes.

>> Virginia Holtz: Then you get to the real questions, item E, calendars of certain officials and I'm turning that over to Dave Zenker.

>> Dave Zenker: The question for you Mr. Chair, do you want me to launch into this?

>> Ed Rast:.

>> Ken Podgorsek: We're on a roll.

>> Dave Zenker: Let me quickly remind you where we've been. We discussed it at lengths at the task force. We discussed it with the council on the study session. We tried to take all that information and

compile it into one place for you here. Most of the areas I think you're going to find here are areas that we have actually reach tentative agreement on. I think what I'll do is take a section at a time, ask if there's any questions, and then just do one big motion at the end if that's okay. Starting with frequency, we had originally held an agreement twice a week on Monday and Thursdays, that was based on an original recommendation doing it every three days, San Francisco and Milpitas ordinances. They're publishing it in a hard copy, published on the Web, but you can only see back every three months. When we talked about the every three day proposal at the council that was met with skepticism. They were concerned with the complexity that the staff could manage this. The subcommittee fell on a position of weekly, one day a week, everybody knew that's when calendars got disclosed. Our recommendation is one day, Friday no later than 5:00 p.m. and the calendar for that week be disclosed. Retroactively. So there might be some questions about security issues, you wouldn't certainly want to be disclosing any appointments that haven't happened yet. You know people could potentially be looking at the calendar and going okay, the mayor is going to be at such and such event tonight, kind of thing would certainly want to avoid that. It would have to be retroactive appointments. The goal here is we would want to see who our elected officials have been Peteing with and what kinds of meetings they have been having before the council meeting occurred on the following Tuesday.

>> Ed Rast: Ken Podgorsek and Bob Brownstein.

>> Ken Podgorsek: I have a quick question. It may not be a quick answer but quick question. Many times when I look at calendars my thought is what happened the last week, I also want to see what they've done the last two months.

>> Dave Zenker: That's down below.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: Since we -- shortly you'll be talking about unscheduled meetings and you want to capture some of those. I think it would make more sense to have the week's calendar published the following Monday, rather than Friday. Because otherwise the people will be scrambling wildary to get the last unscheduled stuff in the calendar particularly if it's something that happens, could happen 6:00 on Friday and then you have no chance. Suppose it happens at 4:00.

>> Ed Rast: Susan Goldberg.

>> Susan Goldberg: I would say releasing some information at 5:00 on Friday is the classic way to bury the story. It is a tried and true method. It is a tough thing and I actually for different reasons agreeing with Bob that perhaps a Monday morning release of the previous week would be better for everybody.

>> Dave Zenker: I don't think the subcommittee is necessarily married to a particular day of the week. We want to make it functional and something they can comply with. We wanted to back it up from the Tuesday council magnet so we got a sense if there was meetings happening in advance of a council vote that there was time enough so it could be researched. If it happened at Monday morning at 8 a.m. --

>> Susan Goldberg: With the web you don't have to wait for the next day's paper particularly so it would be a fairly instantaneous reason a morn. It isn't quite as long but I think Friday 5:00 p.m. is, things go away.

>> Dave Zenker: The safety issue as well, if there were meetings on did calendar for Friday night that got disclosed the week would be done.

>> Ken Podgorsek: I would think Monday at noon would be a fair point.

>> Ed Rast: Therefore they got a couple of hours. The question I had a clarification question on this. We keep referring to the calendar, the public use of the calendar indicates both backwards and forwards. Would we might want to think about naming this something other than the calendar to indicate what more it really is, it's a log of prior meetings? I don't know, I'm just trying to -- when I think of -- if

somebody says calendar of certain officials I think not only what they've done in the past but what they're going to be doing in the future which is not the intent of that.

>> Dave Zenker: The intent would be a retrospeck tiff view.

>> Judy Nadler: The intent is not a calendar like.

>> Dave Zenker: It will be just a published version, almost a live type version of that, software, and I've been trying to follow the I.T. issues behind a lot of this because I want to make sure that what we're recommending is doable. I don't want to get so far down the road that we make all these recommendations only to find out that oh, sorry, we can't do that. So I really want to track and make sure that the technology is going to be able to support what we're doing here. So I think the subcommittee would be fine with really any day of the week and at this point you know, Monday before noon would be fine with us.

>> Ken Podgorsek: I don't care what day of the week as long as I know it's going to be published on a certain day and I know it's going to cough the stuff from the week before. I would, you know, a day is again arbitrary. I have to agree that probably Friday at 5:00 is not the best time.

>> Ed Rast: Tell me about it.

>> You might want to indicate what period it's covering, the seven days ending on the previous Friday or something.

>> Ed Rast: Dave, I had a question. What you're saying is it would be Monday at noon for the previous time ending midnight on Friday or midnight on sun or which -- because then you've got the weekend. If you try to get to the issue of meetings that occur for the upcoming council meeting, an important event, we might want to think about having it cut off as midnight on Sunday. I'm just thinking, do a lot of these meetings occur on did weekend?

>> Ken Podgorsek: Ken Podgorsek. You've got to go back to the practicality issue. You're coming into the office 8:00, your scheduler comes in at 8:00, let's say the councilperson also shows up at 8:00. I've been in these meetings, they have a meeting at 8:00 in the morning, they have a chance to get a cup of coffee at 9:30, the scheduler session, by did way, we have to add these meetings over the weekend. I totally understand what you're saying but we don't have to get down to the minute function. You could say everything up to 5:00 on Friday.

>> Ed Rast: Fine with me.

>> Ken Podgorsek: They're not going to do things that are embarrassing to them a week later.

>> Dave Zenker: If we can make as much as possible of this happen will be an amazing thing. Whatever we can do to keep the burden on staff as much as possible --

>> Dean Monroe, as did scheduling coordinate for Norm Mineta, in the 90' all of that is pretty easy.

>> Ken Podgorsek: Ken Podgorsek again. I guess my thought was I was looking here and I'm looking at the next part of this which is the unscheduled meetings. So you know, granted there's no real way, I will say there's no way to really enforce it. Are they creating a situation where they have a difficult thing to do it. If you want to call it Sunday I'm not going to vote against it but it's not going to change anything for me, if it's reported through the end of the day on Friday.

>> Susan Goldberg: I mean, I would just say do it Sunday at 5:00 and I would just also add I don't think this is difficult. I don't think anything about it is difficult. Especially with the technology.

>> Ken Podgorsek: And it's a pilot program.

>> Ed Rast: Okay, Dan Pulcrano.

>> Dan Pulcrano: I agree that it's not difficult, with Dean and Susan for the scheduled meetings. The problem is going to be for the logging of ex post facto meetings. I think we've got a real problem with hallway and parking lot discussions. If there's a sit-down meeting that occurs that wasn't scheduled that

should be reported but you know --

>> Dave Zenker: We're not there yet Dan.

>> Virginia Holtz: We have a separate unscheduled meeting.

>> Dave Zenker: If we could finish up on frequency, if there is skull on frequency, day of the week, then scheduled content.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: I'm just looking on clarification on when the period's ending.

>> Dave Zenker: Sunday at 7:00 p.m.

>> Ed Rast: Let's see if I can clarify, Sunday 5 p.m. and reported by Monday at noon. Then do you want to rename, city officials prior meeting log?

>> Dave Zenker: I think calendar is pretty clear. That's how it's named in other two ordinances, it's called disclosure of certain city officials calendars.

>> Ed Rast: You insert the term prior calendar? The only problem --

>> Ken Podgorsek: They may think it's a future calendar. When I look at my calendar every week I actually send my calendar electronically to my wife because it's the only way you know that she knows what the heck I'm doing. But you know, it's actually when she looks at it she's not looking what I did last week, she's looking forward. From my perspective I understand what he's coming from. They're not going to be seeing ahead, they're seeing behind.

>> Judy Nadler: Judy Nadler with the risk of beating this into the ground with only ten minutes left, I think the public can figure out when they see it what it is. I think they can figure out it doesn't go ahead, it goes backwards.

>> Dave Zenker: Content, we need to have discussion here. I think the most obvious part of this section is for meetings not otherwise publicly noticed or recorded the calendar should include a general statement of what's being discussed. So what that means basically is that if it's a council meeting it can simply say council meeting. With all due respect to the current mayor I've looked at his calendar a couple of times and he has meetings on there, a meeting in particular is called Pete and I understand what that meet, probably a meeting with list chief of staff. But I'm not sure a layperson would understand what Pete means. There might be a little more effort in stating what the meetings are so a layperson would be able to understand. Title is just a little bit of information so lay people will be able to understand what the meeting means. So the first item we need to discuss, we've had discussion in the past how do we disclose these unscheduled meetings, sit down format or parking lot format. And I've tried to put some language here and I've used the word substantial which is so vague, leading to a substantial discussion of city business shall be placed on the calendar and reported. It shall be incumbent upon the city official himself or herself, which result in substantial discussions and should be reported. Beyond that I'm not really sure what we can do to enforce this.

>> Ed Rast: One of the things we talked about was the idea of disclosing if the officials met with lobbyists, when they met with somebody that that term, if it is a lobbyist be disclosed?

>> Dave Zenker: I think the hazard there as we have found out in recent history is that there have been elected officials who haven't disclosed those meetings and lobbyists have and so they've found themselves having to explain meetings that weren't on their calendars. So certainly it's going to be in their best interest to disclose that.

>> Dean Monroe, I was going to say on the 27th of February mayor Reed is asking that councils will disclose that from the dais if they've met with a lobbyist about an issue before the council. So --

>> Ken Podgorsek: Ken Podgorsek. Just real quick. I think what we're trying to do here is basically put in an honor code. It's not enforceable. We're basically putting in a policy and asking the councilmembers

and the mayor to do this as a sense of honor, because there's no way to enforce it. There are meetings that occur, it is not an uncommon occurrence for me to personally run into a councilmember, sometimes walking down a street or getting into the car, I'll say hi, how are the kids and all that. I'm certain that would never meet any kind of quality substantial discussion. What we're really doing is putting in an honor code. And I would think that if you happen to be walking down the street and you ran into a lobbyist and you say hi, how the kids, by the way I've got an issue before the council on Tuesday and you know, and it's about this and this and this, and just sort of hoping you might be able to support me, I would hope that a councilmember would think, oh, I need to jot that down, put it in my calendar. We're basically asking the councilmember to accept an honor code. Over time, some people will be more honorable than others.

>> Ed Rast: Bob Brownstein and Dan Pulcrano and we have a public comment.

>> Bob Brownstein: I have some concern because the number of those meetings is truly voluminous. We handle it by moving one word in the proposal. Instead of saying a substantial discussion of city business, change it to be a discussion of substantial city business. And that means because an awful lot of these hundreds are like small stuff, very small stuff. So if you miss it what's the big deal?

>> Susan Goldberg: But you're not going to have a substantial discussion at a party when you're seeing 100 people, on any subject, it will be, hi, how are the kids, if anything it will be, let's talk more on Tuesday.

>> Bob Brownstein: I got to disagree. See, the problem is it's not how accommodating councils and the mayor wants to be, or getting in whoever wants to get in, people understandably view those chances to get access as a real chance to get access. In fact that's why some people go to the things.

>> Ed Rast: Dean.

>> I was just going to say, if you go to a community meeting or town hall meeting where you want to interact with your constituents, you're a councilmember, 100 people came, you'd have a pretty long list of discussions. That's a practical overlay that makes this one tough.

>> Dave Zenker: As a person who has spent a lot of money on rubber chicken dinners, I agree with you. I think our elected officials do make a lot of contacts at those events but what about putting the event as the calendar? You don't have to detail every single --

>> Bob Brownstein: There is no problem. The question is how many of those conversations at the event should be added into the calendar as meetings that took place. And I think it's going to be unreasonable to expect people to put them all. I mean, you made a reasonable effort to try and cut it down by saying a substantial discussion. And to me, that seems a less clear direction to somebody who's trying to figure out which of the hundred should I put down, than it should be about something that's a big deal. These are subjective.

>> Dave Zenker: To me, the town hall meetings and the rubber chicken dinners are going to appear on the calendar. What we're trying to capture is when there's nothing on the calendar, going down to the car or in the elevator, a 20-minute discussion.

>> Ed Rast: Dan Pulcrano.

>> Dan Pulcrano: As a prolific consumer of the calendars of public officials, I review these items frequently. I don't expect public officials to walk around logging every meeting with constituents. I think that type of contact and interaction is to be encouraged with as many people as possible and they shouldn't have to fear talking to someone in an elevator because they're going to have to disclose the contact. So I think words, subjective terms like substantial without describing it quantitatively, could be more troublesome, they could be interpreted any which way. I think the biggest problem was when the mayor would have scheduled golfing engagements with lobbyists and consider it private personal time. I think that's a problem. If it's not a scheduled meeting, I also agree with Susan, if it is not a sit-down

meeting, if there is a meeting that someone joins and sits down and spends a half-hour or an hour there, it should be scheduled on the calendar. Random contact should be encouraged rather than discourage.

>> Dean Monroe speaking as a private citizen. If there is a time limit, where the meeting a certain period of time, there would be more of a chance for this to be embraced by the council here. Otherwise it's a non-starter here.

>> Ed Rast: Half-hour, hour? Brenda?

>> Brenda Otey: I think we're assuming that a lot of information or influence can't be asserted in a few minutes versus 30 minutes versus two minutes, if I got a message I want to get across to you, you're supposed to get a message across in 30 seconds if you really want to get somebody's attention. To say it's got to be more substantial as far as the amount of time doesn't mean you're going to get the -- capture something substantial happening between two individuals. And I think that we need to you know, just recognize that, and a lot can happen in an elevator conversation on the way to the car. I mean, that doesn't matter, it's what -- how -- people are going to be on the honor system. Because it depends on what's being said, not how long it takes to have it said.

>> Joan Rivas-Cosby: When you think of a lot of the contact made people want to talk about their immediate concerns, the pothole on my street, why isn't my garbage being picked up. If somebody wants to talk about some new housing development, that might be more substantial, and that might be more meaningful as the public will see, when they view somebody's calendars, not the number of contacts made in any one event.

>> Dave Zenker: So I'm not sure how to move forward on this. We've been in both camps in our previous discussions on this and this was kind of our attempt to capture something that you know, as Ken said, created an honor code where -- and even some of the councilmembers suggested that they would be willing to abide by this, because we had brought to their attentions that a lot of them have these vacuous calendars, that -- I'm still talk, I'm not done yet. This would be their opportunity to capture some of that and put it in the ordinance. I don't want us to get completely bogged down in it.

>> Ken Podgorsek: I don't think it's something for us to get bogged down on. As long as the concept here is to create open and transparent government. I've said this to multiple people. Sunshine is the best CYA any elected official could hope for. If they put on the calendar, I met with Jim, met with Sam, out in the open is a good deal. It's when you don't feel that you can be out in the open that you have challenges as an elected official. I think what we're doing here is putting together an honor code and say please abide by it. I don't think we have to really overthink it.

>> Dave Zenker: I think one recommendation is that we kind of munch on in over the next couple of days and take it up at our next meeting. I can't imagine you would want to go any longer.

>> Ed Rast: Tom had a comment.

>> Tom Manheim: Tom Manheim. If I would mention one other thing you want to munch on, we discussed this with senior staff and they raised an issue I hadn't thought of. In a busy office, true of the mayor's and City Manager's office, a lot of things are not meetings scheduled but you know, something important comes up and you pop into the City Manager's office and you have a the 30-second conversation. That may happen ten, 15 time a day and I think everybody recognizes what the task force is about and there was concern about house do I track that, how do I keep track of that. I don't know whether it is an issue.

>> Susan Goldberg: I'm concerned with one thing, this is never going to be a perfect system. It can't be. The human interactions are too changeable and fluid for it ever to be perfect. I think what we're doing is, laying out a code of conduct and it will be up the to individual to look into their constitution and decide if this constituted a meeting and to release the information.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: If what we're doing is trying to give a code to somebody in terms of a code of conduct, we'll figure out the right wording but the concept would be, if you met with somebody and it impacted your decision on a big deal, put it down. You think that doesn't cover enough?

>> I'm sorry, I don't mean to get caught up and I'm not on the task force by the way --

>> Ken Podgorsek: That's how Bob got on here!

>> Tom's example is for city people interacting, is it better or more official, city substantial discussion of substantial city business.

>> Ed Rast: Dave, there are two waives handling it. One is to put it off and -- can we scroll it down to the one sentence? The double substantial?

>> Dave Zenker: There's actually one other relatively juicy issue that we need to discuss tonight under exemptions that's going to take a limb time.

>> Ed Rast: Let's see, think about this a second. Is it possible you can come up with a way that we can get a consensus on the major -- what we're talking about is, we're going to come to a definitive thing on this. Are people comfortable with the way the language is now?

>> There's problems with it. I apologize because I've got to excuse myself to make another commitment. But I'll just toss out and I'll be willing to take a crack at this after hours. But something like public officials are encouraged since it's an honor code, to record contacts of a material nature with interested parties in matters coming before our policy body.

>> Ken Podgorsek: For council in this case. Oh, I'm sorry, more than coin.

>> They're encouraged to do it and that kind of leaves it up to the councilperson to, and those of us who are in the watchdog roles, will look at those disclosures and to the extent that that is a reflection of the city official.

>> Quick suggestion under content, is if we can have more specific guidelines. I think the council is even asking for that like, what exactly do you need. If we were to say, have a bullet point that includes names of persons, title if applicable, discuss and issues discussed.

>> Ken Podgorsek: There you go, that's close enough.

>> The way it's been put forward by Bob is more than adequate. If you convey what you'd like them to get done, you're good.

>> Ken Podgorsek: Mr. Chair, I suggest this be first on our Saturday agenda.

>> Ed Rast: Sound good.

>> Dave Zenker: Maybe Virginia and I will get together, and put out a revised memo.

>> Ed Rast: Do you have another item?

>> Dave Zenker: If there is a large item under calendar.

>> Ed Rast: Go ahead.

>> I wonder if we could put a motion on the floor to accept all the matters that have been put forward.

>> Virginia Holtz: We really don't have a recommendation except that the additional public outreach are topics that we acknowledge, we don't have opinions, we didn't have the time to discuss them so we didn't make any recommendations.

>> Ken Podgorsek: And I'll put the committee on notice that when you do, on a couple of those issues, I have comments. And so related to them, related to how they affect neighborhoods and what the intent of council policy 630 was and how it's currently being implemented and how it should be implemented better.

>> Ed Rast: Dave and Virginia what's your recommendation that you take them back and take a look at it?

>> Dave Zenker: And continue discussion at whatever is the next meeting.

>> Susan Goldberg: Could we do that at the Saturday session? That's a great idea.

>> Ed Rast: We have a copy of his wording.

>> Virginia Holtz: We might consider Ed having you read that right now and see if we approve it on Saturday night.

>> Ed Rast: Again, thank the subcommittee on this, Virginia, Dave, great work on this. I think it really, really, we've got us through this. All right, so the next item on the agenda, is update on the study session.

>> I'll suggest that staff send you the link to the meeting with the synopsis, we can certainly circle back and discuss it at next meeting if you have any questions.

>> Ed Rast: Sounds great. Next is the upcoming agenda and work plan.

>> I think I put it pretty clear, the morning session will conclude with a wrapup of public information, closed session and with the afternoon session on public records. So --

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: I'd like to get my public subsidies item educateddized for the March 3 meeting.

>> hopefully we'll have items for you to approve before staff leaves the next day.

>> Ed Rast: I'm thinking of --

>> Bob Brownstein: Staff showed up and they may want to do something else on Friday.

>> Ed Rast: Susan, we're fair on the closed session?

>> Susan Goldberg: We'll do fine.

>> Ed Rast: Any other work plan items?

>> Ken Podgorsek: I've asked Bob Brownstein to work with me, on another topic.

>> Ed Rast: So is there any additional comments on agenda work plan? Last item is public comment. Do we have any public comment?

>> Ken Podgorsek: I move for adjournment.

>> Ed Rast: I second and all in favor, say eye. Thank you, it's been a great meeting.