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Sunshine Reform Task Force
>> Ed Rast: Have we got a quorum? Double-check it. Eight.
>> Ken Podgorsek: You have [counting] nine.
>> Ed Rast: Couple of administrative announcements and then we'll get started. If you parked in the parking garage, the validation medicine is in the hall. When you're speaking if you would make sure the microphone is close to your mouth so we can hear you. And then if the public would like to speak after each agenda item we'll have a period of time for you to speak and then at the end of the agenda there will be the public comment period, also. And is everybody seated? All right. What we'll do is call the Sunshine Reform Task Force meeting to order. And the meeting is for March 15th, 2007. Meeting is called to order. And the first topic on the agenda is the approval of the minutes for February 24th, 2007.
>> Virginia Holtz: Virginia Holtz, I move approval.
>> Second.
>> Ed Rast: Any discussion, changes?
>> Ed Rast: All right, all in favor? Anybody opposed? Any abstentions? One abstention. Susan Goldberg. Okay. The next, we also have the minutes for March 1st, 2007. Motion?
>> Bobbie Fischler: Bobbie Fischler and I move an amendment to those minutes. On -- under number 1, it says, February 15th minutes were approved as amended with four abstentions. And then the list is three people.
>> Amendments reflects somebody who can't count.
>> Ed Rast: Do we have a second? Approval of the minutes?
>> I second.
>> Ed Rast: Thank you Virginia. Additional discussion? Comments? All in favor? Opposed? Any abstentions? All right, Ken Podgorsek abstains. The second agenda item is comments from the chair. We -- the first item, one of the first things we're going to discuss is the discussion of the update for the City Council. And we're going to move that forward on the agenda. And then have a quick discussion on that. One of the things that -- in that, that was sent out to you, in the update is the idea that we're going to be able to finish these three sections up within four to six weeks, which is essentially at the time it was written, it anticipates by the end of April. We looked at the schedule for the fifth week of this month, and there is no open meeting dates at that point in time. So the only two open meeting dates, if we do not make progress on this to be able to meet the deadline, which is actually the second deadline, if I remember correctly that we actually -- we movement it now twice, would be the, what is it the 12th and the -- the second Thursday and the fourth Thursday of next month. Let me look. So I would suggest that, you know, that we -- that I think we're going to be able to make it because the committees have been very, I think, concise in putting their recommendations forward and then defining the issues. But I think we need to look at the idea of having a backup just in case we run into difficulty, on certain things like we sometimes do. I would ask that the task force members as they're discussing it try to make their comments short and concise and try to make the point, if they agree with something or not agree with it and why, and then we'll try to move forward. And as we've discussed before, if we get into a long discussion on it, because we have a shortage of time I think what we'll do is we'll try to entertain a motion to move forward, and move it forward with a majority. And if there is a minority position on it, we'll ask that the people who are in the minority position want to make comments, and advance those, we'll do it at that time rather than continuing to go around on a particular issue. And then miss the deadline on a particular topic. Let's see, I think -- that's all I have to say at this point in time. Away we'll do is move agenda item, Sheila, question for Sheila. Do you think you want to review the meeting materials or just move agenda item --

>> Yes, if you will give me a brief minute to review. It will only take a few minutes.
>> Sheila Tucker: Sheila Tucker, City Manager's office. The first a memo from chairman raft with suggestions to improve the outreach program or excuse me, the public outreach provisions of the ordinance and we'll be discussing that this evening. The second is a memorandum from the closed session subcommittee, primarily related to labor negotiations which is also a topic for discussion this evening. And then finally there is a draft status report to the City Council with the cover letter, and that recognizes those areas that we've made recommendations on, and those items that are still outstanding. That's the item we'll take next. Couple of other brief reports I wanted to make. Staff continues to get letters on public -- police records, we're now starting to get little post cards similar to the form letters we were getting early on before the February 24th session. And we've, since that session we've received 16 more letters, basically encouraging open police records. And then the last item I wanted to bring to your attention, there are two outstanding rules committee, rules and open government committee referrals that staff's been working to respond to this week. One relates to the California aware public records act request that resulted on the Mercury News story and the grading of various police departments. The second was a letter, a public records act from ACLU request on taser use. They were pending the conduct of the February 24th Sunshine Reform Task Force meeting on law enforcement and so staff has been working to prepare a follow-up response to that. They'd like to know the outcome of the 24 session. Ava in our office has been working to draft that memo and it's going to look a lot like your minutes that you approved tonight on what happened in that afternoon. I don't see a lot of substance at this point. I think the council was hoping that after that meeting it would help inform those discussions. And because the 24th was more of an informational gathering session and we're not at a point where we're making recommendations on process improvements and so forth, there's not a whole lot more to say. But we'll certainly let them know. We were looking at laying out the schedule for when we will get in discussion on that but certainly we're not there yet. So I will send a notice when that report is finalized and let you all know when rules will consider the item. That's all.
>> Ed Rast: Thank you Sheila.
>> Sheila Tucker: That's all.
>> Ed Rast: One of the things on the task force, hopefully everybody has had a chance to look at that time status report. One of the things we've said in here is we're going to basically complete it. We summarized where we are and some of the issues still that we have to cover that we're 80% through the three items, or the three topics, public meetings, closed session and public information. And that we should finish the other parts of it phase 2 by the end of June. I think that the committees that we have are helping United States a lot to move this forward, as well as we have been moving together and working together very effectively for many months now. We wanted to take a look and get comments on the draft update to City Council. And do we have any comments? Points that need to be talked about to the City Council on the update? Let's go down for a minute. Does Ken Podgorsek, you're on the public meetings. Do you think you're going to be able to make the time schedule by the end of April?
>> Ken Podgorsek: Ken Podgorsek. Yes, I believe we'll be able to do that. I believe we need to see all the stuff that we've done put into the document but I believe the outstanding issues are not going to be contentious. We have to understand and the council has been working on that a bit themselves. As you and I both know there was a memo that came out of rules related to that. We may have to look at that. I don't believe the item of appealability of items of great community concern based on the definition and in policy 630 is going to be very difficult or hard to understand. So I see no challenge. As a matter of fact if we agendize this, I believe we agendize this and our leg staff can have the other documentation ready, I believe we can finish it.

>> Ed Rast: Susan.
>> Susan Goldberg: Tonight we have got the labor negotiations closed session, I'm sure that will go without contention. I would hope that we could finished both items and that's that.
>> Ed Rast: Virginia and David, on public information.
>> Dave Zenker: My impression, we'll get everything finished tonight.
>> Ed Rast: Virginia?
>> Virginia Holtz: Yes.
>> Ed Rast: Are there any additional comments that we need to talk to City Council about?
>> Dave Zenker: Do you want to have a comment on the memo right now or you want to wait until it's on the agenda?
>> Ed Rast: I'm sorry, I didn't hear you.
>> Dave Zenker: Do you want us to give you comments on the draft memo now or later on when it's on the agenda?
>> Ed Rast: Let's do it now. Dan.
>> Dan McFadden: Rules committee there was a long discussion on lobbying, and that does not affect us directly. But it may be of interest to some members here. But away does -- was -- Councilmember Cortese talked about releasing of information from closed sessions. And the rules committee decided to await our report before they did anything about that. So that's the brief comment.
>> Ed Rast: Also Dan, could you comment about the rules committee had a comment on moving forward with the two pilot projects, I think it was the BEA project for justification of projects and also redevelopment was going to do the same thing.
>> Dan McFadden: Let me finish the one thought. First, I left it off. I was called to the -- to see when they could expect a response on the closed session item and I said we would have something in by mid-April. And I understand Susan assures it's all going to happen tonight.
>> Susan Goldberg: No problem.
>> Dan McFadden: And the other, you know, actually Sheila is more current on this than I am. RDA is coming forward on their draft for cost benefit analysis. The economic development submitted one that was considered, and then we have the Brownstein comments. And that's being merged into some kind of a document and I think Sheila is more current than I am.
>> Sheila Tucker: Sheila Tucker City Manager's office. Dan is correct. We have been working to pull both of those proposals, Brownstein and staff's proposal and looking to get some out further in advance of the April meeting, that's when we'll take the issue up again. So we'll try to have something out within the next week, week and a half.
>> Ed Rast: Thank you. I'm sorry Dave do you have additional comments?
>> Dave Zenker: Sure. Dave Zenker. I just want to make sure I'm in the right place now. Are you looking for input on the status report? Because I see it later on the agenda or now. Move the item now or later?
>> Ed Rast: We moved it up to talk about it now.
>> Dave Zenker: As far as public information there is one spot that I found needed a little bit of an amendment, under section C, calendars, which is on page 5. Under the area that starts key changes from the city's current practice are, under item number 1, indicates which individuals are required to post their calendar online. The current language indicates only the mayor and City Council members are. What we indicated was mayor, City Council and appointees would be required to publish their calendars. We excluded the independent police auditor and the City Auditor from that. Other than that I don't see any changes from the public information sections.
>> Ed Rast: Virginia.

>> Virginia Holtz: There is a final tweaking to the lobbyist on behalf of the city, 6 D and I bring that up later where it's on the agenda.
>> Ed Rast: Sheila, you'd rather get the comments now?
>> Sheila Tucker: We can go ahead and take the comments. I would hike to suggest though that the current draft based on the decisions that have been made through the last meeting and in order to get the draft out and so staff can continue to work and update and get us ready for phase 1 that we just get it out dependent of any decisions that are made tonight.
>> Virginia Holtz: I'm sorry, I couldn't hear.
>> Ed Rast: Her comment was basically have it cut off as of last meeting, this draft would reflect decisions made as of the end of last meeting. Are you comfortable with that Virginia or not? Or is there something --
>> Virginia Holtz: What I'm going to suggest that we add is just what a phrase, it seems like it would be no major task to fold it in.
>> Sheila Tucker: Sure, that's fine.
>> Virginia Holtz: So I'd like to propose that we do that. Because then that would complete that tiny little section.
>> Sheila Tucker: We'll include that, thank you.
>> Ed Rast: Additional comments? Mary Ann, Karl, we moved the agenda item for the status report up. Is there any comments? Any public comments on this? So the task force is comfortable that we should be able to complete it based on the first three sections. Okay. We completed that item. Is there any comments from staff? So we go back to the normal order of the agenda. Ann. I'm sorry Ed Davis.
>> Ed Davis: Just looking at the notation that maybe I missed something along the way. But with respect to recording of closed sessions. There's a statement here that the task force does not agree to record all closed sessions, making closed session recordings available to the public. Is that where we are?
>> Ed Rast: No, we agreed that we would and that we wouldn't bring it -- my understanding, correct me if I have it wrong but my understanding is we agreed that we would have audio recording of closed sessions and that the topic would not be brought up until we get close to the -- that we would not continually to discuss it and go back and forth, we would only discuss the areas of release and the other areas around it. But as far as the task force made the agreement that we would have audio recording of closed session.
>> Well that part of report then is inaccurate.
>> Ed Rast: What page, section?
>> Ed Davis: Details, details. Page 4. I know I read it.
>> Ken Podgorsek: It's the very last line in 3 subsection I.
>> Ed Davis: Yeah, it's 4, 3, I, and also small II.
>> Tom Manheim: Mr. Chair.
>> Ed Rast: Yes, Tom.
>> Tom Manheim: I thought that was an open matter too.
>> Susan Goldberg: What we did approve and agree to was that we were going to record in chosed session and we're now going to figure out how to deal with that.
>> Tom Manheim: I'm talking about under point 3, under page 4, 3.1, that the fault is that the recording be made available unless the City Attorney suffice that the recording should not be disclosed. And then it goes on. I don't believe we agreed to that.
>> Ken Podgorsek: Mr. Chair.
>> Ed Rast: Yes, Ken Podgorsek.
>> Ken Podgorsek: Ken Podgorsek. I don't like the sentence. I think the sentence implies that we're leaning in a direction of not recording all sessions. I don't think that's where we're going. But I have to

agree a bit with that, we haven't come to the meeting of the minds there also. It was somewhat dependent on the certification process, as I've commented more than once, I personally have a challenge with you know, are there going to be items that will be recorded, that will never see the light of day? Now, if we come to a reasonable certification process where that doesn't appear to be the case, then it makes sense to me. But you know, but there's a part of me that says, why would we ever want to record something that would never be certified to be released? So I don't like the sentence because I think the sentence implies a much different concept than that. But I'm not entirely sure that we have come to the agreement that we're recording all sessions at this point.
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: Ken, I guess I'm a little surprised because I think we came to a very clear agreement about four meetings ago, that we were going to record, and that what was still up for discussion, and that was on tonight's agenda was, well, what is the certification process? I think that the discussion we had about the value of recording is that the only way to really put pressure on people to do the right thing in closed session is that there is, you know, a little bit of a stick out there that this stuff is being recorded. And that there be some process put in place to be discussed, that would allow that information to be released after it no longer needed to be kept under wraps.
>> Ed Rast: Sheila Tucker then --
>> Sheila Tucker: Sheila Tucker City Manager's office. Just a few points of clarification. There's an attempt to make it clear that these are subcommittee recommendations or committee recommendations and they have not been decided. With regards to the --
>> Ed Rast: So my understanding would be if you took that sentence which currently reads since the task force has not agreed to record all sessions and the process of the City Attorney certifications, cross out since, put the task force has, cross out not, if you cross out since and not then it accurately reflects --
>> Sheila Tucker: And early on the task force agreed to record all closed session. At the last meeting staff made a strong recommendation to not record labor negotiations and it was decided that we would discuss this.
>> Susan Goldberg: I don't know who decided that.
>> Ken Podgorsek: Mr. Chair.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: When you made that argument I had a flash back. Because I have a feeling that if we go back to that meeting you and I had this same discussion. And now I -- and inspired where I think it is. From my perspective what I saw was I thought that we were working from the position that we're going to record all meetings. And develop certification process. But the committee hasn't necessarily, that was a working position, that wasn't necessarily a final position of the committee. That said, I am still completely uncomfortable with this sentence and the way it is being written being in the report at all because it implies a position that we're not working from.
>> Ed Rast: Would you be comfortable with the revised sentence, the task force has agreed to record all sessions --
>> Ken Podgorsek: Not at all.
>> Ed Rast: Sheila.
>> Sheila Tucker: I had suggested we not change the task force report. After tonight's meeting we will incorporate the decisions that we make, around enforcement and labor negotiations and try to integrate it. Because these are all under outstanding issues. These are things we have not decided and we're going to discuss tonight.
>> This may not be any of my business, this may not fall in the legal category. But I distinctly remember

this task force dieing that it was going to record by tape recording all closed sessions. And I don't remember any vote, and I don't think it's reflected in the minutes that you just approved that that was changed. I don't agree that you would have a right to change it. Excuse me, I got some allergies or something. But I don't see that decision has been modified in any legal process, parliamentary process and it is certainly not reflected in the minutes. So I don't know where that language in the task force report came from. But I'm concerned, and I use saw that. And I didn't read the task force report carefully. Now I regret that I didn't read it carefully because I don't know that there are other things in there that don't reflect what the task force decided. That's what we're telling the council.
>> Ed Rast: Dan.
>> Dan McFadden: I just wanted to comment that I did bring up the issue of a carve-out for labor negotiations because I thought the cost far exceeded the benefits. I said did you want to discuss it now, did you want to discuss it later, Susan, you said we will discuss it later.
>> Susan Goldberg: We were talking about the certification process, not going back to the discussion of recording closed sessions. We made a commitment here that we were not going to keep going back to revisit decisions that we had made. And I think there's a large discussion to be had about the whole certification process. And I heard you know, the mayor and Dave Cortese, you know, sound pretty supportive of all of both recording and releasing that information at the City Council meeting on Tuesday. And they are in fact waiting for our recommendation. So we do need to have that discussion. But I feel very strongly that we agreed as a group that we were not going to go back and rehash and revisit the decisions that we made. And we made this decision to have audio recording of these meetings.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: Very quickly, I will rescind my objection because I actually believe we could come up with a certification process that I would be able to support recording all sessions. But I do hold -- I do reserve the right to oppose the final situation if I don't feel that we have done that. And I think that's fair. I'm convinced that we came to that general consensus.
>> Ed Rast: Do we have consensus then that the sentence should be changed, cross out the word since and cross off the word not? And that accurately reflects what's the tasks -- Lisa you have a comment.
>> Lisa Herrick: Lisa Herrick. Why don't we revise the staff's report accordingly.
>> Ed Rast: Dan Pulcrano.
>> Dan Pulcrano: I thought the section was overly broad, I believe that the definition is overly broad, and the requirements are too lax, and I'd just like that reflected as a minority opinion.
>> Ken Podgorsek: Nongot bodies.
>> Ed Rast: Any additional comments? Public comment? All right, that agenda item is complete. Staff make changes to it. Next agenda item is number 4, wrap up discussion on public information provisions. Dave Zenker.
>> Dave Zenker: Dave Zenker. We have two sections left under the public information portion of the ordinance. One is lobbyist on behalf of the city, the other is the additional public outreach. Virginia is going to tackle the lobbyist on behalf of the city. We think this is going to go pretty quickly because we want to allow plenty of time for Susan's section tonight.
>> Virginia Holtz: Festival I want apologize about the staff report going to the council under the staff report of lobbyist to the city. This is left in outstanding issues. What I have before you, in a document passing out, is a clarification about some of the language that we had approved in concept at a previous meeting. And there was a concern, and confusion on what was actually needed to be reported by the lobbyist, particularly in Washington, D.C. So this two paragraphs that I have -- that you've got in front of

you explains that to clarify what the lobbyist needs to report, it's not everything to the City of San José on their expenditures but rather, it's just the -- it is just -- it rather to report the expenditures on behalf of the lobbyist work that that person does for the City of San José. So with the last sentence in the first paragraph, says "advancing lobbying efforts on behalf of the city," that's the recommendation that I'm proposing.
>> Ed Rast: Virginia or Dave, do you have additional --
>> Dave Zenker: I'd move approval.
>> Virginia Holtz: Second.
>> Ed Rast: Discussion? All in favor? [ayes]
>> Ed Rast: Oppose? Abstentions, passes.
>> Dave Zenker: Last section, our original proposal was that we reference policy 630 which is an existing policy in the City of San José which establishes a range of outreach efforts for things like land use proposals, development proposals, and since we made that recommendation there's been quite a bit of discussion, most of it from Ed and Ken, especially from a neighborhood perspective about some of their concerns about really whether policy 630 does enough outreach, whether it's far reaching enough especially when a land use proposal, or a particular project, is not necessarily small in geographic size but as a regional project. So three things I thought we'd do tonight and I can go pretty quickly. One is I thought I'd ask Tom for those of you who haven't had the chance to read policy 630, I thought I'd have him give a equilibrium review of what it is, and I'd have Ed describe his recommended changes and then we have a proposal before us to bridge that gap.
>> Ed Rast: Tom Manheim.
>> Tom Manheim: Thank you, Tom Manheim approximately policy 630 is a policy that's designed to govern how the city does outreach regarding private land use and development projects. And it is essentially sets different threshholds depending on the project for outreach. It could be as small, if it is a simple small neighborhood development, it could be what's typically prescribed in the state law, which is, you do outreach to a 300 foot radius around the project. It sets out a series of outreach steps depending on where you are in the process. So for early notification, there would be a notice on the Website. An e-mail notification, to people within that radius or anyone else who would express interest in it. There would be, on the site, a display of some kind that explains what the proposed project is. There would be a community meeting which would be notified -- notification of that would simply be on the Website. And then when that item came to the council, there would be also a -- it would be notification on the Website, e-mails to interested people who have participated or male to interested people who have participated. It then steps up to larger, more significant projects, that would expand the radius to 500 feet, or in the largest project would go to 1,000 foot, a 1,000-foot radius. Again, it works through a similar series of outreach programs but it starts building on those. So at the early stages, you might have the early notification, the on-site signage, you would on the community meetings, there would be more extensive outreach for the largest projects or projects of significant community interest, which would be both Website, e-mail, mail, there could be fliers put out in the neighborhood or community centers or libraries in the area. Then in general it raises the visibility of any community meetings. And then when it gets to the City Council stage, there would be a public hearing, and again, those would be widely noticed and in the most significant project there would be newspaper ads placed to make sure that there was really citywide notification that a project of significance was coming before the council. So that sort of in a nutshell is policy 630. And then we have other, what I would describe as ancillary policies, that cover other sorts of projects, particularly public projects, that could range from anything from a little sewer being -- repair that has a very limited impact on a neighborhood or on a street, to a neighborhood project that has regional

significance to an area, might be for instance putting in a new community center. But all of these projects that I've just described have one thing in common. And that is that they're all sort of geographically locked in place, somewhere within the city. And so the policies are driven by the geography of the project and the size of the project and that's how we really drives our outreach. And I think from my conversation west both Ed and Ken, they I think very correctly point out there is another area of outreach that isn't covered by any of these policies. So Ed I'll turn it over to you to talk about your proposal and then we'll go back to --

>> Ed Rast: Great. I was on the public outreach committee along with other neighborhood leaders from the SNI PAC. And then we also had the chamber of commerce developers and other community members to include land use consultants. So we had a very ride-range community task force. And we met over about six months. And developed the council policy 630. And one of the purposes, as we've laid out in the memo, was not only to address the issues concerning the Planning Department, but also to serve as a model because it was a recognition that some of the other outreach policies were not as comprehensive, didn't cover some of the areas like multiple language or a term developed that was called of significant public interest. And we had a meeting with Kenning Podgorsek, Katy Allen from Public Works and Tom Manheim. And Katy indicated that Public Works was working on basically a policy that was going to adopt a lot of the things that were in 630, she's already adopted for Public Works, the signage requirement and some of the other notifications. So that while the city projects have some differences, there's a lot of similarities. The other areas which Tom mentioned was the idea of what we call major city or redevelopment public outreach efforts like the city aquatics master plan which was a recent series of public meetings. And what happened on that one was, in the first one or two public meetings, very few people showed up. And it showed that while it was an extremely important topic, that we needed to take a look at how we do those type of very large citywide public policy or large spending proposals. So what I came up with, going down through this, is a couple of things that we have that all the policies should have a definition section, as we found out, the municipal code does not have a standard series of definitions. So until the municipal code gets one, we're going to have to in all of our policies, define what the definitions for those policies are. Also, the goals and objectives and then go down through in number 3, on the first page, a series of other standard things, discussing how you do outreach and everything else. So it's kind of an outline of what should be in those other two policies. And then of course turn over the second side, a matrix for modes of outreach, methods and type of projects and a matrix of the applications of types and special uses. And there's examples in 630 for those. We also went down and I took a look at some of the existing modes or methods the city uses right now and some improvements that would be relatively low cost but high impact. We previously talked about the concept of city master calendar. There are currently 11 online calendars on the city's Website. Many people are unaware or cannot find them. We talked about the idea of a single e-mail signup page and linking those over to other departments, go to departments, two or three e-mail signups that the Planning Department as an example uses and also link it over to where each department has their own public information links. And we looked at also the idea of using a public bulletin boards, city cable television or channel 26. There is a lot of open space at various times, a repeat of items, if you look at 26, we could end up putting the master calendar or something like this week in San José on it, city government. And you could even scroll down, the City Council, gives more people -- more people have access to television. I don't know the exact percentage of cable but when people go into public buildings, they could take a look at whether that's a library, community center, senior center or City Hall. They could look at that time scrolling especially if they were scheduled at a set time. And the times I picked were times that basically there's usually not council meetings, or the people would be able to, by scheduling it, you could -- if you had cable at home or you're in a public facility know to take a look

for what the agenda and master things were. Also I looked at the idea of public announcements and newspapers. One of the things that happens, at least in my view, is, I look through the newspaper, and it's a surprise where the various public announcements are. If there was a set time and a set place in the newspaper the city was contracting with, to have it, people could expect to take a look at. So you'd have a half page, a full page. So by using some of your existing expenses and equipment, you can basically, you know, for very low cost get a lot higher impact. So I think you know, the principles there are. The staff of course would have to take a look at them. But I try to lay out some of the concepts that a lot of the people have. Virginia.
>> Virginia Holtz: You have a lot of good ideas about how to move forward to make this work throughout the city and a lot of work going into this. I appreciate getting that background, Ed.
>> Ed Rast: But we don't need that in the -- we only just basically we can cut a lot of it down and just hand it off to the staff.
>> Virginia Holtz: So my question to you is, was there anything that is on this public outreach policy page, what we just handed out, that is not covering your concerns in your handout?
>> Ed Rast: The only thing I would say is that the public policy, there should be essentially one public policy that covers all three of these areas or three separate ones depending what the city staff and council want to do. You need to have basically a public policy to cover these three areas. Ken Podgorsek.
>> Ken Podgorsek: Ken Podgorsek. Let me paint this picture a little bit more broadly from a neighborhood concern situation. Right now, some departments in the city do better public outreach than others. Part of this problem is that, there is no one standard policy and they're very department-specific. Frankly even inside some departments some projects have better public outreach than others. What's very difficult for neighborhood leaders, and neighborhood activists is, to get this information. Part of it is, because it's not consistent. You know, if it's a project in department A it's done one way. If it's department B it's done another. What our goal here is, is to have one defined public outreach policy that applies across all city departments and the redevelopment agency, that doesn't overburden the city, that gets the information out, that is easy for anybody to understand, and you know, effectively gets -- you know brings sunshine and community involvement early in the process rather than later.
>> Virginia Holtz: Well, if you read this document here, where we -- where they suggest the community engagement process, what it is is an additional policy that we're recommending the city create to address those concerns. And so my question to you is, do the things that are on this list cover everything, all of your concerns? Because some of these things, I see on the list that you've talked about, are not policy decisions. They're implementation methods. And that's, to me is different.
>> Ed Rast: That should not be covered in the ordinance. The only reason I wrote it up this way was --
>> Ken Podgorsek: More a report for execution. This is more of an execution report than necessarily an ordinance report.
>> Ed Rast: Because it would help city staff take a look at some of the ideas for outreach.
>> Virginia Holtz: I do have another addition to the community engagement process. Until we resolve some of your concerns I'll wait to bring that forward.
>> Ed Rast: The only thing as Ken said a standard process across the city that covers these three main areas. That's all, really the only concern.
>> Ken Podgorsek: One thing that I would like, in the language in the ordinance, is I'd like the language in the ordinance to actually call out and specify council policy 630 as the intent, and I'm not quite sure of the language, but as the intent. That is, the intent of this outreach, that city departments and the redevelopment agency are following the concepts of council policy 630. I know when neighborhood people and even when the developers were sitting down and working this out, it was always the intent of

that group that it wasn't just to be applied to planning, but that it would roll out and apply across city outreach policies in general.
>> Ed Rast: Dan, go ahead.
>> Dan Pulcrano: I think there's a argument for consistency, but clearly, there are many areas, recreation public services Planning, where there are heavy interest in and other commissions where the public outreach would be of interest to absolutely nobody. I'm wondering if consistency would be overreaching and certain projects where this should apply to and others where it shouldn't.
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: My concern is, it's hard to know whether somebody is going to get upset, if you don't know whether somebody is going to get upset. Sometimes you don't know until you tell them. How can this body say, this project they're not going to tell, and sometimes they're going to tell.
>> Dan Pulcrano: Too much information, is irrelevant and minor, if somebody this is a shift through it.
>> Susan Goldberg: Shame on you newspaperman.
>> Dave Zenker: The committee's original proposal was to create language in the ordinance that referenced, endorsed policy 630. We can strength.it with some language that basically says that that it be used consistently across all departments. I'm going to go back to the pilot project, this is a pilot project again, until we know how it's going to work, whether this would overburden this over others. Our ultimate goal is not to revise 630. Staff's attempt to provide more meat to 630. What I think we should do is let them go do that, revise policy 630 and make it better. I would put a motion on the table that we endorse the policy we already propose, under section G, additional public outreach, that the ordinance reference policy 630, and that all city departments use it consistently in doing public outreach for land use and development proposals citywide. Sorry, I just pulled that out of my head.
>> Virginia Holtz: Can I make an amendment?
>> Ken Podgorsek: Ken Podgorsek. You had me until you went to land use and development. Because some of the things that the cities will do, one example aquatics. One might call that land use but you could also say it's not. The outreach that was done, it was a good outreach Tom, I'm not criticizing, the outreach on the community centers and finding partners with community centers, that's not really planning, that's recreation. I think the key here is --
>> Dave Zenker: How about land use development and capital projects?
>> Ed Rast: Tom Manheim. He's our office person.
>> Tom Manheim: Tom Manheim. If I could make a comment that would clarify what was passed around just a minute ago. The language that we just passed around is the most -- is equal to the most extensive outreach requirements contained in policy 630. So it in essence is policy 630. However, it is written in a way that is designed to cover exactly the kinds of programs you're talking about. The noncapital programs, nonland use programs, those things that don't exist in a place, but are policy-driven, changes to city service and what I tried to do to capture some -- to give us some comfort that we weren't going to be putting a policy requirement that was unreasonable. To cover things like the aquatics study, level of service changes when they went through, it would cover budgeting processes when we go through that. So it's designed to cover those significant areas that I believe are where your concerns are.
>> Ken Podgorsek: If you want to adopt, to amend the motion to adopt that language? Okay.
>> Ed Rast: Second? Virginia?
>> Virginia Holtz: Coy make the amendment?
>> Ken Podgorsek: I made the amendment.
>> Virginia Holtz: No, I have another amendment.
>> Ken Podgorsek: Oh, you have another amendment.

>> Ed Rast: Virginia.
>> Virginia Holtz: This amendment would cover after a proposal has been defined and is ready for public view. And ready to be presented to the zig makers. I think that it's important that we have a second kind of notification that it is ready for public review, and that the notification should go to all interested parties, that are -- that have been involved in the public meetings, or required -- or asked to be on notification through e-mails, and that what the second -- this other notification would state that the proposal is ready for public review, it will be going to the policy making bodies, and we can, like a commission, and state the date, and time, of that commission meeting. When the public can hear and review it, and the City Council -- when it will be going before the City Council. The purpose is, for many years, I've heard various concerns from the community about projects in which they went to a public meeting, they had input, there was staff there, staff wrote down the input, and then nothing else was heard. And in order for the public, then, to follow that issue, this was before even e-mails and telecommunications, they would have to call up and to track a project. And I just think it's a courtesy for those that are taking their time to be civic activists and participate in those kinds of projects, to have notification of the follow-up. In some cases, and the concern and the complaints that I've heard from the public has been that projects get changed dramatically. And it could be -- it could be to the point of egress and ingress to the project, if it's a land project. Or in a master plan for a park, it could be change the structures, change what is located on the area, or change the size of the project. In other words, whatever thing they were putting in, they've increased it in size. And that's what upsets the public. So what I'm getting at is, some -- a second -- a bullet down at the bottom saying there will be further notification after the project -- when the project is ready, or the proposal is ready for final --
>> Ken Podgorsek: For final -- for final approval?
>> Virginia Holtz: No, for public review.
>> Ken Podgorsek: Final public review.
>> Virginia Holtz: No, public review. Because it could go through a sequence of commissions and City Council.
>> Ed Rast: Let me see if I can understand. You're talking about something like the aquatics program. They went through a series of public meetings, the parks department came back with a report. And what you're suggesting is the idea that that report should be sent out to the people who went to those meetings, participated and requested what the final report was or at least notification to them. So what you're saying on any public -- let's see if I can summarize it now -- on any public outreach process the participants should be notified that there is a final report, the availability of the final report, staff report, prior, is that what you're --
>> Virginia Holtz: Yes.
>> Ed Rast: Is that a short way of saying it?
>> Virginia Holtz: I'm sure the writers could write that language more clearly than what I spoke it.
>> Ed Rast: Dave, you've got a friendly amendment. Do you accept the friendly amendment?
>> Dave Zenker: I don't think my original motion had a second.
>> Ed Rast: Virginia did. Then you had a amendment and second amendment. Virginia made a friendly amendment, you accepted it, and she of course accepted it.
>> Ken Podgorsek: There was a comedy routine like that.
>> Ed Rast: Yes, I know. Does the task force understand what we proposed? Yes? All right if we don't understand we should --
>> Dave Zenker: He let me kind of explain the intent.
>> Ed Rast: Brenda. I'm sorry.

>> Dave Zenker: What we feed to achieve here, whether it's in one policy or two separate policies. Policy 630 really talks about as I understand it, the bricks and mortar of land, capital projects and that sort of stuff. Where the gap exists, aquatics master plan was a good example, it didn't involve building some new, planning some new. Big major policy changes that may affect residents citywide. So that's why the staff created this document for you, that really created the kind of the ultimate language for outreach, for something that would be so citywide that we would want to create the most ultimate outreach on a major issue, of such public interest. So whether that language lands in policy 630 or if it's in a separate policy, the subcommittee's recommendation is that that be referenced in the ordinance, okay? Policy 630 be referenced and maybe this new policy be referenced in the ordinance, Virginia's amendment be referenced in the policy and that all these policies be standardized. Does that make sense now?
>> Ed Rast: Makes sense to me. Brenda and Mary Ann.
>> Brenda Otey: Some things on the list have some level of cost associated with them, we should try to enhance the procedures or the ways of getting out information, that are not associated with cost. So that people who can't maybe -- nobody should have to pay for something in order to get the information, and also, that the things that are not -- don't have a cost associated with them, like the public bulletin boards, fliers and things like that, they would be done in a timely manner so that it wouldn't preclude anybody from participating in those.
>> Ed Rast: Right. Mary Ann.
>> Mary Ann Ruiz: First of all I appreciate Virginia's input. You brought up a very good point. I like the community engagement process, I like that verbiage. I was wondering, where it called additional public outreach, we call it additional community engagement. I throw that outs. Thirdly, I have a question regarding community meetings, at least two, and one of the bullets under that says direct mail. My question is, this notice for, is this two community meetings or one community meeting that this is sent out? Can you please clarify what at least two means?
>> Tom Manheim: Certainly. Tom Manheim that would be for each meeting. So each of these things would be used for notifying people for each of those community meetings. And you know, the challenge that staff has frankly is that you know, we may not have direct mail for everybody, we may not have e-mail for everybody. So we're trying to use as many different mechanisms to get to participants that they are willing to share with us so that we have it and can actually send them information. We would use all of that.
>> Mary Ann Ruiz: I read at least two community meetings so thank you for clarifying. David, what do you think about that suggestion? About the changing the public outreach to community engagement?
>> Dave Zenker: Well, I don't know, I think -- that's a good question. I don't know that -- I like it. I mean, it sounds great. Does it resonate? You know, do people understand what it means? Sounds great to me. Does public outreach mean the same thing to people as community engagement?
>> Ken Podgorsek: I think people understand the public outreach but community engagement is nice because it's different than public outreach. May I make the suggestion, both community outreach and public -- community engagement or the public outreach,.
>> Dave Zenker: Public outreach is how and community engagement what.
>> Ed Rast: Any substantive discussion?
>> Ken Podgorsek: Call for the question.
>> Ed Rast: All in favor? [ayes]
>> Ed Rast: Opposed? Abstaining?
>> Ken Podgorsek: I'm ago staining. Newspaper, probably abundantly cautious, but I'm abstaining.
>> Susan Goldberg: I'm not abstaining. [laughter]

>> Ed Rast: All right, the motion passes.
>> Ken Podgorsek: My boss over here has indicated we'll be directing all our advertising to the metro. [laughter]
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: I hate to go backward, I have found an error in the memo --
>> It's not an error.
>> Ed Rast: Before we do that, Dave and Virginia are we finished with the public information section? You're complete? All right. And Tom Manheim.
>> Tom Manheim: Tom Manheim I started to do it last time just briefly, I do want to thank all four members of the committee. They really came to it in the spirit of getting it done and getting something that would be workable and I think it was a real good end product. Thank you to the task force.
>> Ed Rast: Also thank Tom Manheim for his participation in it. Thank you Tom. Aback to Susan, yes. We're going back to agenda item.
>> Susan Goldberg: Thank you, sorry about that. I should have read this more closely to start with. If we turn to page 4 on the memo to City Council. C is outstanding issues. This is the, basically the second paragraph on page 4, it is three little Is next to it. It says the closed session committee recommended that all proposed settlements, blah blah blah, it laid out the task force as a whole has not agreed to this recommendation. But if you take a look at the minutes from February 24th, that would be page 5, let everybody find that, it says at that time very top of that page, on a motion by Ken Podgorsek, seconded by Karl, the task force agreed to recommend and then precisely what we agreed to recommend on the settlement. So it seems like the task force has agreed with that, and that -- that this item on settlements needs to move from outstanding issues to --
>> Ed Rast: Resolved.
>> Susan Goldberg: I must say, I'm a little nervous now that I haven't really studied this.
>> Ken Podgorsek: Me too.
>> Mary Ann Ruiz: I also have a clarification.
>> Ed Rast: Mary Ann? Are you finished?
>> Susan Goldberg: I think that's fairly clear.
>> Ed Rast: Let me ask the question of Sheila. What I'm hearing from the task force is that they are going to want some more time to review this. How procedurally should we do that? We can either take a break and read it, we could then have comments back to you. What's procedurally a good way to do it?
>> Sheila Tucker: We can certainly come back with a revise draft at the next meeting. Susan is correct, that was outstanding issue but it is no longer.
>> Ed Rast: Time --
>> Susan Goldberg: What is our time line Sheila on betting this to the council, when does this need to get there, yesterday or what?
>> Sheila Tucker: I believe we were hoping to get it mid march, which is when the task force expected our phase 1 recommendation.
>> Susan Goldberg: okay.
>> Sheila Tucker: We could make revisions and the chair and vice chair could make recommendations.
>> Susan Goldberg: You'll e-mail out a revised memo? I commit to reading it.
>> Ed Rast: We have a meeting on Tuesday, so Sheila.
>> Sheila Tucker: Yes, correct, we do.
>> Ed Rast: Could we say that the task force members would read it by -- by what, tomorrow, or do you want to do it on Monday? Say, by noontime on Monday?

>> Sheila Tucker: Tomorrow will be great. We'll revise it on Monday and you can approve Tuesday morning.
>> Ken Podgorsek: I found it in there.
>> Ed Rast: All right, do the task force members feel confident that by 5:00 tomorrow can you send your comments into Sheila? Yeah, right. Everybody feel comfortable or do you want to do it by 8:00 Monday?
>> Susan Goldberg: Comments on this draft?
>> Ed Rast: First of all you've got to read it and comment on this draft. Then Sheila has to come back and let's see --
>> Susan Goldberg: Why don't we send out one corrected in so far as the things we discussed tonight, have that sent out, so we don't waste a lot of time.
>> Lisa Herrick: Lisa Herrick. I'm concerned about communications we have by e-mail that haven't been out, through this package.
>> Ed Rast: Right.
>> Lisa Herrick: We're basically violating the Brown Act by having a meeting via e-mail. Review the documents that have been circulated and then if you have comments send them to Sheila.
>> Ed Rast: Time frame, are people comfortable that -- how long will it take people to read this? Can they -- could you read it by noontime tomorrow?
>> Virginia Holtz: It's not the reading, it's the making the changes.
>> Ed Rast: They have to read it, they have to then e-mail to Sheila what the issues are. And then Sheila has got to pull together a draft and then we'll get it -- Karl.
>> Karl Hoffower: Karl Hoffower. I just have a possible suggestion. There were sections that were -- sections that we went over, sections in public information. Why don't we divide and conquer. People in your section, you're going to know whether or not it's right or not. I'm not going to know about public information.
>> At this point we're just looking for errors, right?
>> Ed Rast: You're not rewriting. All right, so what is the time that people are comfortable getting the remarks to Sheila by?
>> Ken Podgorsek: From my perspective, Miami is easy. It is a simple typo, I can give it to them tonight.
>> Susan Goldberg: 5:00.
>> Ed Rast: 5:00 on Friday. Comments will go into Sheila. And then we'll review it, Sheila put together the information, and then we'll review it at the chairs meeting on Tuesday morning. That make sense? Okay, good.
>> Tom Manheim: Mr. Chairperson.
>> Ed Rast: Yes, Tom Manheim.
>> Tom Manheim: Just to clarify, from what I'm hearing the only sections that there are any questions on, is closed section. Whenever the closed section committee can review it and make sure there are no additional errors, we'd be ready to go. [simultaneous speech]
>> Can you get it to her now, and public information has already been handled.
>> Ed Rast: Does that cover that one? We've finished public information and 2003-2004 closed sessions.
>> Susan Goldberg: Great.
>> Okay, here we go.
>> Susan Goldberg: All right. I believe where we left off was the recommendation on labor. And everybody I think has a copy of our recommendation on labor. So we're going to talk about labor and then we're going to talk about the always popular certification process. So what we did is we got together as a group and we asked Bob Brownstein to come along. Because Bob as you all know has got more experience in,

you know, the specifics of labor law than anybody else that we could be lucky enough to have on our committee. And so what we did was, we went back to the original language about bringing contracts forward ten days, if they were small contracts, 14 days, if they were bigger contracts, so they could be discussed in open session before a vote. Now, Bob was worried about this, in several different ways. And so we added the one, two, three proposals you'll see under that as a way that he actually suggested that we could mitigate some of the legal concerns. And some of the concerns that the union would be likely to have. So the first one is really that whether or not the terms of the contract are modified during this delay period that any changes end up being retroactive back to the time the contract was supposed to be ratified. I don't think that was very controversial. I think that seems like the easy one.
>> Dan McFadden: Let me back up. For years I negotiated on behalf of cities, counties and special districts. So these concerns are really that we're getting into an area that's highly regulated at the state level under Meyers, Milius brown. We've talked about this before in here. There's a real concern that we upset the balance of the process, the negotiating process. If you're going to even put something on the charter amendment on the ballot to go to the voters, you're required to sit down and negotiate ahead of time. To barter with the unions if it's within scope. There are pretty broad constraints ton city in -- if you want to divide this into four areas, if you take the -- as number 1, the phase prior to negotiations, and 2 would be the negotiations process, going in and out of closed session, 3 would be your presentation of your final, best offer, and 4 would be arbitration. 2 and 3 are very highly regulated at the state level. You don't have a lot of flexibility there, at least based on my experience. And if you do anything unilateral, there, then you are bargaining in bad faith. So I'm still struggling with the idea that you go out to the public for ten or 14 days after you've settled on the agreement, you've sent -- this is your final offer, it's been accepted. What do you expect to do after that? What action can you possibly take? Which isn't in bad faith? I would redirect energies to the phase 1, which is the instruction of your negotiator on your initial offer and phase four which would be negotiation. A lot of the concerns you're showing here add to the cost, work rooms, special pay, all this type of thing, there is no forum to discuss that the way it is set up now. I don't understand what you gain from releasing tapes of closed sessions. I see a lot of cost. I see it really screwing up the balance that's essential to the negotiation process. And I don't know, made the offer to open up arbitration and hold the arbitration in public. I think there's some headway that could be made there. But as it is, at least speaking on behalf of staff, staff would not support releasing tapes of -- on -- of closed sessions relating to labor negotiations, because it upsets the process significantly, and I think there's a lot of potential for political mischief. So that's my statement.
>> Ed Rast: Karl and Susan.
>> Karl Hoffower: That's not what we're talking about here.
>> Dan McFadden: the fact is, we're on labor negotiations, the key thing is whether these are held in confidence or whether it's unique, I don't know what the proper time is to talk bit, let me know, please.
>> Ed Rast: I'm sorry, I didn't realize.
>> Karl Hoffower: Because I've been looking at this and talking with people who represent employees. And I'm concerned that we might be doing something that, when it finally goes to the City Council -- that lawyers come back and say, this isn't effective, this isn't going to work, this violates state law and this gets chucks. I don't want to be a party of something where we work all this time, put all the labor into this thing, and it gets up there and say, ah, you couldn't use it anyway and flip it out.
>> Ed Rast: Ed Davis.
>> Ed Davis: Karl, that's a very good point. We have three areas we are reporting out of closed session into open session. Litigation, certain contracts and labor. Of the three, labor is the most complicated because of the rules that you just mentioned. It's governed, and as Dan said, it's governed by the millius

Myers brown act and federal statutes. Where I think staff could be particularly helpful in this area is putting aside the negotiating leverage and those kinds of things and reporting out. Because we're not talking about reporting out of closed session here in terms of release of tapes yet. We're just talking about you reach an agreement, you have to report that to the council before the council takes action in a certain time period. That's what we're talking about here, what the result is. That allows the public the opportunity to discuss, and talk about, what the negotiators are recommending that the City Council do. It's not talking about discussing any confidential information. I think where the city staff can be very helpful to us, they're labor lawyers, I'm not a labor lawyer, I can't give you definitive advice on this, if they could point to us specifically whether this part of the proposal would violate any applicable labor laws. Because I agree 100% with you, if we do something and it violates a law then we've wasted a lot of time. I would appreciate a legal opinion from a labor attorney whether it violates any law. What Bob told us during the meeting, we had to defer to his expertise to a significant degree. What he was saying, some of these proposals that he was making, the three things that Susan was starting to talk about were things designed to meet his understanding of what potential legal impediments there would be. For example, he would be concerned looking at it from the labor perspective that the city might use the -- this hiatus where the public has a chance to comment as an unfair labor practice by not negotiating in good faith with labor, and then use the excuse as, when you go to the council, of well, that's what the council did, and so that's too bad. And labor might consider that an unfair labor practice. So there are all sorts of different legal ramifications here but we ought to look specifically at that particular issue. I think that's a good point.
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: Ed basically made my points. I think the purpose of getting Bob in the room was to rely on his expertise in this area. And to mitigate his concerns about where we would run into legal trouble. What was interesting was that he wasn't concerned about the contracts being out there in the open for people to talk about at all. What he was more concerned about was whether that would somehow be used in bad faith. You know, I think, Dan, then your point about well, what could people do about it, is something that we also talked about. Because it would be very difficult to get one of -- to get a change to a last, best, final offer, and that is absolutely the truth. Because then you do run into perhaps, you know, it goes to the arbitrator, or an unfair labor practice. But we felt that there was a lot of value in the public having the opportunity to discuss with some specifics, once they had them, what about this they thought was good, what about it they thought was bad, and then they can use that information at that time ballot box later on. The problem with having the public have input up front is that they don't know what they're talking about. They don't have anything to react to.
>> Dan McFadden: Now, let me try to respond --
>> Ed Rast: Dan then you.
>> Dan McFadden: I'm sorry. If you invite the public in to inform them before the process starts, you're not into the formal bargaining process, it's just like if a union called the are called a labor hall meeting and got everybody in there and says okay, we're going to sit down at the table, what do you people want? They can do that and they do it. It's sort of an open process. It's the council instructing their negotiator and there is our negotiator sitting there if you have specific questions. And the discussion can range, then, by the council, why are we doing this? And the public can interact with them and they can get information. And it does affect the outcome. It may change the initial offer by the council. But once you start that, until you get into arbitration, things are pretty tightly held and prescribed and I don't think you can do raise expectations of the public and then disappoint them.
>> Ed Rast: Let me ask a clarification question. What -- I'm not sure exactly what the process is for the city when they start this. In other words, say, a particular union's contract is coming up. We have the

expert, so maybe we can walk through the process and that would help us.
>> If your questions are about this city, this is your guy. I can only tell you what in other cities.
>> Alex Gurza. I am the city's labor negotiators, have been so since 2000. I'd be happy to answer any questions you have about the process. One thing I want to clarify is I am not an attorney. I am not a labor attorney but I do negotiate contracts. I draft contract language. I also interpret contract language. And so I'd be happy to walk you through process. I do have several questions about this language, however, that I'd like to get clarification on. But first to answer the question about the process. When we have a contract, and it's about two expire, we have to commence negotiations. In commencing those negotiations, we go into closed session with the City Council, and go over the issues that we recommend be discussed with the union. And that obviously is going to cover areas like wages, benefits, all of those things. At the outset of negotiations however we don't seek authorization for the very first meeting because we haven't met with the union yet, and in terms of understanding what their issues are. So it really is a process that evolves from before negotiation starts and all throughout. Meaning that at a certain point in the negotiations we will seek authorization from the council before we can put anything on the table. I do not put a wage offer on the table unless I have authorization from the City Council to do so. So again, at the outset is really looking at what the issue we anticipate, meaning we the city anticipate, and starting those discussions with the City Council. But it really is a process that evolves up until the contract actually expires.
>> Ed Rast: Let me see if I can clarify. So the city council has a closed session, there is a requirement for the City Council to report out in open session that they had one and what the results are. What is reporting out at that time?
>> In those sessions they're going to be general in nature. We're not going to disclose the authority the City Council gave before I negotiate with, for example, Linda. To disclose our actual authority, we might as well negotiate in public because the union will know what authority I have.
>> Ed Rast: So you make a very general disclosure?
>> Yeah. We're not going to say the City Council authorized us to negotiate a contract up to X amount. They biff us parameters again that as a negotiator I can't exceed.
>> Ed Rast: Do the instructions to the negotiator become public? There was a comment by Dan about instructions to the negotiator. Are those public?
>> Dan McFadden: What Alex is saying you normally don't lay out the specifics but once you put them on the table the city's position is out there. What I was referring to is when you are going in and answering questions in closed session, they might just as well be answered in open session. What about special pay? Who's putting in the lightbulbs, are they registered electricians, how many are on a pumper that pulls away from the fire house, what does that add to the contract, what are the costs, all that kind of discussion as you're educating the council about you could just as well educate the public about at the same time. It's not the initial offer but you're getting that information together.
>> Ed Rast: At the time it's reported back out from the closed session is part of the documentation the existing contract? Because the contract is available on the Website.
>> Absolutely. The contract is a public document available to anyone.
>> Ed Rast: Is there a public discussion at that point?
>> No, the public discussion comes at the time the council approves a tentative agreement. Any tentative agreement that the city reaches with the bargaining unit is tentative. I think I might have touched on this the last time. It's tentative on two things. The membership of the union must ratify it and the City Council must approve it in open session with notice to the public. The issue really is how many days in advance does our council memo go out, allow the public an opportunity to know, here are the terms of the contract that has been reached a tentative agreement and gives an opportunity for the public, anybody to come

and speak to the council. That really from our perspective is not an issue. There have been times in the past that it reaches concern that we didn't put the council memo out early enough. So if the council adopts task force recommendation of ten days or 14 days or 17 days, whatever that number is we will live with that and put the memo out. The concern I have is I really don't understand any of the language that comes after that. In other words, if you simply say ten days, the memo goes out ten days in advance, that's fine. Whatever happens at that point. If the council votes it down, it goes back to the bargaining table. The council doesn't -- either side may vote it down for, let's say they didn't like a certain item. They let me use the union example, we had the situation occur last year, where twice, membership did not ratify a contract. They vote the whole contract up or down. Not an individual item. Although one item may have caused most members to vote no. But it is not like the whole contract is approved well, except for this. The same thing happens on the council side. If the council votes a contract down, I then get sent back to the bargaining table, and I might have to know what the items were that were a sticking point. The same applies to labor. If they vote a contract down, the whole contract stops. The question is we don't understand the language and what it really means and if you could help us with that we'd be happy to provide feedback. But we really don't know what this language means.
>> Ed Rast: Ed Davis.
>> Ed Davis: Is what he understand you saying is the basic item of what is being addressed here of having ten or 14 days advance notice between the time there's agreement, tentative agreement between the city and the labor negotiator and approval, you have no problem with that?
>> No, actually Mr. Davis, the number of days is really the number of days from the time the council memo is made public. For example, we may reach agreement at 3:00 in the morning on Saturday. What we do as negotiators is then go and work on writing the council memo that's going to be made public. So I think the number of days is really the number of days from the day the council memo goes out.
>> As far as the union is concerned or the the labor negotiatorsor, is the effective date of the agreement the date of ratification by the City Council or you and the labor negotiator and the city negotiator agree?
>> That's an excellent question and it's going to vary.
>> Ed Davis: Number one, the effective date would be earlier than the date of City Council ratification, it is the earlier date that would govern?
>> It isn't the subject that we would have to determine. The effective date of an agreement of a particular item is subject to the negotiation. For example what I'm saying is that you will have a tentative agreement that may say the contract is effective this date, the first raise will be effective this date. There are times however and this happened last year, where we said the effective date is the date after which the agreement is ratified by the membership, and approved by the City Council.
>> Ed Davis: Number 1 might not be a concern then. Because Bob's concern was there might be a problem that with this ten or 14-day period between the agreement and the ratification. And he wanted to make sure that it would be the effective date that was agreed to by the parties.
>> Absolutely.
>> Ed Davis: And he didn't want to have to go back and negotiate if the city said it was a different time.
>> Last year we had operating engineers, we put the memo out ten days in advance. If it gets approved and ratified, the effective dates are what they are in the council memo. And that doesn't -- how many days we put the memo out won't change the terms that have been negotiated between the city and the bargaining unit.
>> Ed Davis: Okay.
>> Ed Rast: So you go through negotiations, you come to a tentative agreement, you put the memo out, the ten daze occur, the City Council has a public meeting to discuss it. If the public objects to it, is that

interference with the negotiations if they change their minds and say no, we're not going to go?
>> Clearly, when an agreement is still tentative, it must be agreed by the City Council. If the City Council decides for whatever reason not to pass the tentative agreement then we are back to the bargaining table.
>> Ed Rast: That's not a violation of California law, interference with negotiation or isn't it?
>> Since I'm not an attorney I can't comment on that. I would say it would be very unusual in the sense that when I negotiate a contract I wouldn't offer something that I didn't have authorization to offer. And so it can happen, because again, it's subject to approval. But certainly as a negotiator, I would lose a little bit of credibility if I didn't know. But I'm not sure --
>> Ed Rast: You see what I'm trying --
>> I do.
>> Ed Rast: You have a full council chamber full of people who don't like what they see. Then they put the council in a political position of having to turn it down then you potentially are in a position where the union rightfully comes back and said you didn't deal --
>> In good faith.
>> Ed Rast: In good faith. But you need a place where you can get public comment and maybe that's before you start negotiations.
>> Mr. Rast you're exactly right, I think it goes back to what Mr. McFadden said, the best place for input, from my perspective as a negotiator before I go to the table.
>> Ed Rast: Brenda and Ed Davis.
>> Brenda Otey: If City Council did after negotiations made changes or whatever to the agreement that they had already, that they may constitute bargaining away from the table. All bargaining is supposed to take place at the table. And so that may be one of the concerns. On the first item, the concern, was just to make sure that if something -- the effective date of any item would be the effective date, and that the time would be -- to take place to give people a chance to look at it for input and everything, would not affect the effective date. But on the other part, there is the issue of bargaining at the table.
>> Ed Rast: Ed and Karl.
>> My name is Linda Didis, and I'm actually a union representative.
>> I actually want to hear what she has to say.
>> My name is Linda didis. I'm a business agent for AFSCME which represents three bargaining units here in the city which is about 3200 employees. When we first got this and I saw the notification issue of ten to 14 days, I have to say we were also not too concerned about the time period. Probably because the time period changes at any rate anyway. It does go to public session. There is a problem with our membership, however, and I'm not sure if this was in any of the things that you've adopted, of the City Council adopting and ratifying their portion saying yep, it's okay, Alex, you did a good job, it went to City Council and it went by on consent calendar and there wasn't anything to it. A our membership a lot of times thinks it's a done deal. The members don't think there's an open process. They think the City Council voted on it, thought it was okay, and didn't live to them. There is a little bit of set of mind that if you got ten to 15 days, you have the unions -- giving the unions an opportunity to ratify. We ran into that five years ago when that actually occurred. That means low turnout for us for people voting ton contract. So the ten to 14 days is not an issue too much for me. It makes it a little problematic, I'm sure Alex has talked to you about it. Our contract expires on June 30th. We usually run up to the week before June 30th and try to get everything done very quickly because City Council goes on vacation in July, and employees think they're getting a raise on July 1st. Alex usually reserves a spot on the City Council agenda and it probably does look like we've rushed the process a liberal. If we had to carry it over that would be okay. Originally

when I spoke to our labor attorney if it was just a ten to 14 day issue it probably wouldn't be a concern. If you're now going to the public and I have no problems with public chiming in on you know, what we're getting or what we're not getting. But if the City Council then changes their mind because of public input, you know, and then it's kind of like okay, well, what we were doing with Alex at the table. And it does then actually pose the question of whether or not the legal process has been changed. And the legal process that I mean is the legal process under Meyers millius Brown. I don't know that the issue had been changed, I'm not sure I understand what the intent of the body was, except to give more notice, which is fine with us, more notice for a lot of things is helpful for us also, for input. It's for us to be able to get some legal -- some legal advice to you from labor attorneys, you know, from the union labor attorneys, not just our union but some of the other unions, if we can get what the question is. I'm also confused like Alex with what Bob put together, I tried to call Bob and he's out of town this week. So I'm not sure, you know, what some of this means. I know it gets into the certification of the closed session and whether or not stuff should be released or not released. But it's not clear to me. If it's not clear to Alex and I, then it's going to be hard for us to --.
>> Ed Rast: Make a recommendation?
>> Make a recommendation and enforce it. I don't know if that helps the body or not.
>> Ed Rast: Let me make a recommendation to you and Alex. You have a pending contract. Would it make sense before the negotiation to show the existing contract and have a public meeting for public comment at that point in time, then both go through your negotiation and then you would go through the rest of the process, because otherwise, it sounds like and again, I'm not an attorney and it doesn't seem like we have a labor attorney in the room. It sounds like we're stepping into an area where we may violate what is it mills, brown, et cetera. So we're trying to get a way with more sunshine on it but not step into that area of a problem. So Ed Davis.
>> Ed Davis: Let me, it might be simpler, just to look at items 2 and 3 here, on the list, which are generating some confusion to you. Bob suggested those, and it's really kind of a belt and suspenders approach. Because Bob was worried that there might be accusations or opportunities for someone specifically in the city to take advantage of this ten- or 14-day period. He wanted to make it clear that if somebody used that 10- or 14-day period to commit unfair labor practices, that there would be consequences. Number 1, number 2 is the certification issue that we can push back until later. The main purpose of this is just having a time period for the public to comment, that's it. And we could probably eliminate 1, 2 and 3. I understand 1 isn't going to be a problem. 2 and 3, I can't imagine labor having a problem with because they're designed to make it clear to the city, not to commit unfair labor practices.
>> So what the intent is for the -- is for the public to be able to have time to comment, which they have now, but make sure that they have more notification or a notification period of time?
>> Yes, exactly. That's the only intent of it. And there would not be negotiations going back and forth, just that ten-day period.
>> I was going to say clearly in drafting content language like Linda said, we try to draft language that anybody looking at it can read and understand it. Our recommendation is that's what the goal is, simply saying the memo needs to be out ten days before is all you need. I don't think you need any of the rest of it. In terms of unfair labor practice, the city would never intentionally commit an unfair labor practice. I think I saw that in the language, I couldn't imagine a situation in which we could intentionally commit an unfair labor practice by the ten days, I couldn't think of the scenario. But if Linda or any of the union reps thought that, they know the recourse, the unfair labor practices with the board, which governs the Meyers millius Brown act.
>> Ed Rast: Ken, Dave, Susan.

>> Ken Podgorsek: 10 Podgorsek, people can take a look at it and intelligently get up and take a look at it. The problem though is that we're going to give a false expectation to the public that they will be able to influence this process. As a result of that what we're going to end up doing is we're going to get a lot of people that are angry that feel that they're party to the process but the process doesn't allow them to be a party to the process. So from a straight disclosure and a sunshine standpoint I have no problem with this. But what my challenge is, I deal with neighborhood people every single day. And the greatest frustration is when they think they have an opportunity to influence a process, they go to the process, and they have the -- all they really have is an opportunity to vent. And then they get really angry they feel like, excuse my language, they feel like they've been screwed. And what we're setting up here is an opportunity for public to feel like they've been screwed. If our intent is to feel like the public has a -- if the public you know, has an opportunity to review and give input maybe on future negotiations, by coming forward, and giving them ten days to do that and to be able to be intelligent at a meeting, I think that's a good thing. But if our intent is to give any level, we have to be clear in the language that it is not very likely that this input is going to influence this particular contract.
>> Ed Rast: Dave.
>> Dave Zenker: Dave Zenker. So clearly our intention is to bring sunshine on the biggest expenditure that the city makes. By the time the contract, the last final tentative offer is made it's a done deal, and I don't know that the public is going to be able to do much at this point. You have ever thought of a time that the public has placed input at the beginning of the contract?
>> I don't believe that at least in my memory that we have done that. It would obviously be up to the City Council. There could be some process established in order to do that and I think it would really be at the outset of negotiations. As I think I mentioned the last time I was here we have ten contracts that don't all come open every fiscal year. This coming fiscal year would be three or four I think. Before the fiscal year, these are the contracts that are coming up, the contracts are online, each classification represented, salaries are in the contracts, could be an opportunity to come and comment at the outset.
>> Dave Zenker: Can I ask a quick follow-up? Do you have any contracts that are under $1 million?
>> That year we got zero percent.
>> Yeah, I'd have to think.
>> Dave Zenker: Those are the exceptions basically.
>> Yeah, we have certain unions, certain contracts that represent only about 70 to 80 people. And so it depends on the term of the contract. And so for example, fit was a one-year contract it could very well be under $1 million.
>> Ed Rast: Dan -- I'm sorry, I got it out of order? Dan and Susan.
>> Dan Pulcrano: I have a question and a comment. This is a follow-up to the public having meaningful inbut into the process. My understanding is, the council has always an opportunity to review or amend the contract. If there was a lot of public opposition and the council chose to follow the public input they could vote it down and send it back to the drawing board, correct?
>> Yes, correct.
>> Dan Pulcrano: The comment I have, I also like the idea of sunshining the contract getting it out and having an opportunity for the public to be informed about the details of the contract. This is absolutely in keeping with the spirit of sunshine. I share did reservations that others have expressed about points 1, 2 and 3 specifically, that you know, the retroactivity provision which is unclear, and I think needs a lot more work. Secondly, the -- 2 and 3 deal with illegal, bad faith bargaining actions, it appears to be redundant with oat laws on the books. I don't think it's any intent of this commission to specify a whole range of alternative and redundant solutions that could create other layers of red tape. I think we need to be very

careful about specifying process on these issues. I think our job is to say they need to be sunshined.
>> Ed Rast: Susan.
>> Susan Goldberg: That's very well said. I'd certainly be in favor of going back to where we were in the first place. Giving people time to comment about how two-thirds of the city's budget is spent every year which is in fact on these kinds of contracts. I would have to say, though, I'm concerned about this notion that we're raising all these false expectations among people to influence the process. Because I don't think that a bunch of people, you know, marching down to City Hall because they really have a problem with something that's out there is a false expectation, and they do have the ability to influence the process, that's by voting. When the next election cycle comes along, they could vote those councilmembers out, this may be part of their vote. It would also make them more informed, the next time a contract is due to try and have some input and let council know ahead of time through letters or whatever, about what they liked and didn't like about it. I would guess that it would be a cold day in hell before the City Council would go go back and change a contract that it had allowed its negotiator to put out on the table. But you know away? It potentially could happen that somebody somewhere would see something that was a huge, giant problem that had heretofore been unnoticed maybe the city would want to know before they approved the contract rather than after they proved the contract. This is having public input and people having some stake in what the government does with their money.
>> Ed Rast: Dataport.
>> Dan McFadden: No problem with the sunshine noticing all that's fine. I don't know what people around the table does and doesn't know about public law and labor law. But I expect some you know that the public employees are allowed to represent themselves. If you set an expectation that somehow this contract is up for discussion, and it may be in this union that is under the contract or another union and they come to the council and they want to get into this contract, you have to tell them no, they can't do that, it just sets up a -- and to what purpose, I'm not sure. So I think the noticing is grant. But I very much have the same concern that Ken does about expectations that -- and we're just going to build frustration here with this kind of provision.
>> Ed Rast: Brenda and then I've got a comment myself.
>> Brenda Otey: Three points. First of all, for the first point, if the public has a chance to have input more towards the beginning of the process, then they have an opportunity, it's not a false opportunity, for them to give input as to what they'd like to see, what they think is a problem, anything else like that. Number 1 was put in here, because if it's -- if they have input at the end of the process, after the negotiations have been completed, we didn't want to have there be any problem with the retroactivity if something was supposed to go in effect on the 1st of July, and it's not voted on until the 15th of July, then we didn't want there to be any problem of when it would be effective. The second part of this, is only to say that within the certification process, where the City Attorney would say that the tapes should not be released for particular reasons, that he could not certify that the closed sessions tapes would not be disclosed, in order to prevent disclosure of negotiating in bad faith. That's the second one. And the third one, simply says, that if -- that City Council would add to its list of behaviors of actions that would warrant an elected official to be removed from office, if they conspire to negotiate in bad faith. The whole process, the concern of when the public gets input, that's a good point. If they do it at the beginning and at the end. But the when is covered in the first one, the others are basically to keep people honest, and to hold people accountable, if they decide to conspire to negotiate in bad faith. It's not -- I think -- and the other thing as a committee when we discussed the last time, is to have -- give opportunities for the labor unions to look at these things that were proposed, and give feedback to see if there was something that was problematic that we did not see. And I think it would be a good idea to actually afford them an opportunity to do that.

>> Ed Rast: And my comment would have been very close to Brenda's I think you got a very good point Brenda. I especially like the comment that Ken brought up, that is, we have a public discussion before the negotiations start. That way the public has the opportunity to input their feelings about a particular contract coming up. That way, you can allow the public's input and that way the City Council could then in their instructions to the negotiator as well as the union members would know what the public's concerns are in these areas. I think it's a good way to get early process and have the public feel that they've actually had input into the process. Susan, I'm sorry, Ken and then Susan.
>> Ken Podgorsek: As an activist, actually Susan I'm more in your direction than you'd think, I found many times to be very, very frustrated when my involvement is at the end of a process. Because I have very little ability to influence or change that process. I have many times found very satisfying when I'm involved at the beginning stages of a process. I have no problem with the notice, I have no problem with having it in public and having the public say hey, this is a good contract or a bad contract. My challenge is just as long as the expectation is there. I would feel totally comfortable here with language, if the language included both an early involvement of the public, and an opportunity at the end of the process to express their -- either their delight in the outcome, or their disgust in the outcome, so that the next time around the council can be more aware of the fact. The council doesn't like to take a beating up there any better than anybody else does. If they know they're not going to be changing the contract and taking a beating, the next time they may reconsider the position. With the exception very glaring that somebody has missed and would never happen, I don't want the public to feel at the end of this process that they're going to have an opportunity to really influence process. Because it's a false expectation. Because the reality is, the law doesn't allow the council to really do that except in tremendous circumstances. Because the union will cry foul, an arbitrator will side with the union, and effectively, the public is, again, you know, doesn't have the expectation. That's my full comment.
>> Ed Rast: Susan.
>> Susan Goldberg: I wish I could figure out a good way for people to get involved ahead of time. I would be perfectly amenable to come to some agreement on language where the city has to discuss this with people ahead of time. Not to be cynical, but I have grave doubts that anything very substantive would get laid out ahead of time, for all the reasons Alex Gurza says, you can't tip your strategy beforehand. We keep hearing this from Dan. I really doubt any input from the public would get specific or real enough to ever get used. That said, why not try it? When all is said and done and there's something on the table for people to react to, I think they should have their opportunity to be heard.
>> Ed Rast: Kahn, Karl.
>> Dan Pulcrano: I'd like to propose a motion that we accept the subcommittee's recommendation, contained in the paragraph below the word "labor." And in full. And that with respect to the proposals regarding bad faith and retroactivity, that we refer that portion to staff to come back to us with some ideas on how best to deal with the retroactivity and bad faith. And that's a motion.
>> Virginia Holtz: Second.
>> Ken Podgorsek: Can I offer a friendly amendment? Can we include language -- can we refer to the committee to look at the opportunity to include language for an early -- for public involvement early in the process, based on the discussion that we've been having?
>> Ed Rast: Is there a second? I'm sorry?
>> Dan Pulcrano: What I'm trying to do here is not prescribe solutions or have us in this session have to create a process. But if you want to include that in the referral to staff, I'm fine with that.
>> Ken Podgorsek: I'd like to refer it to the committee.
>> Dan Pulcrano: I think the committee is free to take -- is the committee going to be meeting on those

matters again? Is the subcommittee --
>> Yeah, we can meet on that.
>> Dan Pulcrano: Do you want to meet specifically on that?
>> Susan Goldberg: More than anything.
>> Ed Rast: Marjorie, are you 99 on that?
>> Margie Matthews: I can make some comments. It is reasonable to do. I don't understand 1, 2 and 3. 1, 2 and 3 have an assumption that the city is prone to do something wrong. Either side can do mischief. It seems like over decades this process is been evolving. For us to tinker might upset it. I don't like the idea of the city doing something wrong. I do like the idea of having some kind of session, as a councilmember I would have appreciate that sort of thing, they used to call it committee of the whole or workshops. Just to get the overview. We have term limits and people need to be educated and it would be good for the city to build that in, an open session workshop on labor, what the role of the council is, what the role of the unions is, what we can and can't do, I think that would be beneficial to all.
>> Ed Rast: Karl, and then Virginia.
>> Virginia Holtz: No.
>> Ed Rast: Karl.
>> Karl Hoffower: The comment I wanted to make is, it is my understanding there are other groups where they have negotiations open at the beginning for anyone to look at. However, it is also my understanding that when it comes to the city that there is kind of a thing where the labor would ask for the sky, and the city always offers dirt. And so it would make it completely meaningless from the way this goes, and I'm not trying to offend anybody in the audience with that comment. But just to give a kind of perspective on it. And that truthfully, it doesn't even -- if we go through this thing on letting people know what's happening in the beginning, negotiations are still going to be held secret, there's going to be alterations, what comes out the back end is not going to be the grass you saw in the beginning. And all of those parameters, now I'm glad everyone is getting my joke, but at the end we have got to accept it because that was the instructions anyway. I don't know Robbie's rules, or Robert's rules, I'd like to put this baby to bed and that's all I've got to say.
>> Ed Rast: Ed Davis. Then I have a comment.
>> Ed Davis: I would recommend that we take up the offer, I think that the representative of labor made of having their lawyer look at it so we get the labor perspective, legal perspective and then we also have the city give their labor people, lawyers, give us their views, too. Recognize all we're talking about here is very simple time period for the public to comment between end of negotiations and ratification by the City Council. That's our objective.
>> Dan Pulcrano: I think that's a good idea, consistent with the motion as well.
>> Ed Rast: Ed covered my comments so I don't have a comment.
>> Ken Podgorsek: Call the question.
>> Ed Rast: The motion is, let's read the motion.
>> Dan Pulcrano: The motion is to accept the committee's -- the subcommittee's recommendation, contained in the paragraph that begins with the subcommittee recommends and ending with open session, that paragraph. And then to refer points 1, 2 and 3 to staff, and as suggested, to labor counsel and labor counsel and city labor departments. Is that what you're called? Office of employee relations and also Ken's proposal be referred to the subcommittee.
>> Ken Podgorsek: And that proposal being the --
>> Mr. Chair, it was my understanding that Dan's proposal was that it was going to come back to the closed session subcommittee, not to the staff.

>> Ken Podgorsek: No my section. My section goes with the committee. There's 1, 2 and 3 goes to legal staff for -- so it makes sense to them.
>> Ed Rast: We're getting comments from both staff, from city staff and from the union's labor attorney.
>> Ken's proposal has not been to the subcommittee yet. The parts that are not through the subcommittee are going to satisfy to get their input and proposals on how to handle those issues.
>> Ed Rast: All right, so we've got the thing, now we need before we vote on it, Tom.
>> Tom Manheim: Tom Manheim. I wanted to check with staff. Are we clear what Ken's motion is?
>> 2 and 3 with staff is confusing the way it's worded in general. My understanding was that you wanted staff and labor to look at whether it's considered bad-faith bargaining if during between the notice period and council approves if they change their mind, that's the issue you want us to look at?
>> The referral wasn't the that specific. It was to get staff's views on the bad faith and reretroactivity issues.
>> We need to get better direction because we don't really understand what 2 and 3 means.
>> Ken Podgorsek: part of the reasons it's being referred is we're trying to get the intent across but not doing it in a way that makes sense to you, is that correct?
>> Ed Rast: Lisa Ed Susan Marge Rae.
>> Lisa Herrick: Lisa Herrick, Mr. Davis said the intent was to let the public have more notice, right? That seemed to be the solution to that intent is in this first paragraph, as I understand. And I think I heard Dan McFadden, I heard Alex Gurza and I heard Linda Didis say that was all acceptable and no one had any problem with that. So I wonder why these proposals here that are confusing are being referred to anyone about anything and maybe what the task force wants to do is just approve this first paragraph. I'm sorry, jumping in here, I've been listening to this for a long time.
>> Ed Davis: I heard Alex and Linda say with a fair degree of pride, and Tom too, that they are not lawyers. Would I like to hear a labor lawyer give blessing to just one notion that this ten- to 14-day time period is not going to create legal problems. If it doesn't create legal problems then we don't have to worry about 1, 2 and 3. So I would like to just have the first paragraph that Dan had and if your legal people and the labor legal people can agree that you don't need anything like 1, 2 and 3, then we don't need them. That's what we're talking about.
>> Susan Goldberg: Because 1, 2 and 3 were added to mitigate legal problems. If there are no legal problems then we don't need them.
>> Ed Rast: You also have a recommendation that there be an early meeting once a year --
>> Susan Goldberg: We doesn't need a attorney on that.
>> Dan Pulcrano: I just spoke to the seconder, I'm willing to modify the motion, we improve the first paragraph, and we can take it from there.
>> Ed Rast: Before we vote we need public comment.
>> Dan Pulcrano: Modifying my motion, and Margie, I believe you seconded it.
>> Margie Matthews: I agree.
>> Ed Rast: Alex Gurza, again.
>> You're correct, I'm not an attorney but we never had an issue with putting a memo out in advance. There has been circumstances where we didn't put them out seven or ten or 13 days, the memo has to go out in advance, it's just a question of number of days. At least in my view, there has never been an issue of putting it out several days in advance. I don't anticipate that at all being an issue.
>> Ed Rast: Linda, did you have any public comment?
>> Thank you. If it's just the ten to 14 days, we're not going to have a problem with that either. But I think it begs the question of, you know, I think that probably not my labor attorney but maybe one of the other

labor unions, because we all couldn't make it here tonight, that they still feel that if there's the -- you know, I think they're still going to answer the question that is -- not being asked of us but is still out there as to whether or not it is bad-faith negotiation if the City Council changes their mind after they hear public discussion.
>> Ed Rast: Would having this prior meeting, a public meeting there, would that probably --
>> I'm going to agree with Margie on this, you get a lot of new councilmembers, not just councilmembers, it is political people at this point that have term limits, you know, that have a huge learning curve. And there are sometimes situations given to them, a lot of things in union contracts and understanding them. It takes us a long time to educate our members about what binding arbitration is for instance, that people sworn have binding arbitration, we don't. So their process is different than ours. So any kind of a study session that's.to the public, you know, would be -- even our union members I think a lot of them would get a lot of information out of that about how things are done. Education certainly is something that is constantly needed and constantly sought after.
>> We'd be happy to put something once a year, here are the contracts that are coming up, who they are, general overview information, and that would give anybody the opportunity to come in and give comment. We'd be happy to do something line that.
>> Ed Rast: Is there any additional public comment? Okay, we've called for the question. All in favor of the motion? [ayes]
>> Ed Rast: Any noes? One no. Any abstentions? So the motion passes. And it goes back, I'm sorry, Brenda, you were a no?
>> Brenda Otey: No.
>> Ed Rast: Who noes. The motion passes -- Sheila.
>> Sheila Tucker: Point of clarification, you are only proofing the contract under labor and there's no referral?
>> Ed Rast: There is a referral to the committee. The chair is supposed to then -- I'm going to refer the other part of it to committee and then we'll get input from both the city staff and labor's attorneys so they can take a look eighth. And we probably should set some kind of a time frame for them to get back. In I think we can get back, we can do it by phone.
>> Ed Rast: That's not my concern. My concern is in having the city labor attorney and the labor's attorney take a look at this and get some input to you. Linda, is --
>> With two weeks?
>> Ed Rast: Two weeks some is that reasonable?
>> Ken Podgorsek: The flip-side is, do we want -- well --
>> Ed Rast: Margie.
>> Margie Matthews: We don't have to refer this to committee. The committee members are here. There is a committee of the whole scheduled that the council has and this just gets into the rotation of it.
>> I would recommend that absent, that you adopt it, as you know, we've talked. I was eliminating 1, 2 and 3, we have a lot of good representations we don't need it. Subject to like everything else we do, if we do get legal opinions later on that it has problems we can modify it.
>> Ed Rast: We can modify it to include if the labor's attorney comes back with issues, also. Okay. And the city or the labor attorney, the labor's attorney will get back within two weeks. Is that right?
>> Susan Goldberg: Will this get added to the memo of council that this was approved as a concept?
>> Ed Rast: But we're waiting for opinion back.
>> Ken Podgorsek: That's different than the motion we just voted on.
>> Ed Rast: Susan stated it again what you just stated.

>> Ken Podgorsek: We just passed the motion.
>> Ed Rast: We just passed the motion.
>> Susan Goldberg: Cindy it, we just passed the motion, agreed with this ten and 14 day public notice, the labor person was going to come back with language, maybe we should add that right now.
>> Ed Rast: Add that right now. Make a motion. Somebody make a motion, is that a motion? Brenda?
>> Brenda Otey: I think we have the concept. But I think it would be good to be able to develop language that would encompass, you know, the thoughts that may come up. It's good to have overall study session on negotiations, we want to make sure people are included, the public is included, in a workshop that's basically on labor, and all the facts of negotiations, as they take place in the city with all the different bargaining units that are -- have contracts.
>> Ed Rast: That's your motion?
>> Brenda Otey: That will work. If that came out good enough for everybody to understand it and agree with it.
>> Ed Rast: We have a second?
>> Mary Ann Ruiz: I'll second.
>> Ed Rast: Mary Ann seconded it. Public discussion? I'm sorry Brenda?
>> Brenda Otey: When it takes place, when in the annual -- when annually it takes place, so it is done at a point that is meaningful for negotiations. And Mr. Gurza --
>> Ed Rast: Alex --
>> Linda, did you capture that?
>> I understand the intent.
>> Ed Rast: Why don't we have Alex comment and we'll repeat it.
>> In terms of the timing, we'll have to be asomewhat flexible. We would pick a time you know before a set of negotiations starts, and highlight all of those coming up in the ensuing year. So that's how I would --
>> The first of the year.
>> Ken Podgorsek: After the beginning of the fiscal year.
>> For all the contracts coming up.
>> Ed Rast: You want to repeat the motion then?
>> Ken Podgorsek: No.
>> Ed Rast: Sheila --
>> I understand we're adopting the paragraph under labor. We are going to integrate an early opportunity for input at a point that's meaningful in the process, we're going to refer whether there's any legal issues to staff, and the labor attorney on --
>> Ed Rast: Okay, first motion which was the one paragraph, that was accepted. You now have a motion on the floor from Brenda and a second by Mary Ann concerning the study session prior to the contract negotiations. So the councilmembers and the public can have comment upon the labor issues, okay? And that's what we've got on the floor. We've asked for public comment, we're finished with the comment, we'll vote on that and do the last part. All in favor? [ayes]
>> Ed Rast: Opposed? Abstentions? It passes. The last issue, Sheila. And the last one was, your third comment which was that the city labor attorney and labor's attorney would get back to us within two weeks on their comments, upon this whole issue. Especially any legal issues they have, we're in bad faith or other things. Everybody agree we have a consensus?
>> Ken Podgorsek: Yes.
>> Ed Rast: Well, we're done with that. All right. Is there anything else on closed session?
>> Good thing Bob wasn't here.

>> Ken Podgorsek: There's still a lot on closed session.
>> Susan Goldberg: We have not discussed the certification processing. But it's 8:30 and I don't think we should start now.
>> Ed Rast: Brenda.
>> Brenda Otey: One of the reasons that 2 was not clear is it's part of the certification process for the audio recordings for closed session, and it might be clear once we get through that piece.
>> Susan Goldberg: I'm informed we're going to 9:00.
>> Ed Rast: We're going to go to 9.
>> Ken Podgorsek: Do you want to start it?
>> Ed Rast: And Bobbie has to leave but we still have a quorum.
>> How come Bobbie gets to leave? [laughter]
>> Ed Rast: She's not feeling well.
>> Ken Podgorsek: Mr. Chair, I have a sneaking suspicion that Susan is correct. The most we would have to commit ois 15 minutes. Because we have to talk about the upcoming meeting. We would barely scratch the as far as. In my opinion, we should go right to work plan and end it 15 minutes early we could all actually see our respective family members this evening.
>> Ed Rast: So the committee is going to take another further discussion on these issues and bring it back.
>> Susan Goldberg: I'm hopeful that at our next meeting this could be the first thing on the agenda, the whole certification process and I'm confident we could dispense with it in no time.
>> Ken Podgorsek: We're moving along with closed session rather well. This next section is time consuming, but I suggest we have this first up on the agenda, and if for some reason we don't get into the public meeting section, I fully believe we can get that in our second meeting in September.
>> Ed Rast: Sheila Tucker.
>> Sheila Tucker: The first April meeting would bring back the cost benefits analysis, my guess is there would be a lot of public interest in that, and so we might want to think about --
>> Ed Rast: Sequence?
>> Sheila Tucker: Yes, not have a lot of people come out that's scheduled to come up in the middle of the meeting and not get to it.
>> Ken Podgorsek: The expectation is where?
>> Sheila Tucker: That was just our discussion that we would come back.
>> Ken Podgorsek: I agree with you but I'd like to suggest that it might be wiser to move it to the second meeting in April and put it up first. Because I think it's -- I think there's a possibility that we might be able to get closed session done and we might even be able to get public meetings done if we get closed sessions done. I don't anticipate the public meetings section what's left to be maybe more than an hour's discussion. And then that way we're not hanging the public up.
>> Ed Rast: Right. Yeah, because we had a committee meeting and I think we got through most of the issues.
>> Ken Podgorsek: And I don't -- and I'll be surprised if the few remaining issues are of -- I mean, I think we'll get consensus based on away we've heard.
>> Ed Rast: All right. So we're going to go to closed session, and then we'll go to public meetings, at did next meeting. And we're into the upcoming agenda and work plan discussion. And then the second meeting of April, we'll take a look at --
>> Ken Podgorsek: Public subsidies first.
>> Ed Rast: Public subsidies first. Pretty much, I think that wraps us up then. Also, I would think that we

would just, to be on the safe side, take a look at -- let's see --
>> Ken Podgorsek: Mr. Chair.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: Then we'll move into our remaining sections in May, public records and enforcement, which I'm assuming would take more than a single meeting.
>> Ed Rast: Sheila, could you take a look at the -- at Thursday, the 26th of April, and reserve it as a stand-by meeting date in case we don't get through this so we can complete it by the end of April?
>> Sheila Tucker: Sure.
>> Ed Rast: Phase 1. We basically -- we basically committed to the council by the end of April with phase 1. So if in the two meetings in April we don't get through it then we would do --
>> Ken Podgorsek: Closed sessions, public meeting and public subsidy.
>> Ed Rast: Right.
>> Susan Goldberg: Mr. Chair, to confirm there is no meeting March 29th?
>> Ed Rast: We couldn't get the room. What we've got is a stand-by date the 26th of April, in case for some reason we don't get through the completed topics. And if we do get through them then what we'll do is, we'll have completed the first phase.
>> Susan Goldberg: April 26th.
>> Susan Goldberg: seems like we could leave aerial.
>> Margie Matthews: I apologize to the task force for being late, I was at another meeting across town. I was glancing on the calendar issue, it said that the motion was unanimously approved, I thought I had voted no on that. I thought it was weird. But you do tend to break me down some times. So -- [laughter]
>> Margie Matthews: So we could correct that.
>> Ed Rast: Dave.
>> Dave Zenker: I was just now noticing actually that the agenda is now until 9:00. Is that a standing change or --
>> Virginia Holtz: What we did at our last meeting was talk about the fact that there was a lot of work to do, we were concerned about achieving our -- the goals and getting to the breaks where we have to report to the council.
>> Ed Rast: Without any additional meeting?
>> Virginia Holtz: Completing the -- you want to talk or do you want me to?
>> Ed Rast: Sorry, Virginia.
>> Virginia Holtz: To complete phase 1. So instead of having a meeting on another meeting on a Saturday, we preferred those present at the last meeting to have -- add a half an hour to all the future meetings, to get the work done.
>> I think people were still present whether that was decided were people who didn't have someone picking them up at 8:30.
>> Ken Podgorsek: I think --
>> Ed Rast: I've got one more topic on the agenda. We'll do it in a second. We started off on the public records police records. And I talked to staff, and one of the -- I wanted to get some consensus from the task force. Is we had an eight-person panel. If you break it down there were five people basically from the community who had concerns about the availability of records. And there were three panelists who indicated they thought the records were adequate I guess, I think if I -- what I would suggest is we go back to those panelists and ask them a series to clarify some of their comments with actual records that are or are not available with examples, and 2, that we ask those two groups to try and come up with a spokesperson so that when we do get into the public records they can represent each side of it, so to

speak, of the topic. So that we get the -- since they are the experts and they've got very clear opinions on it they can come back to the task force when we start the public police records section and we can hopefully get through it faster than just having a task force discussion. Discussion, Karl?
>> Karl Hoffower: Karl Hoffower. I think that's great. I believe there was a question I asked Captain Kirby, how many times did he comply with the records request by a single page that said, we don't have to give you the records. The ACLU has said multiple times they have asked for the records and what they got back was that single page. I think that would be great. Another thing concerning is a citizen came to me who has some knowledge about how the police department has changed or altered how they classify a complaint. They call it a inquiry, they are starting to show that complaints are going down against officers part of that is they have reclassified the complaints against officers. I think if we could have them come back.
>> Ed Rast: If we are not careful with that topic, clear examples, for lack of a better term, he said, she said, rather than saying, this is what I get from another department, Menlo park, San Franciscan or Oakland, and this is what we don't get from San Francisco or Oakland, that would clarify the issue.
>> Karl Hoffower: The Mercury News participated in that whole investigation. We didn't come out so consistent.
>> Susan Goldberg: 2 reporters went out or 216 people went out to various police departments, it wasn't a Mercury News solicitation at all. You saw the results which were not terribly encouraging. I guess what I'm wondering is what exactly we're going to find out from having sort of a repeat of the Saturday session. I would be curious to hear more frankly from the police audit, Barbara Atard who is the only person who regularly see reports. She sees it all the time.
>> I think we should stick to the work plan.
>> Ed Rast: That is what it is.
>> We are getting beyond the work plan.
>> Susan Goldberg: She should go to closed sessions.
>> Are we violating the Brown Act?
>> Ed Rast: What you're saying is we should go -- we should agendize it?
>> Talking really about what you want in terms of agendizing future topics. You're talking a little more in detail about the actual topic.
>> Ed Rast: We're having a discussion on it. I see what you say, good point. Okay. All right. With that?
>> I move to adjourn.
>> Ed Rast: Second? All in favor? Out of here.