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>> Ed Rast: Good evening. Let me make a couple of administrative announcements and once we get everybody seated, we'll start. If you haven't -- oops, I guess there were agenda packets still on the side. If you want to speak will you please fill out your request to speak. You're not required to. If you parked in the underground garage in the building, there is a validation machine in the hallway. If you have electronics that make noise would you please turn them off. Which reminds me, I've got to check mine. Because the sound system will pick up those and interfere with the public being able to hear it, either now or sometime in the future. If the task force members would please sign in and then take a seat. All the task force members please have a seat, and make sure you all have a copy of the packet. For the audience, on the agenda tonight, let's start off, let's go, the Sunshine Reform Task Force meeting is called to order, and for April 19th, 2007. And the first agenda item is the approval of the April 5th, 2007, meeting minutes. A motion?

>> Joan Rivas-Cosby: Joan Rivas-Cosby. I have a correction, I was not actually present for the last meeting.

>> Ed Rast: Do we have a motion for acceptance of the minutes?

>> So moved.

>> Second.

>> Ed Rast: Additional corrections, changes? No? All in favor of accepting the minutes say aye. [ayes]

>> Ed Rast: Opposed? And abstentions. Right. We have three abstentions. Dave Zenker. Brenda Otey and Joan Rivas-Cosby. Comments from the chair, next agenda item. The task force would also like to commend the sunshine reform city staff as the City Council did earlier in the week for the excellent job that you've done in supporting our work. Second item is the task force would also like to commend the San José planning and code enforcement division, for their work in the area of make public records available. For instance, this week as a lot of you saw on the newspaper, they put code enforcement cases online. They've also put permits online. They put a lot of the city policies that are generally not available to the public they've put online for if Planning Department. They've run educational courses, made available public information as well as public records. That's pretty much the end of my comments. We'll have a review of the meeting materials.

>> Yes, very quickly. I know there's a lot of items on the agenda tonight. Eva Teresas from the Planning Department.

>> Ed Rast: Could you talk a little closer to the microphone? It's not coming through.

>> Can you hear me now? We also have the city staff response to the cost benefit analysis and in the separate packet we have the response from the redevelopment agency. We have a response back to the city's proposal or memo from task force member Brownstein dated April 11th. We've also included the definition and requirements for nongovernmental bodies. The next item, the process for funding arts programs is a request from Virginia Holtz. And the following one, the Parks, Recreation, and Neighborhood Services agreements is a memo on arts grants and public, PRNS funding requests from Ken Podgorsek. Okay and we have two additional documents as well. We have a contract bid awards procurements memo distributed to council one time. And we've got items heard by the council committee requiring council action one week turn around. Thank you. We've also got a document regarding the contract bid awards procurement, which is what I just mentioned, I guess. They're actually on the list. And that's it.

>> Ed Rast: All right, thank you Eva, are there any questions from the task force? We probably want our fullest agendas and the largest reading term for a meeting. Hit over 100 pages, I think. Okay. Start off, the -- the discussion of the public meeting provision, reform of the public process regarding major public subsidies, Bob Brownstein.

>> Bob Brownstein: Thank you. I'd like to make some preliminary comments regarding this proposal which I think everyone has noticed has been modified by my memo of April 11th. I believe at the root of this discussion about public subsidies there is a basic discussion of principle. I don't think we've gone through all this effort to support open and supportive government in San José --

>> Ed Rast: Bob, would you put the microphone closer?

>> Bob Brownstein: Is it working? I don't think we've gone through all this trouble to support open and transparent government in San José just so the citizens can sit there and observe what the government is going to do to us. We support open and transparent government so people can meaningfully participate in the city's processes. Meaningful participation means the public has sufficient time and information not to just know what's happening but to be able to become involved and to help shape outcomes. Now, some interest groups have questioned whether access to sufficient information should be part of a sunshine ordinance. And I'd like to carry that logic to its conclusion. Let's say that the city announces a new open government budget policy. The proposed budget will be available a full six weeks before the first City Council committee deals with it. When you open the new budget, in terms of the police department which is the biggest department, you find the line item that says police department, \$256,128,000, and that's it. No additional information. And if you ask, what do we get for the \$256 million, the city says, we don't have an answer to that question. Now, to me, that kind of budget, despite the fact that you have six weeks to look at it, does not represent open government. And similarly, it is not open government if the city offers a firm, a multimillion dollar subsidy for economic development, and if you ask, what are we getting for that, what tax revenues, what jobs, and the city answers, "we don't provide that information," if under a sunshine ordinance, the government can continue to approve multimillion dollar deals without providing the government enough time or information to review the proposal, then our open government policy will fail in its fundamental objective which is to permit participation by the government in the workings of their government. Now, staff has offered us some information in response to my original proposal, and I very much appreciate the work that they've done. But in some cases, the information they provide, I think, helps demonstrate the difference between the way things are done now, and the way they ought to be done approximate we adopt sunshine reforms. I'd like to give an example. I've spent much energy emphasizes the net fiscal impact. How much tax revenue does if city actually gain from a subsidy. So let's look how the redevelopment agency handled one element of fiscal impact in its Analysis false of the BEA subsidy which the redevelopment agency provided us a copy of in our packet. And the element I want to look at is what kind of tax revenues would be generated from having 1,000 BEA workers becoming part of the downtown economy? Now, this is what the agency said. It is estimated that over 1,000 BEA employees and contract workers will be housed in the building generating multiplier impacts on the downtown economy. And then they added 800 to a thousand employees with approximately \$180 million annual payroll, for downtown arts and entertainment venues. The redevelopment agency said, redevelopment dollars can't be used for public safety but sales revenue for 1,000 new workers dining and shopping in the downtown, will go into the General Fund. That certainly sounds great. \$140 million payroll downtown pollute sales tax revenues to pea for the new cops the city needs. So what's the reality? Let's assume a best case, an absurdly best case. Let's assume that every single one of those thousand BEA employees has lunch downtown every single workday and they spend \$10 for lunch every day. Downtown for lunch, \$10 a day, how much is generated for the city to pay for its new cops? The answer is \$26,000 in an entire year. An that's a gross figure, not a net figure. Because BEA is already in San José, and some of the workers at BEA are already having lunch in San José and paying sales taxes in San José. So let's take another wildly optimistic observation, and saying 28% of the workers are already eating in San José, and 100% of the workers will eat downtown every day, that

means we generate \$28,000 a year in sales tax revenues. \$20,000 per year for approximately one-fifth of one police officer. That is not to say the BEA deal is a good deal. There are some very good things in the BEA deal. But it is to say the city should give us good, solid, accurate information about exactly what kind of tax revenues we're going to get from a subsidy. And the fact of having a thousand additional workers in Downtown San Jose eating lunch even at absurdly optimistic levels, isn't even a rounding level in the city budget and not a niche enough of an impact in city services to be worth discussing in a budget hearing. So that is the kind of change would I like to see and why I'm suggesting that the Sunshine Reform Task Force should continue this work without these proposals, so when the public does view these things it will have accurate information and I'm confident with accurate information they can participate usefully and make good decisions for the city. Now, what I'd like to do briefly is just quickly walk through my supplemental memo because it has some changes from the memo that it previously brought forward. First, the memo simply points out that the idea of having additional public review and scrutiny over expenditures over \$1 million, and items of significant public interest, has been part and parcel of the mandate to the Sunshine Reform Task Force since March of last year. There have been better than numerous items come before the City Council reinforcing the council's interest in this subject and it has been a subject of discussion at the Sunshine Reform Task Force since the time Phaedra Ellis Lamkins was a member, and since I have been a member since November of this past year. The last analysis, a cost benefit from the mayor's transition team, arriving in January. I'm suggesting a modification. First, in terms of public input, I believe the standard public review of a program should be 30 days. In exceptional circumstances where there is a risk that this 30-day period might jeopardize a high-priority project, staff could come forward and request a waiver and move that the issue be brought forward in 21 or even 14 days. And in fact if you look at the list of projects that staff has suggested for its pilot project, there is not a single one where there would be any downside or adverse affect by giving the public a 30-day review period. Instead of information on every job that is where subsidy is given, I'm suggesting there be broad bands, how many jobs between 1 and 20,000, how many between 20 and 40, and 40 and 60. Simply a statement of whether or not the recipient of the subsidy receives full time employees or not. A very straightforward answer. As regards fiscal opportunity cost, I accept the staff's suggestion to replace that term by source of funds, indicating what are the restrictions on the use of those funds and the source of those funds. On net housing impact, I suggest that staff should indicate the number of units constructed or demolished by the project and also indicate the increase of demand for ELI units, extremely low income units that are required if the government provides employment for workers at that level. ELI are the most difficult kinds of housing that the city has been trying to address through its affordable housing program and we need to know whether a proposed subsidized project is going to increase the burdens of the city housing department or not. In terms of impact on neighborhoods, I accept the staff's proposal that environmental impacts and traffic impacts should be generated through the EIR process or traffic studies and the only additional information staff would have to generate is whether there is impact on other public structures such as community centers, libraries and parks. I do want to emphasize however, after having made these modifications, that I think the other fundamental components of my original proposal are sound and would think of adoption by the sunshine task force, that there should be a net fiscal impact, a net tax return impact for every subsidy that is over \$1 million, that all subsidies of this significant scale should allow time for public review and public information, the land should always be for every subsidy information on accountability. If the projected returns do not materialize, there should be an after-action report so we could find out what actually happened after the project's been implemented and whether the outcomes we expected genuinely materialized. Thanks very much. At that time appropriate time I'd like to make a motion, not now.

>> Ed Rast: One of the suggestions that has been made is we break the motions, break it up into separate motions, that way we can come to agreement on at least a number of the items quicker than rather than trying to put it all together in a large single motion. The other kind of administrative point for audience, is that as you can see, we have a very long agenda tonight. It is very possible we will not get to the nongovernment body section of this, so if you've come here for that, it is very possible we will not get to it at this meeting. I expect the other parts of it will go on for a long time. Comments from the task force? Ken Podgorsek.

>> Ken Podgorsek: Mr. Chair, Ken Podgorsek. I like much of what bob has put together. I think it's straightforward information. I think one of the major griping, when I'm speaking to neighborhood associations, is this issues of subsidies. And I always felt it's because it seems like it's not an open process. I personally believe if a process is more open and more transparent and people understand it better, I don't think it is actually going to change whether the subsidies are given or not, as much as people think it might. I've always believed that people will understand that. They'll understand where the money is coming from. It is amazing that people think the subsidies think they can't get their potholes in front of their house fix, it is not the same pot of money. Some of us that have been around and working with the different issues with the city understand that but the average person in the neighborhood does not. I think the more openness related to how the city spends large sums of money is a wise thing. That said, I would like to -- that said, I would like to see this conversation tonight stay on issues related to public subsidies that are sunshine items. I don't necessarily think that we're qualified or even tasked with getting into the exact details of how a cost benefit analysis should be conducted. I think it's appropriate for us to say that the cost benefit analysis, as reviewed by -- as reviewed in public session with input from citizens, be adopted, and be used. But the exact details, I don't think that is within sight of our task. But would I like to see us move forward and bring an openness and a transparency to this process. So that we bring faith of our citizens.

>> Dan McFadden: Mr. Chair.

>> Ed Rast: Dan McFadden.

>> Dan McFadden: Staff is ready to make a presentation on what the council approved. Maybe it's better to go over that early rather than later, it's your call. I would like to say the staff as we included in our response here appreciates very much Mr. Brownstein's effort here. I'd say we adopted maybe 90, 95% of what I think was brought here into our proposal. And there are some differences, and I don't know how much that difference is going to converge this evening. But it might be helpful for the city to present what the council approved and try to go through that quickly so that everybody in the room has a sense of that.

>> Ed Rast: I agree with what you said. A custom -- let me make a correction on one of my earlier statements. It's been point out to me that we have a lot of city staff people who came here tonight specifically to make a presentation on the nongovernment body. And so therefore, to respect their time here, we'll probably take -- we'll get to a certain point and then we'll cover that. Also, we're at capacity in the room. The council chambers have been opened. If people would like to move to the council chambers they can view it on the screens there or the other possibility is that we're out of chairs. So it's up to the audience, what they'd like to do. And of course, if you go over the council chamber, you come back and make your public testimony if that's your intent. Dan, do you want to -- Dan McFadden, you or some of the other staff are going to make the presentation.

>> Dan McFadden: Paul Krutko is here, chief economic officer -- chief development officer for the city. And he can make the presentation. .

>> Paul Krutko: Thank you. I will briefly go through the presentation. The time is short. What I'm presenting --

>> Ed Rast: Paul, I think we're having trouble hearing at this end. Can't hear you.

>> Paul Krutko: Can you hear me now?

>> Ed Rast: Try a little closer. What I'm presenting this evening is the cost benefit analysis pilot program that was approved unanimously by City Council on April 3rd. So what we have before you is the direction that council has given to staff to proceed with cost benefit analysis over the next -- the periods that are main periods, this fiscal year and for next fiscal year, at which time after we reviewed six projects in a pilot form, council will make a decision as to what modification they want to make. The first slide just really outlines what we have proposed and council has approved, the pilot program that will be used cost benefits of up to six projects. The rationale for the pilot program is that given the City's very difficult financial situation, and the limited number of staff that we have that are employed for this particular activity, that we need to do this on a pilot basis to define the model and improve it and practice incorporation of feedback. Hearing process get us to a cost-benefit analysis that the council is comfortable with. The what we are proposing to be required for projects, terminology we're using is special allocations or -- and/or projects for which the council specifically tells us they want this type analysis. So if the council says we want you to look at this project, we will go back and take it regardless of what the dollar amount of any project. The next slide really more better defines special allocations, we see these projects that require significant city funds, a million plus, and have significant impact on neighborhoods, city housing, and projects. We will work with the council, this is part of discussion and debate during the meeting on the proposal, the council wants to work with us very closely to define what kinds of projects should be brought forward. There was an earlier version that had some proposed criteria, council said let's take those away. We're going to work with the staff over the coming year to identify which projects should go through this program. And again, after we conceive the pilot program, the council will look at eligibility criteria for future analyses moving forward. So we put on the screen for the council the same slides that we have tonight, some examples what we thought were potential special allocations. There is a proposal that has been moving through a variety of circles, to look at expanding the convention center. Clearly any expansion of the convention center is going to be more than \$1 million. We have a substantive and continuing financial stake in underwriting and subsidizing the Hayes mansion. There are concerns what we are going to do with the city-owned golf courses. We had put new dollars into a new fund to stabilize arts organizations. That was allocation of funds that were used for something else, into an allocation to work to preserve such organizations as the rep. We have on the horizon what we're going to do with the old City Hall. That will clearly generate revenue if we potentially can, potentially can generate revenue. What happens to that revenue, how we structure some kind of a relationship with the private sector or another entity on that site would be an example of something that should go through a cost benefit analysis. We are going to very shortly issue RFPs on the NC site that the city acquired through the airport lease revenue bonds and other financing. That's a significant question that we should evaluate in terms of cost-benefit analysis. When those proposals come in. And there's been much discussion about a potential soccer stadium in the city. We would evaluate the long term value of the city investment in the source of funds, where the funds are coming forward, what they are allocated for. We would, and have, in the past, evaluated the net projected change in city revenues. And we would also look at the potential net change in service cost directly attributable to the cost or event. We believe the economic analysis does talk about the net impact on employment. We have difference in the practical real world in working with companies about what publicly traded companies are willing and able to release in terms of that type of information. And we will evaluate where appropriate and if it's a housing project, what is the impact on housing starts. In terms of other impacts, I want to highlight the comment my colleague Dan McFadden made in his cover memo. Once you see the analysis of other impacts, you

sometimes get into the range of subjectivity, how people perceive and value different things. But we will highlight environmental and infrastructure impacts as well as social benefits, rebuilding the community,ing media exposure. But again, those types of things that is not cut and dried in terms of that, sometimes they're very much value judgments. And I think Dan's point on that was very well taken. We also agree that it's important that we do an after-action report. The mayor specifically in his comments about this, does and has focused on the importance of looking back and make sure that we know what in fact occurs versus. what in fact we were projecting. We do in our proposals agree that listing the city's options should the project not meet expectations are a very important factors. But I do want to highlight that that sort of sword cuts both ways. And the example we would highlight is if you looked at the staff report for Adobe project when it was originally written, no one would have expected that we would have three towers and that level of employment in the downtown. So many times when we talk about this we talk about the things that didn't happen, but there are also the things that happen that are far beyond our expectations. In terms of public access to cost benefit analysis reports, we believe the appropriate approach for this is to fully use the council committee process as a way to bring ideas forward, and have them fully vetted. So what we recommended in this particular pilot is, rather than the projects initially going straight to council, we are proposing full sunshine on the staff recommendation, the memo out, the full seven days that's required now, the presentation at the committee, which would be an open committee meeting, in which the public, who had come and comment on the proposal, and then following that, if it was going to move forward, it would go through the full two weeks of sunshine noticing, so in fact Dan's pointed out to me that with the way the calendar works, we would actually gain a few more days in that. Because if it was in a committee, it would take a few days to then go to be posted. But we would then have essentially more than I said at least on this side, but more than a full three weeks for review, and two opportunities for comment prior to City Council action. We really believe that an opportunity for the city is to fully use the committee system to bring projects of significance and substance forward for consideration. In terms of the recommendations, as Dan's point out, the last slide to conclude, we believe that a number of the task force recommendations put forth by Mr. Brownstein have been incorporated, the net projected tax revenues, look at the valve funds to be expended, source and origin, additional service cost and looking at environmental and infrastructure impacts. Net change of employment in housing stock and we do think it's important up front define the time line for what we would do after action, awhat we would do if the project fails to meet expectations. Mr. Chairman, that concludes my presentation.

>> Ed Rast: Dan McFadden.

>> Dan McFadden: A comment on Bob Brownstein's opening remarks, the particular need to move forward to shorten the time is much appreciated. I think if the 30 days, it's how you break that up, as Paul just said. We had a seven-day lead time before it goes to subcommittee. My sense is that the key time here is when council considers it, if there are any changes, and then the council comment before it goes in subcommittee before it goes to the full council. And if -- I think we have almost three weeks there. If you want to stipulate three weeks. I think the idea of focusing in on source and restriction on funding gives us a lot of clarity, the opportunity cost thing was very broad and we had trouble working with that. And I think the net housing impacts, that gives us a better sense of what Bob's trying to get to. And we have a couple of folks, and certainly -- I don't know who would want to speak to the housing issue. But that's one we're not very far apart on also. Thank you.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: I have a question, the examples of potential projects, the convention center, Hayes mansion, on down the list, would there be any diversion effect on any of those?

>> Dan McFadden: Dan McFadden. I don't think there is any diverse effect on any of hose. When the

report is done and posted all the way through the subcommittee process, all the way through the council process, council approval, I think we're very close to that. I would rather see us have a fixed date between the subcommittee consideration and the council consideration. Because there probably is going to be input and changes, that was my comment. And Harry Mavrogenes, executive director, wants to comment.

>> Good evening. I just wanted to echo the comments that Paul made. The 30 days specifically, we do have some issues with, in that -- thank you. Can you hear me now better?

>> Ed Rast: Yes.

>> On the 30-day issue, in Silicon Valley when we work with some of these companies' private development agreements, 30 days can sometimes be an eternity. And we do have issues with that. I think the three-week process that we've talked about we can work with, but to go on any longer a lot of things change and they can jeopardize some development agreements. We do take issue with that. I want to point out in your packet we also gave you a report from the redevelopment agency's perspective. We do things a little differently because of state law requirements. There are several times of agreements that are outlined that we do within our report, including disposition and development agreements, owner participation agreements, leases, park agreements. In the case of BEA, that was not a full development agreement, that was actually a parking agreement. However, I think we went overboard on that one in terms of we actually had an opportunity to report out well in advance on what was going on there, and of course our involvement was fairly limited in the parking. So we didn't analyze every possible impact that would come from that project. But I think if you look at our exhibits that are in the packet, when we do a development agreement, there are, understate law, major requirements, and you can see the analysis under attachment B, where we have an example of a disposition and development agreement, where the total cost and impacts are pretty well thoroughly looked at. And the benefits to the agency, as well. Specifically outlined and done by an outside consultant. In the case of public projects, we have been required for many years now that we have a separate operation and management type report done to analyze the cost of a potential California theatre, which we have here. So that the council going in understands what the potential operating costs of a facility like that are. And then in terms of the last thing I've provided for you is a list over the last year of the seven projects that would fall under the category of \$1 million or more, just to give an idea of the range of projects, everything from a grocery store subsidy to a purchase and sale agreement of an agency-owned property, some development agreement, some affordable housing, the EHC life bill, the Sobrato house project, and several industrial projects in South San José, and the grate with the residential project, the high-rise tower. So we do have a far more thorough analysis that is normally done by the city because of state law requiring that and I think that serves us well. And then projects, in some of the projects involving a lot of community input, like in the Japantown process, now looking at the corp yard, we've had about six modifies community meetings, early on in the process. So there is a tremendous amount of input. And we held the developer selection process out in that one out in the open as well, and everyone was invited. So I think there's a lot more that we do than you think in the process. And my main concern is, don't add more time to what we do. Because it may jeopardize some projects.

>> Ed Rast: Virginia.

>> Virginia Holtz: I'd like to speak to that time issue. Before I make comments, I'd like some information from the City Clerk. It's been my experience, when I go to the City's Website, and seek information about an item that is -- that's on an agenda of, say, a particular City Council committee meeting, or maybe it could be a commission meeting, I don't find it there prior to the meeting. And so I'm asking you if it's just that I'm -- and I haven't perused it all thoroughly, recently, if that's been the procedures that the clerk's

office does, when, for instance, any of the council committees, do all the staff reports get online prior to the day of the meeting?

>> The Clerk: For the City Council committees, they do. Our office works very closely with the manager's office, that staffs the council committees. My office staffs the rules committee. But the other council committees are staffed by staff members in the administration. But we work very closely together to post those agendas, and those reports. We are doing a very good job these days on those postings of the council committee reports. As far as boards and commissions, that's a little more difficult. As it drills down further into the organization, different departments support different advisory bodies. Some are online and some are not. Planning Commission, for instance, is online, Coyote Valley specific plan tasks and the Evergreen visioning task force, their agendas are online. Not all the 55 boards and committees have their agendas online. It is an effort underway through the master calendar project that we're working on together but we're not there yet.

>> Ed Rast: Lee, let me --

>> Virginia Holtz: Could I follow up? Excuse me Ed.

>> Ed Rast: Sorry.

>> Virginia Holtz: It just seems to me that I would lean more towards the 30-day requirement, but allowing for exceptions. And it's just based on my experience at trying to get information from the Web. And you've told me that it's now much improved from when I -- over the years that I have tried to get material. But in some cases, those might be going to commissions, like for instance, an art commission. If the project's over a million. Now, I don't have any personal experience about the arts commission's project and if that background material is provided before they talk about it, at the meeting, or not. So what I'm saying is, I think the public needs 30 days, unless it is an exceptional situation, which the council can -- or the redevelopment agency can say, this is an exception and we have to move forward with this. So that's my point of that particular one.

>> Ed Rast: Let me ask Lee. Lee, what is the time frame before the commissions and boards get to the same process that the council, the Planning Commission, and the council committees have, where the information is relatively online? I notice when I look at a lot of the boards and commissions that their minutes are not posted, that their agendas are not posted, the background material is not posted. Sometimes when you go to those meetings, the information, the background information is not provided the public. And there seems to be a lot of inconsistencies about how those meetings are run across the board. So is there going to be more consistency, and when could we expect that that would come into play?

>> The Clerk: You're right, there is some inconsistency and it is a staff resource issue. The master calendar project, though, the goal is to take those 55 or so, it's kind of growing and ebbs and flows if you will, but to take those city boards and commissions, and develop the master calendar, so that it has those agendas relating to those boards and commissions all in one place. So it's a goal we're working on, the software has been purchased, we have steps to do before we can implement it. But it is the goal that the council gave us, what nearly loom year ago. So we're moving along.

>> Ed Rast: But you see, the concern of the -- I know the concern of the neighborhood leaders and a lot of the community people is that until we get to that goal, to go to less than 30 days makes it difficult, at best. Because one of the key components of sunshine is the idea we're going to use a committee, and commission system, and if part of that system doesn't work, so we can't get the information in a timely manner, it kind of falls apart until it actually is going there. So we have a major lack of sunshine in an area that we're very much dependent upon, especially anything that goes before the commissions.

>> The Clerk: The subsidy items that Paul has been talking about are not items that would go to, you

know, a smaller commission that maybe it doesn't have the staff support that the council committee does. These kinds of projects would be going to a council committee. And we are committed to getting those council committee reports up on the Website pursuant to our new seven-day rule. So we're working towards -- towards that.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: Harry, I was wondering if you could answer a question for you. I promise you I know it's on video, I won't hold you to it, but you have a lot of experience, so my thought is that you may be able to give me a number. Of all the different things that would fall into this process, what percentage from a redevelopment standpoint, only looking at it from your agency, about what percentage would have to have an exception to the 30-day rule?

>> I would say it could easily be 50%, in terms of development agreements in particular. We're in a very competitive environment here, we're not the only city that is trying to get development going. When people have a choice of Santa Clara or some other community around us that can move quicker it puts us as a disadvantage, that's all I can tell you. We will do our best, we've done I think our best to maintain an openness in our agendas, in all our items. And again, in the case of BEA, most recently, we put things out more than 30 days in advance to let the public know. But to force it and come in for an exception really puts us at a disadvantage because we can't commit to a developer or a company that we can deliver for them as if we had the ability to do so with a shorter time frame. So it could be dangerous.

>> Ken Podgorsek: I'm going to ask for a follow-up for that though. Let's say the restriction wasn't 30 days, it was 21 days.

>> We agree.

>> Ken Podgorsek: How many exceptions would you have on that case?

>> It would be significantly less. I could tell that you if we agreed, we've agreed to a process that will take us through a City Council committee. So it automatically probably puts us in a three-week time frame. So I think in that case, we would just have to try to live with that process.

>> Ed Rast: Paul, could you also comment about the same 30 days versus 21 days?

>> Paul Krutko: We're comfortable with what we put forward to council and council approved, and that is, adding the additional step of going to council committees first, before we go to full council. We think that that is very appropriate process, and so what we recommended to council, we think is the right way to go.

>> Ed Rast: Lee, you had a comment?

>> The Clerk: I was just going to -- if I may, Mr. Chair, I'd just like to remind the audience, if you want to speak please come and get a yellow speaker card and give it to Sheila. We will forward it to the chair in the order in which we receive them and when the chair is ready to receive public comment, he will call you in the order of the speaker cards. Thank you so much.

>> Ed Rast: Let me go back and be sure I'm clear on this Lee. The committees and commissions that these tax subsidies will be going through, are they all current, as far as -- in other words, they're the point that they're up to, in other words, they're similar to the City Council, and the Planning Commission, the information is available? So we're -- so that the concern of some of the members that some of the other commissions and boards don't have, that isn't appropriate for this particular area?

>> The Clerk: I don't believe it is. I mean, these projects would go to our major council committees. And there are only four.

>> Paul Krutko: That's correct. In terms of that, the manager's office has for many years had a complete commitment to staffing those committees. Each of us, including myself, has a direct personal and professional assignment to a committee, and the people in our staff prepare the materials that get

distributed and ensures that it's up online and does all of that work. That's a regular, straightforward process. The difference, and I need to highlight this, both City Manager Les White and mayor Chuck Reed have brought forward which was substantive items like this would go to the committees first. In past, the committee's agenda was defined by the committee chair, working with the mayor's office, given what topics they wanted to consider during the period of a year. The change we're talking about, we're actually bringing those to committees, that is a significant change for the city.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: I have really tried respond pragmatically to the staff concerns about cases where they need to move more quickly. And that is in fact in the substance of my proposal. But I think it's important for staff to consider what it's like to be part of a community group that is trying to evaluate one of these projects. First, a community group has to get itself together in order to be able to decide who is going to do the work, how it is going to find people with time and the expertise to do the work. And then, consider a project like the BEA project. For citizens to be able to evaluate that redevelopment report, we have to analyze the costs of the park in the promote to determine whether those are realistic costs for parking or there's a hidden subsidy in there. We have to determine the value that the parking that the redevelopment agency is giving to BEA for a dollar a year and what the value of that is in terms of a subsidy. We have to check the estimate of the assessed valuation of the project that the agency is considering and the growth of that assessed valuation over 30 years, and by the way, we have to evaluate the value of those park space over a 30-year period as well. We have to determine whether the agency is using a realistic discount rate, we have to determine what the potential sales and use tamps for having BEA in that facility. We have to determine the impact on the downtown economy, and we have to evaluate qualitative features of the deal, such as the advantage to the downtown of versus having a technology cluster there and the subcomponents of the deal. For a city economic development department or redevelopment agency, it may not be much of a challenge to do that in three weeks. To say a cluster of neighborhood organizations or community groups should do that in three weeks, is a massive challenge. Even doing it in 30 days is a very serious challenge. The whole problem with these subsidies is the deals are complex, their high-stake, they have significant impacts and for people to be meaningfully involved they need time.

>> Ed Rast: Nancy. And then Dave.

>> I'm going to move a little bit. I took real offense to you continually saying, we don't have to do anything. These people are paid to do this. These people are paid to analyze these projects. And I personally really like the thought that went into this. And I know the council considered it you know for a long time before they approved it. And you know, the whole idea of all of these community groups taking the time and having people like you on staff to analyze these things, to me seems like a preposterous notion that simply won't happen. And I don't think we'll ever do a deal in the city again if we expect for that to happen.

>> Bob Brownstein: That preposterous notion is a democracy.

>> We can only take it so far.

>> Bob Brownstein: That isn't enough and we should be part of the process.

>> Okay.

>> Dave Zenker: Dave Zenker. I like, that gives second opportunity for public testimony. I guess where I struggle is, there is two opportunities, both at the council and at the council. I guess where I struggle is what we're really arguing about at this point is a week. We're arguing about 21 days plus or minus versus 30 days. What I'd like to hear is maybe if we could set that aside nor a second, and I'd like to hear about what else we have a difference in. Because I'm getting a little bit fatigued with the week. And I'd like to

hear if there are any bigger issues that were at stalemate with with regard to the -- because I feel like the horse is out of the barn to some extent. April 3rd came and went, the City Council passed the policy and we're signature here trying to create something that to some extent is coming on the tail of that. I'd be very interested in hearing in you Bob --

>> Bob Brownstein: That is the very good question. The major differences, instead of tiny tweaks, the City Council asked us to give feedback on that and that's what we're doing. One is, I'm argue that there are minimal standards in terms of public consideration that should be applied to every single project over \$1 million. While the pilot project is going with six, there could be eight, ten or 12 that involve very substantial subsidies and we shouldn't be in a situation where there are no requirements in terms of time and public information, in terms of dealing with those. Second, I think that in every one of those cases, that is, all of them, not just the pilot project, there ought to be a statement of what happens if the project doesn't generate the results that are anticipated, that is a set of standards, there should be an after-action report to let us know whether the project delivered what it's supposed to be delivering. I guess the third thing is there is a set of what I consider to be minimal public information that should always be there. And some of it is similar to what the staff has discussed in terms of cost-benefit analysis but probably area where there is the greatest difference is in the evaluation of employment. Where, as my understanding, staff is simply saying, we would give the aggregate data a thousand jobs or a payroll of \$140 million. And I'm saying we should at least have salary bands, how many are between 0 and 20, how many between 20 and 40, how many between 40 and 60, and we should have a yes or no whether the jobs include health insurance as a benefit. Staff should say where they think there are other ones. Those are the biggies.

>> Ed Rast: Dan Pulcrano and then take public comment.

>> Dan Pulcrano: I'd like to thank Bob for the hard work, generating public interest, it's good to see the members of the public here, taking interest in what we're doing. Having seen many proposals that come up that require further study, seeing public funds wasted, I think it's good that we're taking time for longer time periods and encourage staff to perfect the analysis of these projects. I'm definitely in favor seeing 30 days of sunshine on any major subsidy. With the possible carve out that in an emergency situation, 21. I'm fine with that. I think there's broad agreement on most aspects of this. I think staff has done a really fine job of embracing many of these concepts. Paul, I think the pilot program is a very good one. I'm really looking forward to seeing the kind of results that it brings, and evaluating it after the first six reports and seeing what kind of effects this has had. I think we have some minor points of disagreement on, and I think probably the one that, you know, is going to take some thoughts, there's the issue of salary bands, and employment benefits, are of course important. But I'm not sure whether that is within the scope of a sunshine ordinance, or sunshine movement. These are, I think we may be moving beyond the scope of sunshine, once we start getting into economic analysis. So I'm wondering if this commission is the proper body to be discussing the specific criteria of what types of economic analysis are going to be included in the staff analysis. So I'd like to see those items voted on separately, and I just wanted to make sure that we don't exceed our scope and that we're also consistent with what appears to be a clear statement from the City Council. Thank you.

>> Ed Rast: All right, take public comment. Let me just stop for a minuteto just to clarify something. In the council agenda item of March 21st, 2006, I'll read it to you. In item, government accountability. This was referred over to the task force at a 10 to 1 vote. The only person that voted against it was former mayor Gonzales. Currently, the members of the current City Council, the majority of the people that were on the old council represent the majority now. Expenditures of \$1 million or more, constant public items, policy alternative recommendations that list all the viability city staff options that have been discussed but were not recommended by the City Manager or staff. B, a description of the reasons why the alternatives were

rejected, C, an economic impact report limited to the following, city policy goals, fiscal priorities, long term strategy and economic development goals and priority. And with that we'll take public comment. The first person would be Jack Chris 10.

>> Thank you Mr. Chairman and thank you to the task force for hearing my brief comments tonight. My name is Jack Chris 10, resident of Willow Glen here in San José. As a taxpayer it's really important for me to know how public dollars are being spent on large projects like the ones we've been talk about, over \$1 million. For example, the -- I guess to know how they're going to be spent before they're spent and have a chance to play a part in the process. The earthquake situation is one where I think public input has been very limited in that deal and yet the deal is rolling along and here we are talking about open government and sunshine. And that deal moves forward. And I think that that's fairly amazing. So I guess just to wrap up briefly, you know, I'm not deeply involved in politics in San José but I care this city a lot. And I think that I can grasp the impact that major projects like this have on the city and on my community. And I want to be given the chance to play a role in deciding whether that impact is good or bad. And so I would ask that the task force remember that the main I think function of the task force is to represent regular citizens like me and make sure that we have a chance to play a part in the process. Thanks a lot.

>> Ed Rast: Thank you. Clark Williams.

>> Well, hello. Thank you, Ed, thank you my prior members of the task force. I was an original task force member. I only attended two meetings because I rather unwisely chose to run for City Council. You now know the result of that decision, and now I'm sitting out in the gallery. Nonetheless I've learned a lot. I knocked on 10,000 doors. I lost 15 pounds, gained it all back at Christmas. Desire for open government, not just a city government that reports what it's doing but a city government that inspires its residents to fully participate in decision making. A government that is accountable to itself and to its residents. A government that sees its residents as full fledged partners and not just obstacles or roadblocks limiting its authority. That's what I like about Mr. Brownstein's proposal. This proposal actually inspires accountability, our tax paying city residents about decisions being made in their best interests. It's an accountability proposal, why does it make so much sense? Will, is addresses the very citizen concerns that inspire the task force. But most importantly, our residents are not asking that every tiny budget decision be micromanaged or debated. Our residents know that projects requiring large public subsidies of \$1 million or know more are significant investment of their tax dollars and require comprehensive accountability that clearly shows many of the positive and sometimes negative impacts on our neighborhoods. Thank you for your time.

>> Ed Rast: Thank you. Sara Miller. Is it Miller or muller?

>> Muller.

>> I would like to touch on a couple of documents that were raised earlier. First I'd have to respectfully disagree with some of the comments raised by RDA staff, in reference to 30-day notification. I've done quite a bit of research on RDA prompts as they've moved forward, and virtually all projects I've looked at would be able to abide buy 30-day requirement. Let me give you a perfect example, the Adobe project, the development agreement was not approved until September of 1994, which gave quite a bit of time for negotiations to take place between the redevelopment agency, City Council and the Adobe project. So there is ample time with a lot of these projects provide some sort of space for community to understand what's going on. The second piece I'd like to mention is around public information. Just in the Adobe project there was quite a bit of information provided to the community on what some of those impacts would be. The information that is -- outlined in Bob Brownstein proposal, requests basic information. It is a basic platform that all cities have to abide by. San José often lives by a higher standard. Projects to get a development agreement but projects like the grand prix that move along a lot faster and also have

significant impacts on the community. Thank you.

>> Ed Rast: Thank you. Tim Frank.

>> Yes, thank you. I'm Tim Frank and I'm representing the Sierra Club tonight, some 10,000 members we have in this area. I really want to thank you for the work that you're doing here and I want to acknowledge first that the product that you're looking at this evening is actually vastly improved over that that you're considering in your last meeting. I think there are ways to refine it further, to provide better value in the community. I notice in the comments that the staff is suggesting that you'd like to look at that time net impact on employment, the net change in housing stock and environmental and infrastructure impacts. I think Mr. Brownstein proposal, does a good job. I want to comment on a little bit top first of these two. Jobs are not created equal, I mean as you know. A low-wage job that pays minimum wage has a very different impact on that high-wage job. It impacts your affordable housing stock, for another, it impacts a variety of different social services. It has a lot to say about what kind of funds the employees will have to spend in the various businesses in the community. So it's really an important business climate issue. And it's critically important to the community. The community has a right to ask, what kind of jobs are you he actually creating. The same is true of housing. Homes are not all built alike. There's a huge difference between affordable homes and expensive homes. And it's important when somebody is building a project for to you ask, how many units are being created in each different category? Now, I circulated just for you in advance here a form that's actually used in Minnesota to gather information on every single project, on the jobs that are created. And you'll note here that it actually asks for how much the wages are paid for the job. And you'll notice that it's an interesting example. It's \$275,000 subsidy to create one job another dairy queen that pays \$4.50 an hour. I mean, this is really provocative information. And the fact that it was available --

>> Ed Rast: We need to finish. You're running out of time. Can you quickly summarize?

>> Absolutely. The key point here is that it's practical to collect this information. The information is important to the public. And when this is shared publicly, it creates a level of accountability that encourages better behavior in terms of performance.

>> Ed Rast: Thank you very much.

>> That's what we're all looking for.

>> Ed Rast: The next speaker is Dan Keegan. Did I mispronounce the name? Dan Keegan. K-e-e looks like Gan.

>> Dan Keegan. I'm executive director of the San José museum of art. I want to speak against section 3, government and noncity government body oversight. We're not on that so you've turned the -- okay, I'll be happy to come back during that section.

>> Ed Rast: Okay. Ann Sandoval. Ann, there's no indication, are you talking on this item or another one? There is no indication which item you're talking on. This item.

>> Yes.

>> Ed Rast: Thank you. You have two minutes.

>> I'm Ann Sandoval. I live on the east side of the city where I was raised. I'm a current student at de Anza college. I came to the Sunshine Reform Task Force meeting March 1st when this proposal was approved in concept. I'm here to speak in supporting of making it real. When I came to that meeting I was excited about the issue, because we in the community have a right to know about these projects that are going to affect our neighborhoods. When I say these projects I mean all projects that are getting over \$1 million from the city. And we all know that \$1 million is not a small amount of money, even for the city. These projects do not happen every day of the week. When a project is big enough for the city to spend \$1 million on, not spending \$1 million on something else such as libraries and parks, it's big

enough to hear about and give input on it. I'm 19 years old. I want to understand them and have a voice in them. I think you would want me to have a voice as well. Being a student, before you speak up in class you have to do your homework. This is the redevelopment agency report for tonight's meeting. This for example is a lot of homework. Between all of our responsibilities, jobs, families, even school, the public, it would appear that the public, to have 30 days, seems incredibly logical for the community to do research on such projects that are taking place in our community. And to tell the City Council that what we want and need for our communities. Thank you.

>> Ed Rast: Thank you. Looks like Tamien Maramoto. Try again. I apologize if I didn't get your name right.

>> My name is Tamon Ramoso, with the Japan town council. Ensure communities understand fully the impacts to their communities and have the opportunity and the time to be heard on all projects over \$1 million. In Japantown we do have the corporation yard project taking place, and it has an incredible unprecedented amount of community input on a project that is going to have long lasting effects in our community. We feel that it is very important to keep Japantown very vibrant for our future generation. What I'd like to do is hopefully have this type of involvement in all communities in Japantown. And to be honest, we also feel the errors issues that the staff has, we also want to participate and we're constantly looking for information. But it's very difficult to get that information. Now, they're troopers. They really, really pull through for us. But waiting for example for the environmental impact report to come out sometimes is way too late. We need some very, very tangible facts about what the potential development might do to our communities today. And so I really ask that the sunshine task force allow communities to participate to get some basic information, regarding projects over \$1 million. So that all the people in San José can participate together and build a better San José. Thank you.

>> Ed Rast: Thank you. Claudia Shope.

>> Hi, I'm Claudia Shope. And I want to speak out in favor, I like Bob Brownstein's recommendations, they're all very good, I think you need to incorporate them. They need to be incorporated. Community people who work in neighborhoods, I know Joan and Ed work very hard trying to make neighborhoods good. I think it's very important for community to be aware of what's hatching and I don't think that it should be a problem to have the 30 days. So not only do I think the 30 days are necessary but some of those other things that Bob had put in there with the wage bans, all of those things have a direct effect on the communities. Because if the things aren't paying well enough, then who get clammed but valley medical. That's where I have my health services. And I certainly don't want to be bringing in things that are going to negatively impact on that. Please incorporate this. I know you've all been very thoughtful in doing so and I would really like to see all of his recommendations, as I've heard them, and have seen them, incorporated and I hope you will do that.

>> Ed Rast: Chris Block and Andrew Reed, he would be the last speaker.

>> Chris Block with charities housing. I want to speak very briefly about how specific you should get as a task force. I'm suggesting for instance on the issue of incomes, you should be pretty specific at least on income bans represented by new investment. Because otherwise you can't make a determination as to whether the jobs that are being created are going to necessitate the city spending a lot for housing for these new jobs. As I have indicated before, we can create an infinite number of jobs but if they don't pay enough for people to afford housing, then we'll create an infinite demand for housing. Which doesn't look like a good analogy. I see the community as a house, a house with lots of windows. And what you're deciding as a task force is how clean you want those windows to be, so that the sunshine can come through. And I would argue that the discussion about how specific you want this policy to be is really a discussion about how clean you want those windows to be, and how much sunshine you want to let

in. And as a result of that, I do think that the quality of your recommendations is really quite dependent on the specificity of those policies, and on the specificity of that discussion. Thank you.

>> Ed Rast: Thank you. You get the award of the best analogy so far. [laughter]

>> Ed Rast: Andrew Reed.

>> Hi, Andrew read, just my luck to follow the good analogy guy. Wanted to speak to you tonight, I'm a resident of San José on behalf of Mr. Brownstein's proposal. In particular his proposal that we analyze the types of jobs that are being created by looking at where their income levels fall. In any city in any municipal body, jobs are a key factor in evaluating the community's health. And if we are only creating jobs that are low-paying and not providing health insurance then we have an unhealthy community. I don't think Mr. Brownstein's proposal requires any divulging of trade secrets. These jobs not only impact housing, they impact tax revenues, the health of our businesses, of our shopping centers, of our restaurants, of our sports teams. We need to make sure that if we are going to be spending our tax money to create any jobs in this city, that we're creating the kind of jobs that enable people to give back to the city, that enable people to have affordable housing, that enable people to stay healthy, have health insurance. We've already lost one health facility by not having enough insured people. We want to make sure we don't have that again. Thank you.

>> Ed Rast: There are no more public speakers. That complete the public speaker comments for this section. Task force members, additional comments? Marjorie.

>> Margie Matthews: I'd like to follow up on Dave's suggestion that we narrow down what we're going to discuss. It sounds like first the council has already put in place a pilot project, which has gone leaps and bounds beyond what was there before. But it sounds like the staff and Mr. Brownstein's suggestions are aligned to a certain extent and I'd like the task force to focus on the two or three things and vote on those individually and don't have extended conversations on things they already agree on.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: Since I want to give people a chance to get onto the other item, I'm prepared to make motions that disaggregate the various portions so we can get on with it. First proposal is every subsidy over \$1 million should provide 30 days of public review until staff proposes a waiver for exceptional circumstances.

>> I'll second.

>> Margie Matthews: As you are make your proposals could you tell them if there's agreement or disagreement.

>> Bob Brownstein: Disagreement.

>> I'll second.

>> Margie Matthews: One is the 30-day and the other is the every proposal one.

>> Bob Brownstein: Yes. Staff can speak for themselves. I think they would disagree with both. But you can ask them.

>> Margie Matthews: Well, I think we better separate them, because I have two opinions on that.

>> There's been a motion and it's been seconded.

>> Ed Rast: We have a full motion. You'd have to go back --

>> Bob Brownstein: I'd like to have the motion as it stands.

>> Ed Rast: Repeat.

>> Bob Brownstein: Every project of over \$1 million should have 30 days of review unless staff requests a waiver under exceptional circumstances.

>> Ed Rast: That waiver would be 21 days?

>> Bob Brownstein: 21 days.

>> Paul Krutko: Paul Krutko, chief development officer. City Council agreed that we should pilot six projects for the resources needed, they're giving us guidance about what projects they want to be considered. So I don't know if that is a disagreement or not. We unanimous direction from council on how to proceed on that point.

>> Ed Rast: Brenda, Ken, Bob.

>> Brenda Otey: What the direction was from City Council to staff, and for them to do, and one of the things that was said at the meeting was that they would come back and include the input from this task force. So we should not feel that what we're doing is outside or not to be included in recommendations, and what is going to go forward from -- for City Council. I think it makes sense, otherwise, there's no need for us to sit here and discuss anything, if we're going to say, oh, they already did it, so we shouldn't be doing anything, and we don't have to include what they didn't include in there. I think it makes sense to give people enough time to understand what's going on, so they can participate, and make intelligence decisions. I don't think it's asking -- it's giving some leeway by saying okay, if 30 days is too long, you need an exception, go for 21. I had a question because on the document it also says 21 or 14 days. Is 14 still an option or is it 21?

>> Bob Brownstein: Nobody seems to have argued that 14 was necessary so I'll leave it 21.

>> Brenda Otey: 21 it is. I think people should make informed decisions. Thank you.

>> Ken Podgorsek: Ken Podgorsek. I've been going 21-30-21-30 in my mind, and I thought staff embraced a concept of greater openness and I thought, you know, it makes sense. They're willing to do it. Is that one week that big of a deal? And then all of a sudden I stuck on my neighborhood advocate hat. I thought you know, one week in my life makes a huge deal. There's times I can't get to an item in one week because of baseball practice or orthodontist or going to work. So it does make a big deal. I'm inclined to say, everything over \$1 million is a pilot project. I don't see why we shouldn't put forward 30 days. I am going to make one statement, and that is, I have a really, really hard time believing and there's a few times that this will occur, there's a chance for a waiver and exception, but I have a very hard time believing that if you come to a negotiating table, with a really large bag of cash, that one week is going to make a really huge -- they're going to say, I'm sorry, we can't take your cash because you waited one week too long. If that circumstance does occur and I think it's probably rarer than the other, then there is the opportunity for a waiver, so that can you do it in 21 days.

>> Ed Rast: Dave.

>> Dave Zenker: Dave Zenker. With all due respect to Mr. Krutko, the task of this body is to develop sunshine ordinance, and we need to not take our eye off that ball and go forward with developing that regardless of a pilot project. There is a pilot project right now regarding calendars, and that didn't stop us from creating ordinance language for calendars. City Council are bringing information on calendars, I think we should keep our eye on the ball with regard to what ultimately we want the city to do with regard to this and not get too bound up in what the city has ultimately agreed to do, April 3rd, with regard to its pilot project. So I would suggest we move forward with the motion.

>> Call the question.

>> Ed Rast: I was going to make a comment. I've been a small business person for 21 years. I recognize the issues with timing on issues. But at the same time, I'm trying to balance out how many exceptions really would fall within the 21 to 30 -- 21 to 30-day period of time. I would -- I think you know, early in the process, I looked at the idea of 21 days. And the more I listened to what's being said I would have a tendency at least an pilot project basis that we're going to go into to take a serious look at 30 days. And there is the exception process that can be executed during that period of time. And if we find during the pilot project or the period of time that we have too many exceptions, the council can back it off and go

from there. But I also agree with Ken's comments, a lot of times, if you need good input it takes a period of time for people to respond. I think we can start to address some of these issues as we get into a discussion about essentially what the items that are going to be normally provided to the public. Because currently under the situation, the reason a lot of analysis has to occur, it prolongs the period of time, is because the stuff is not normally provided to us. If you have more information provided as a routine basis, people would call a term sheet on a routine basis, then the analysis time would be less. Therefore you might after a period of time be able to reduce it down. The same thing would happen if you take a look at the economic impact model. The economic impact model provides a basic number rather than a range. I've worked with economic analysis for many years prior to doing away I'm doing now, and still do it with some my clients. The whole concept of sunshine is that you're providing the information for the council and the public to take a look at what is the economic impact for spending tax dollars. And when you're doing that, you need to provide sufficient information. Otherwise, you really don't have sunshine. And therefore, what I look at is, is a couple of issues. One is, this term sheet or summary of the deal itself. That's very key. And the other is, the idea of a range that you're looking at, for any impact model. Typically, when you're doing a negotiation, you have the high end of the range, and you have the low end of the range. We've just been asked to have a single number. When you're trying to buy something, like a car, the person selling the car, they quote a high number. The person buying the car quotes or gets an expert to quote a low number. So it's common practice within business and government to have a range of numbers or what we would call the optimistic and the pessimistic view of it to take a look at what the risk is. And in doing that that gives the public a better idea of really what the risk is and more information on how to make the necessary decision. It to me, I think, you know, once you have that type of wider information on a routine basis, then I'd be more inclined to go with the 21 days. But right now I'd support the 30 days.

>> The Clerk: Mr. Chair, we have a motion to call the question.

>> Ed Rast: I realize that but I had stuck my hand up.

>> The Clerk: You need to call the question.

>> Ed Rast: A vote to close the question. All in favor in closing the question? [ayes]

>> Ed Rast: Opposed? Abstentions. We're going to vote on the issue itself. Clerk will read the motion.

>> The Clerk: I can't read it as good as Bob said it.

>> Bob Brownstein: You want knee read it?

>> The Clerk: Would you mind, thank you.

>> Bob Brownstein: Every suns died project of over \$1 million, would get a period of 30 days public review, until staffs proposes a waiver due to exceptional circumstances. The waiver would be for a 21-day period.

>> Ed Rast: A council majority could -- what you're saying a council majority would pass a waiver, and it would then be 21 days.

>> Bob Brownstein: Right.

>> Ed Rast: Okay. All in favor? [ayes]

>> Ed Rast: Opposed? Abstentions.

>> The Clerk: Nancy is the only.

>> Ed Rast: So it passes. And just to remind everybody, we've talked to the audience, this is a pilot project. A lot of the sunshine reforms are. The City Council can take a look at it, assume they can peace it at a later time.

>> The Clerk: Mr. Chair, just trying to keep us on schedule. Perhaps the task force would like to look at the time, consider the other item that is on the --

>> Ed Rast: The nongovernment body.

>> The Clerk: And either go ahead and move through this as quickly as possible so your request gets to the next item or maybe defer the further discussion and motion until you've gotten through the nongovernment item.

>> How many people are here for the NGBs? Can we see some hands?

>> Ed Rast: Four people, five.

>> Ken Podgorsek: Mr. Chair, Ken Podgorsek. I'd like to see if we could get to nongovernment bodies, but I'd like to see if we could commit 20 more minutes to this. If we could limit our comments, because I think we've kind of commented this to death we might be able to do it. But if that's --

>> Ed Rast: Do we need a consensus of the task force?

>> Bob Brownstein: Let's try it. I think we can move quickly.

>> If we hold our arguments.

>> Ed Rast: We'll move forward and come back. So the time is what, we'll say -- ten-to.

>> Bob Brownstein: The next motion is every subsidized project over \$1 million should provide options if the projected returns do not occur and be followed by an after-action report. I'll say it again. Every subsidized project over \$1 million should provide options if the projected returns do not occur and should be followed by an after-action report.

>> Virginia Holtz: If agreement with staff. It's an agreement with staff.

>> Bob Brownstein: I think the only disagreement with staff here is that this covers every subsidy over a million and they would only apply it to six.

>> Second.

>> Ed Rast: We have a second. Does staff want to comment?

>> Dan McFadden: Yes and no. [laughter] Plaintiff we have six pilot projects that we're undertaking, okay? And that's what we're doing the cost benefit analysis on. And we're going to evaluate at the end of that, at the completion of that we're going to do a cost benefit analysis of the cost benefit analysis process. So I don't get where you're taking this, Bob. Are you saying in spite of that we should take -- we should take an unlimited number and not be limited to the six in the pilot project? Is that your point?

>> Bob Brownstein: My point is for any project of this size, there ought to be a floor, a basic minimum of process and openness, and then with the pilot project, the city can explore the heavens in terms of how many more it wants to do. But there shouldn't be nothing. There shouldn't be no floor. There shouldn't be at least some level of reasonable time and information for people to be able to have an understanding of the ones that don't make it into the pilot. That's where I'm coming from.

>> Dan McFadden: Point of clarity here if I could. Are you talking about if the notice requirements apply to everything over a million, then we're there. If we're talking about -- we're there. If we're talking about cost benefit analysis applying to everything over a million, then we have a disagreement. That's what I'm hearing.

>> Bob Brownstein: I think the accountability issue are more in between. They're not cost benefit analysis, they're more procedural. There is another motion that will deal with the cost benefit analysis and you can weigh in.

>> Dan McFadden: All right.

>> Ed Rast: Repeat the motion again Bob.

>> Bob Brownstein: The motion is for every subsidized project over \$1 million, staff should provide options if the projected returns would not occur and the project should be followed by an after-action report.

>> Ed Rast: There's two reports of it, basically an after-action report --

>> Bob Brownstein: Before and after.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: Tom Manheim, can you clarify what you mean by options?

>> Bob Brownstein: Perfectly compatible with the notion of what is in the staff pilot. The idea of what the city could do, if it turns out that the project doesn't deliver what's anticipated, what redress does it have? And the notion of an after-action report, I'm also comfortable with the approach that staff took in the pilot project, it's simply saying there should be a floor for all projects.

>> Tom Manheim: Thank you.

>> Ed Rast: Is that clarified?

>> Virginia Holtz: Was there a second to that motion?

>> Ed Rast: Yes, Ken seconded it. Discussion. Dan Pulcrano.

>> Dan Pulcrano: Yes. I mean, I've some reservations about this. I like the idea of it. It's the kind of information that I like, when evaluating something. I just feel that sunshine should more be speaking about the process, not about the content of staff reports. And I believe that by getting this specific in dictating the content of what staff should be doing, and structuring the economic analysis for them, I think we're going beyond the scope of what sunshine is. So for that reason I'll be opposing this portion of the motion as well as any others which are specific in terms of dictating the content of it, rather than the procedure.

>> Ed Rast: Comments? Brenda? You had --

>> Brenda Otey: Maybe I missed something but I see it as a process, as something you get before, and you get an understanding of what the results are at the end of it. And I believe it is totally within the concept of sunshine. And sunshine to some degree may be limited, but it shouldn't be limited. Because it's to provide information to people. And it's what people, the general public needs. And it's what the City Council needs when they're making the decision. If they haven't been using this kind of information to make a decision, what have they been basing their decisions on?

>> Ed Rast: Judy.

>> Judy Nadler: Judy Nadler. I don't see it in quite the way Mr. Pulcrano does. But I think the before and after is absolutely essential to the policy makers and to the public. You can't -- you can't really tell if you did the right thing unless you analyze how it all turned out in the end. And that might help you do a better job the next time. Or you might say, we did such a great job on this, after we analyzed it after the fact, that that's the approach we want to take always. And from my experience, the -- one of the most frustrating things for the public is to find out what happened. They get all fired up, before the council makes the decision. And then after that it's like, it's vapor. It is a part of accountability and transparency to have that process. So I would support it.

>> Ed Rast: Just to remind everybody in the pair's and council's report, they've recommended that there be an after-audit, if I remember the way they put it, on projects. That's kind of in the question. Additional comments? Are you ready to vote.

>> Margie Matthews: I'll make one comment. It sounds like there's agreement on this. There might be a fight over in the future over options but we're not going to fight over it here.

>> I agree with Brenda that these are the kinds of issues that the City Council should consider and I believe that staff is including them. I just don't think it belongs in the ordinance itself.

>> Ed Rast: Okay, we have consensus to move forward to a vote? All in favor? I'm sorry. Let's read the motion again.

>> Bob Brownstein: Sorry. Every subsidized project over \$1 million should provide options if the projected returns do not occur and should be followed by an after-action report.

>> Ed Rast: Okay. Lee, you have it? Okay. Great. All in favor? [ayes]

>> Ed Rast: All opposed? Two, three opposed. Joan, Dan Pulcrano, and Nancy. And abstentions? The motion passes.

>> Bob Brownstein: The next motion is, every subsidized project over \$1 million should include an analysis of net fiscal impact. That is, net tax impact.

>> Ed Rast: So simplify it, the A taxes going out, the A taxes coming back in.

>> Bob Brownstein: Right.

>> How does that differ from the pilot program?

>> Bob Brownstein: It is different because it applies to all projects over \$1 million.

>> Ed Rast: To clarify, when you are talking about taxes going in and out, just the immediate time or in the future? For instance, when a project would go, there would be a negative tax impact for a period of time, are you talking about like one year or longer?

>> Bob Brownstein: The projects have different like cycles. So it could be a very short term project. It could be a 30-year deal. Whatever the life cycle of the project is, that's what the net fiscal impact would be. I believe that's the position staff is taking for their pilot program, as well. They could correct me if I'm wrong.

>> Ed Rast: Is there a difference between your viewpoint, other than you're applying it to all projects rather than six?

>> Bob Brownstein: The difference is all projects versus the pilot. Next one would be a substantive difference.

>> Ed Rast: Staff comments.

>> Dan McFadden: Dan McFadden, City Manager's office. In our staff reports we have to follow, we have cost implication section. And for projects over \$1 million we break out the cost implication, and it includes the budgeting and what source of funds and we deal with the short term and long term impacts. What I'm concerned about is is that we're talking about something that is more like a -- net tax, return on investment kind of calculation and not a broader impact study. So that's what you're saying, I assume.

>> Bob Brownstein: Yes, net tax, right. Remember, I'm talking about a floor.

>> Ed Rast: Discussion, further discussion?

>> The Clerk: I'm not sure we got a second on that motion, did --

>> Ed Rast: Ken seconded. Further discussion? Nancy?

>> Nanci Williams: I'm generally opposed to the idea of taking this to all projects instead of trying it out on the six selected 50 city. I don't think it's practical, I don't think we can afford it. I think we have a pilot program that isn't tested, during the time the pilot project is going on, I don't think a lot of deals will come to San José.

>> Ed Rast: Ken Podgorsek and then Margie.

>> Ken Podgorsek: We're looking for our recommendations, I will make the assumption that the council will take a look at the results of the pilot program and our recommendation and weigh that and make a decision. That's their job.

>> Ed Rast: Margie.

>> Margie Matthews: I've come to a place in my mind that the whole issue of pilot versus all projects is beyond us at the moment. There already is a pilot project, we're not going to do anything about that. They're going to learn a lot about that.

>> Ed Rast: Judy.

>> Judy Nadler: I'm of the opinion that San José setting a new standard for sunshine. And as the largest city mountain valley, and as a major player in the state and in the nation, I think that San José will be a

pace-setter. And that I actually don't think that people will shy away from coming here because they'll feel comfortable in doing business in the open, and that other cities will feel the pressure for sunshine and that San José has just led the way. I think being the first is always more difficult. But the city has -- certainly the City Council, the staff and everyone sitting around this table has made a commitment to do that. So I think we should try to move forward.

>> Ed Rast: Nancy.

>> Nanci Williams: I just want to clarify. I'm all for sunshine, that's why we're here. Every time we overcorrect, we create bureaucracy. This is a city that people already find difficult to do business in. I don't think we want to make it harder to do business in San José.

>> Ed Rast: Do we have consensus to move to a vote? Can we read the motion again.

>> Bob Brownstein: Every project of over \$1 million, should provide a statement of fiscal impact, net tax impact.

>> Ed Rast: All in favor? [ayes]

>> Ed Rast: Opposed? Two, Dan Pulcrano and Nancy. Abstentions?

>> Bob Brownstein: We'll try to get one more in before the witching hour.

>> Ed Rast: Unless my clock is wrong --

>> Bob Brownstein: Trying to get one more in?

>> Ed Rast: that's right.

>> Bob Brownstein: Every sub-diced project over \$1 million should provide an analysis of job category, that is 0 to 20,000, 20 to 40, 40 to 60, or 60 to over 80,000, and whether or not health insurance is provided for all employees. The information on health insurance is public information that the companies have to provide from the Department of Labor, all the city has to do is pull it down to the Website and make it available to the public in their report.

>> Ed Rast: Do we have a second?

>> I'll second, you got me on that one bob.

>> Dave Zenker: A quick question for Bob.

>> Bob Brownstein: I was supposed to say the difference. The difference is staff believes in an aggregate number, not the banding.

>> Dan McFadden: Staff believes that, we can take it forward to council, council asked for your ideas. We don't have a problem with that. The council direct was, all this work will be done in-house. So I'm not sure that we can deliver on this. But I'd -- you know, and -- but I don't know where you draw the line on it. We're just going to have to -- it is a pilot program. That's the thing. If you deal with the universe now and you don't let us concentrate on these six projects, I'm a little concerned about that. I am. So that's all I can say.

>> Ed Rast: Dave, would you comment?

>> Dave Zenker: I guess first a comment. I'm not really worried about the six projects versus the universe. Because I don't see this getting implemented any time soon. I think the six projects are going to get done, completed, and we're going to have all of this tested before this ordinance ever goes into play. So I'm over that.

>> Paul Krutko: Mr. Chairman --

>> Dave Zenker: Can I finish my comment? Can you explain why you chose these specific ranges?

>> Bob Brownstein: To be candid, they're arbitrary. The -- I just wanted to be able to have something that wasn't a specific salary per job. Because I understood there might be resistance from employers from providing this. Many times in economic research these are the bands that you see. But you could just as easily say 15, 30, 45. The reason why I say over 80, we don't care, because that is roughly median

income, and when you are talking about jobs over median income, those are good jobs.

>> Dave Zenker: I'm done.

>> Ed Rast: Paul Krutko.

>> Paul Krutko: Thank you Madam Chair. In many committees over the years we've explained our economy as more than high-tech jobs and a wide variety of job types. That is very important for us to encourage throughout our community, recognizing that it is a two-way equation here between employers willing to provide work and citizens willing to take work. And what we would argue is that providing information about net new jobs is the appropriate way to go. We believe a healthy vibrant economy requires this. What we're concerned in my job is we have a dumbbell economy here, the pressure of the movement is on the basic middle class blue collar jobs in our community. And in fact, the whole conversation about industrial conversion hinges mainly on that question. The sites that are normally chosen for that are places where we provide sort of middle income jobs. So our concern is, is that we be given the ability to flexibly deal with all types of employers, because all types of jobs are needed in our community, and we think that we need to recognize that many times these employers keep this information confidential, and will choose not to invest in San José if they are asked to provide this information.

>> Ed Rast: Judy Nadler.

>> Judy Nadler: Judy Nadler. I think this is the most important provision we've talked about actually since this whole process started. Because it is really important to know if the people who are going to take the jobs can afford to live here. If they can afford to stay healthy or get help if they're not well. If they need to take the bus. Because they can't afford a car or insurance. So can I can't imagine that a responsible -- I'm sure they're out there but I can't imagine that a responsible developer seeking to be assisted with a subsidy in a city as great as San José would hesitate to say what range of salaries these employees would have in this broad, I mean, this is -- I just can't imagine that. And if that's the case I would maybe question whether or not their commitment to the city and to the residents and to their potential employees is as great as it should be for us to be -- or for the city to be giving them a subsidy of that amount.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: I feel under any clock, I feel obligated to point out, we are out of time.

>> Ed Rast: We have a motion on the floor, a second.

>> Dan Pulcrano: Just a final comment. I think I'm losing the battle for specificity. I vote we come back at a later date. I'd vote in favor of this one, we're getting so specific. I'd like to vote and see if these companies are recycling their electronic equipment, if they offer pet-friendly offices in San José, I think we also should be offered alternatives to sugared beverages in vending machines. I think we should come back with those as well because I think those are important, too.

>> Ed Rast: Margie.

>> Margie Matthews: Got to respond, if people don't have health care, it has to come out of the taxpayers of San José. It is the responsibilities of the defense Santa Clara County. Responsibility in any way should not be equated in any way with pets.

>> Ed Rast: We must take this as the last comment and then vote.

>> Brenda Otey: Basically what we're doing is taking money from the community, it's a community investment. We have a right to know what's being done. We have a right to know what the return is on our money. We're not -- as far as people dealing with us, we're only asking for information so we can know what we're getting. We're not saying that, you know, well, you can only deal with companies that are providing jobs on this end. There's no limitation on who you can deal with. We just want to know what we're dealing with. It makes sense, because for all the reasons that have been said before, if you can't

afford to live here, because the job you have is not paying you enough, it's going to impact the social services and everything else. If you have to work three jobs in order to be able to afford the one that you have, it's bad for your health and you'll end up having to pay in the long run for that. So we're not saying that you can't deal with companies that are only on the low end. Most of them would not be on the low end. Because somebody's going to get paid to oversee the people that are make on the low end, because that's the way they do things. But we need to make sure we know what we're getting for the money we're investing.

>> Ed Rast: All right, Nancy.

>> Nanci Williams: I don't even know where to start on this one. I'm still so vehemently opposed to this. After we discussed this proposal the last time my phone rang off the hook the next day from business people in this valley who are absolutely adamantly opposed to the whole idea of getting into social engineering on virtually every project proposed 50 city. Why don't we talk about the dress code, what kind of cars the employees drive. Where does this stop? This is crazy. We're here to talk about sunshine, we're not here to social engineer and we're not here to mess with the economy.

>> Ed Rast: Okay. Do we have consensus to go for a vote? Read the motion please.

>> Bob Brownstein: Resubsidize project over \$1 million, should provide an analysis of jobs by salary range, zero to 20,000, 20 to 40,000, 40 to 60,000, 60 to 80,000 or over 80,000 and whether or not health insurance is provide for full time employees.

>> Ed Rast: That's a yes or no?

>> Bob Brownstein: Excuse me? This is a yes or no.

>> Ed Rast: Yes or no. Okay. All in favor? [ayes]

>> Ed Rast: All opposed? Abstentions? The motion passes.

>> Bob Brownstein: We'll defer further discussion.

>> Ed Rast: Defer. Next agenda item, we're going to go to -- okay, it's item 4B, definition requirements for nongovernment bodies. Ken Podgorsek.

>> Ken Podgorsek: I'm going to give our members of the audience a few minutes to get out.

>> Ed Rast: Let me have -- we'll wait a minute and then have Ken Podgorsek introduce it and then we'll go to staff.

>> Ken Podgorsek: All righty. This was the topic that I think we all thought we would never see again. We spent a lot of time talking about nongovernmental bodies. Talking about burden and sunshine and openness and you know, what was right, what was wrong. And we had many discussions, many of them circular, embraced the discussion, all aspects of the discussion, and was approved by the task force back on if I remember correctly, the 15th of February. It's a great applause. It has become -- I just want to give you just a tiny ten-second history. When Ed and Bob and I were brainstorming this language out --

>> Ed Rast: And Lisa.

>> Ken Podgorsek: And Lisa was there brainstorming this language out, we looked at this and this would apply to about 30 organizations. And we thought it would apply to 30 organizations because we understood who we thought it should apply to. The problem is, is that we didn't -- and when we tested it a bit, just a bit, put it out, other people, in some city staff, thought that yeah, that seemed about right, so since we've had some time, this proposal was sent out on a much wider basis. And what has been discovered is that our -- the definition of the word "city service" is a very broad definition. Much broader, because I think I know what a city service is. I have now learned that a lot of things I never considered were city services are considered city services. So as a result we've cast this net way, way too wide. And I don't think it's the intention of the task force to capture. One suggestion to me has been made in the last couple of weeks that this net, it is possible that we actually cast this net out and it actually isn't

approaching 30 organizations, it actually approaches 500 organizations. So as a result, we're going to take another look at this. We're going to start this process tonight. I've worked a bit with Hoyle Sheila and other staff. I've talked to OED staff, just to get an idea of where everybody was coming from and we're going to work a little bit to refine the language. And in this case it's going to be a case where we are going to probably end up adding language so we are actually defining what we intend to be under this category. Another small challenge. The policy issues that we described, we thought would be very limiting, turns out have very broad interpretation. And broad definition. So we're going to have to discuss a bit about what we really mean, by these six items down here at the bottom. I want to remind a lot -- you know, one of the things that's happened and I've had a number of conversations on this issue over the last two weeks as I informed the task force that I was going to have just to get an idea where everybody's coming from. I realize there's a lot of misinformation out there especially in the nonprofit community. One thing that I think I need to very much clarify. The thing that kept coming up when anybody was bringing this up to me was the thought that nonprofits were going to have to open up their board meetings, and we've had this discussion, you know, open up their board meetings and do minutes and do -- post agendas and they were basically going to have to do the sunshine. This definition and requirements, that's not the case. When we finally do get to who is defined here, when we finally get to who is actually defined here, they're only going to be -- they're going to be assigned to a council -- to a policy body in the City of San José. Where the City of San José as part of that normal function of that policy body is going to deal with agenda requirements, minutes, you know, anything that might -- that if they have to come to that policy body to discuss an issue it's going to be the City of San José that's going to take that on, it's going to not necessarily be an additional burden on the City of San José because it's going to be a normal function of a normal meeting. That said, I think everybody would probably conclude that if we stuck 500 organizations on the policy bodies in the City of San José we'd probably be overburdening the city itself. And I know, I've said this many times, I know the task force has said it in many ways, the purpose of sunshine is to open up city government, not clog it up. And so I ask for your patience to go through this process. Because I think what we have here is a circumstance where we discovered early that we had some unintended consequences. I'd like to get to a point where, we're putting something forward and we've wiped out as many of those unintended consequences as we can.

>> Ed Rast: Comments, Dan McFadden.

>> Dan McFadden: Dan McFadden. I think Dan has worked very hard on this. Just a little factoid, this 200,000 a year figure would mean in terms of activity, he said last year there were over 430 vendors in the city above that level. The scale of San José is such that you know, when we get into these things they just seem to expand. So it's not surprising that we've had some unintended consequence and we just have to regroup and see how we make this work. The only thing I've asked and I've asked you before, leave us something we can explain to the people. The administration is going to have to say where the line is, what's in, what's out, what you do, what the procedures are. And maybe Ken, instead of adding more words, maybe you could subtract a few, I don't know.

>> Ken Podgorsek: Since I like precise, that's good but I don't know if we're going to get there. Mr. Chair, can I add one?

>> Ed Rast: Yes.

>> Ken Podgorsek: There's another thing that came up, this number \$200,000. That's an arbitrary number, Ed is sort of in concurrence with me, and the reason why we picked the number was, there was no number. And that seemed like if it was about \$200,000, that's a good number, that seems like enough money, that's a lot of money, that should be a good number. I'm going to ask that we don't index it on an absolute number, but on the city's contract rate -- City Manager --

>> Ed Rast: Signature authority.

>> Ken Podgorsek: Signature authority. I never remember that. The council has allowed the City Manager to sign contracts up to 250. If we do that and index it to that, over time, if the City Manager, the council reasonably felt through inflation the number should increase, that way they don't have to go through and change every document. I don't think there's a human difference in our mind between 200 and 250. I think 200 was an arbitrary number and make it easy for the city. I don't think it's a huge difference. That's one thing it would be, I know it's in the staff report but I wanted to just give you some early information about it.

>> Excuse me, Mr. Chair.

>> Ed Rast: Yes.

>> I wanted to let the task force know that in an effort to try to get some clarity around what the definition of nongovernment body is, we did establish an internal group, senior staff, some of our best and brightest, put this definition in front of them and we said, "what does this mean to you?" I've asked our PRNS director, Albert Balagso, we have staff from finance, ESD, OTA, and housing, and we'd like to share with you just a brief presentation to try to gain some clarity around what we think you might mean by a nongovernmental body and what you might not mean. So if that would be helpful to get the context of the discussion going, we also had a couple of other recommendations we wanted to put before you.

>> Ed Rast: Judy.

>> Judy Nadler: Judy Nadler, that sounds like a good idea. Remember, when they introduce themselves, they don't need alphabet soup. Remember, people don't know what those initials mean. That's inside City Hall talk. In the spirit of openness, make sure we use everyone's department title.

>> Tom Manheim: Tom Manheim thank you for the requirement. PRNS is Parks, Recreation, and Neighborhood Services. ESD is environmental services. I can't remember which ever alphabets we use.

>> Office of cultural affairs. Thank you Judy.

>> Ed Rast: Al better, do you want to begin.

>> Begin, I'm Albert Balagso, director of Parks, Recreation, and Neighborhood Services. I can appreciate your worry about casting the net too wide. How do we narrow that net? So much of our explanation, how can we get clarity as to what is a nongovernmental body and what is not? And what falls within that context. So when our first discussion, we looked at what is a nongovernmental body and what would be the identified services that would fall within this definition? By contrast, we looked at the identifying professional service contracts and grant recipients that we believe were not originally intended to be captured within this definition. And by that definition we took a list on that \$200,000 mark of what were a partial list of entities that would possibly fall within that definition. So what would we consider a nongovernmental body? And what we started with was, those bodies that would be municipal service providers that would provide something or a typical service that was normally provided by the city or a municipality. Such as the operation of city owned facilities. And I've got a list of different ones that are listed up there on the PowerPoint, as well as core services such as garbage pickup and street repair. In addition, we utilized the aggregate of \$200,000 and a fiscal year directly provided to that entity by either the city or the agency or some combination thereof. Now, we provided a partial list, and that partial list based on that \$200,000 mark and the assumptions that I've listed pretty much include our museums, our theaters, and questions operations, core services such as garbage pickup, parking operations, Hayes mansion, the history museum and Los Lagos golf course and Logitech ice. We looked at what would be a nongovernmental body and we looked at eight examples to provide you with. The support being support for public art, outdoor special events and social recreation services. Again, we looked at professional contract services and/or grant recipients. Second, we looked at social education, recreation, and

performing arts. And again, these were services that provided by entities that were not operating, taking the full operation of a city-owned facility. So there's a variety of contracts we do with different entities that provide some semblance of these services either in a city facility but again, not having the lead operation or in various other community based organizations and other facilities. Third, we looked at services or entities that provided services that are internal support to the city organizations. That is, managing the City's benefits program, accounting services, utility billing, and loan management. Next, we look at entities that support, provide support services for the operation and maintenance of city owned facilities. And these services include custodial maintenance, landscape services, airport taxi shuttle, food services for the convention center, retail tenants, and security provider for city buildings. We also felt that perhaps the entities that are already covered by the Brown Act did not apply for both nongovernment bodies or noncity government bodies. These are entities that we have agreements with such as school districts, the boards of education, Santa Clara Valley water district, other municipal or government entities. We also thought that the services that were hired to provide advice to the city such as auditors, architects, engineers, investment managers, custodial banks, arts actuaries and attorneys were also areas that perhaps didn't apply. And then we looked at the other entities that the city and the agency both contract to perform construction work and capital repair work that also perhaps did not fall within this category. And finally, the city contracts for purchase of goods. We looked at nongovernmental body being a municipal service provider, an entity providing a service otherwise provided by the city. And to add to that, not just a service provider, but also, the operator or sole operator of a city facility, as well. And a nongovernmental body that would not be included in this as being again, professional service contract or grant recipients that provide a variety of services for the city. Now, other recommendations that we were considering, and I heard this one earlier, perhaps look at that time amount, what is the trigger for a nongovernmental agency or body, and they should be aligned with the authority of the City Manager and finance into agreements that they are capable of having a signature authority over. And second, to look at that time issues of the triggers reporting to the policy body should be more specific, and limited to the services that are provide by these entities, and I've got a list of them there. But I'd like to provide you kind of a real-life example I had to deal with several years ago. And it applies to service levels and allocations to different areas of populations. We're the exception to the rule, I heard this in the earlier discussion, several years ago there was stabbing at a light rail station across from Gunderson high school. And it immediately mobilized our emergency response for schools that the city has as well as police responding to the 911 calls. What happens is the response of all the members of the mayor's gang prevention task force. Services had to be available for mediation, conflict resolution and grief counseling at the time that school opened the next day. And because the source of this violence emanated from the school earlier, and there were a variety of reasons which included some racial unrest, I had to mobilize a couple of agencies that had the specific expertise. Change the level of service, redeploy them to different populations. I didn't have time to go to council and ask permission to do this. So within the authority of certain agreements, directors have the authority to make movements. You have to take into consideration that we need that latitude. And whatever it is, I think it has to be specified and give us a little movement within the agreements of the contract. We thought they would only be there for two weeks, which was our normal time. They ended up being there for three months. I did go to council for an amendment, this is what took to remediate the situation and bring it back to a safe environment. Just as an example, you have to take into consideration what are the specifics of these items and how they would apply it and what would be the exceptions to the rule. That pretty much summarizes the work that we have done. There are various members here from the other departments to answer any questions that you might have of us. Thank you.

>> Ed Rast: Albert let me get a clarification from you. Number one, the amount of money that triggers the nongovernment body should be aligned to it?

>> I think the finance director should speak to that. You are not correctly correct.

>> Joan Rivas-Cosby: Joan Rivas-Cosby. Sit possible for us to get copies of this?

>> I'm sorry, we'll do our best to get copies.

>> My name is Scott Johnson, director of finance for city. And first let me say hole to mayor Nadler. I was previous director of finance for that city. This goes back to late 2004. And in 2006, the council approved the procurement reforms which changed the contracting authority for businesses relating to goods and services. For goods we have contract authority for up to \$1 million and for professional services up to \$250,000.

>> Ed Rast: Margie, do you have questions?

>> Margie Matthews: Margie Matthews. Albert, I was either not paying attention or you didn't say it. At a staff level which would be considered nongovernmental organizations?

>> We looked at the services that provided -- service providers that provided a service that would normally be provided by the city. And by that we were looking at things that fall within the normal context of services we do on a day-to-day basis or core services or the operation of major facilities within the city.

>> Margie Matthews: I think I phrased my questions wrong. How did you decide which bodies would be nongovernmental, and which would not be?

>> We looked at normal operation of the city and tried to separate that out from what was a specialized -- a subsidy of an operation of a normal city service.

>> Margie Matthews: And those would not be nongovernmental bodies or they would be nongovernmental bodies?

>> The municipality ones would be nongovernmental bodies. The contracted services would not be.

>> Ed Rast: Ken Podgorsek, Bob.

>> Ken Podgorsek: Just very briefly for the task force, the back of your packet tonight you'll see two memos, these were old memos, done last June, from the council that were regarding council directives. And they actually break out a lot of the contracts in two of the departments, PRNS and in OED. And I asked specifically so that you could actually see the organizations and actually see the numbers so you start getting an idea what the universe is. But it's much bigger than the universe of these two. So it's just an idea, yes. Lisa is --

>> Ed Rast: Bob and then Lisa. Or Lisa? Lisa, go ahead.

>> Lisa Herrick: Lisa Herrick, I don't mean to jump in front of Bob, his direction, while these are interesting, informative documents, they relate to grants. If the premise is that the definition of nongovernmental body doesn't apply to grant recipients, that may not be something that you want to consider. The other thing I want to respond to, I raised my hand after Margie spoke, in working with the task force, staff made every attempt to articulate what we heard over and over in terms of the intent of the task force. Since I've got the microphone, I'm not going to let it go, I raised my hand earlier, what I wanted to say on the topic of intent, the task force would be well served and staff I think going forward to really talk about what your intent is as it relates to nongovernmental bodies tonight and not try to wordsmith your definition. I just want to remind you I think we tend to get more successful when you get intent down versus let's change this word to that word.

>> Ed Rast: Let me ask to Sheila or Lisa, didn't -- wasn't there a series of questions that had been developed to try to define intent?

>> Lisa Herrick: Blank look, I'm sorry.

>> Ed Rast: I thought there were some questions, I wasn't in on the conversation but maybe Ken can --

>> Ken Podgorsek: I don't -- but I do have one comment.

>> Ed Rast: Go ahead Ken.

>> Ken Podgorsek: I agree with Lisa 95% except one thing. Some of those aren't grants. Some of them are actually operating funds to operate a facility, couple of the ones on PRNS. I asked for this information because I wanted the task force to be able to get their arms around something in what we're discussing here. So it's just background information, it's not meant for specifics.

>> Ed Rast: Sheila tucker.

>> Sheila Tucker: Sheila Tucker City Manager's office. The last document in the presentation were -- was a list of those entities that do receive over \$200,000, that are more in the category of social recreation educational grant. We felt like that was probably one of the biggest gray areas. And so if you'll take a look an the screen, I'll try to substance it, the list. But you get some sense of the types of contracts. Those that are in bold are already those that we thought were nongovernmental bodies. First five, YMCA, kids above soccer, health insurance, recycle, domestic violence, homeless services, youth services of various natures. And I also want to point out that a lot of these contracts have different types of services that are offered within them. So it may be a \$200,000 or more grant, but some of for youth services, some might be for homeless. I mean, it's not real cut and dried there. So those are just some of the challenges I think in that category. And these are just some of the types of entities. And then also, the government agencies we're able to come up with, here is a list here, the water district, the county, various other municipalities, VTA.

>> Ed Rast:.

>> Ed Rast: Dan Pulcrano. I'm sorry, Bob Brownstein, Dan Pulcrano.

>> Bob Brownstein: I have a number of comments, I'll try to go through them relatively quickly. Although I have disagreements in some points, this is very good staff work. This shows an effort to be helpful and helping us work through something complicated. I'm glad you did it and it will probably advance the work that we're trying do here. In terms of the bodies that are not nongovernmental bodies, I have some questions about numbers 3 and 4, in some case these are services that directly impact the public, and the public expects and in the past has experienced the opportunity to have City Council oversight, over those kinds of issues. So I mean, people in neighborhoods expect that they can go to their City Council member if their park maintenance is a disaster. And I don't think they would agree that that shouldn't go to a policy body. And sadly, airport taxi shuttle service has been before the City Council more times than anybody can keep track of. So I mean it's simply not accurate to say that that's not a subject of direct City Council oversight. In terms of trying to get the list of issues to be more concrete and specific, I agree, we need to do that. I don't have the miracle language in my head at the moment, but I'm willing to help work on that, and I hope staff will help us, as well. One of the sets of institutions that you have under nongovernmental bodies are cultural facilities, facilities that are owned by the city and operate by nonprofits. And I know there has been concern by some of those organizations, and some of their friends and advocates, regarding their inclusion in the list. Let me state my problem in including those types of facilities. I'm not interested in micromanaging them or discourage them from being creative and innovative. Of the six, three have showed up before the City Council asking for major, major additional subsidies at a time when resources are very, very scarce. If the taxpayers the place essentially that all these organizations go when they run into trouble, it is at least not unreasonable in my mind that the taxpayers have some kind of say when the organizations make decisions that can lead them into getting into trouble. Now, we still have to work in terms of you know, where the lines are and how it's clear to people. But in terms of saying there would be no additional oversight, I'm uncomfortable with saying that, considering the historical pattern of these organizations coming backto so often and needing so much. Now, having said that, I'm

currently thinking about -- all these organizations are not the same. And the list of policy issues is the same. So I am thinking about putting forward some kind of amendment that says clearly, that the City Council in its contract with these organizations, can simply indicate the parameters of discretion that they have so they don't worry about coming in. If you are talking about the San José repertory theatre, we don't care if you do Tennessee Williams or Eugene oh Neil or whoever, anybody, issues of artistic expression are not our concern and make it absolutely clear in the contract that that's not covered by any kind of policy issue.

>> Ed Rast: I think we had Dan Pulcrano and then Ken Podgorsek.

>> Dan Pulcrano: Yeah, I'm not sure if defining this by core city services is necessarily the best way to go. Because some organizations that don't provide core city services probably are in need of oversight, for example couple know, performing the theatrical production of Jersey boys or mariachi services. I think we need a materiality clause in here, a threshold. Dolce International are probably not --

>> Ken Podgorsek: we're not opening up their board meetings. Where in this document do we say that?

>> Dan Pulcrano: By throwing the net wider we're we can't do those things. That's one of the things I'm suggesting. I'm suggesting we may consider narrowing it to organizations that receive more than 10% of their budget from the City of San José. Because if we go and -- you know, if we are going to be requiring the NGB definition for groups in which we're just a minor contributor to their budgets, we're throwing the net too wide, and limiting our ability to get meaningful information from them.

>> Ed Rast: Ken Podgorsek and Nancy.

>> Ken Podgorsek: I remind everyone again, nowhere in this document does it say we're opening corporate board meetings, nowhere in this document are we asking them to disclose their financials. Unless that's a normal part of the contracting process, we're not asking for that in terms of sunshine. It's not in here, we hashed that out and there was no consensus for that and I certainly wouldn't support it for myself. I'd have to say again, I don't believe in the benevolence of large organizations, or you know, more benevolent than small organizations, and I'm not going to say because you're a small organization, you get to be more sunshined than the big organization. I'm just not going to support that. That said, my only other comment was, I do -- we're not going to solve this tonight. So what I do plan to do, I want more comment but I want the task force to know as we get close to closing this, I plan to put a motion on the floor referring this document back to the public meetings committee and staff to work and bring back a document that we can, you know, adopt more clearly.

>> Ed Rast: Nancy and then Dan McFadden.

>> Nanci Williams: I'm sure the people in the audience don't know how many meetings were dedicate just to NGB. I'm going to say what I said early on, we're here to bring forth an ordinance to make government more transparent. Every time we get into this we cast it too wide.

>> Ed Rast: Dan McFadden.

>> Dan McFadden: just a couple of points here. This doesn't get to the discretion that the council is delegating and that is what we're saying, where we're stipulating, you waste a lot of time if you go that broadly. I think Bob is talking about preventive stuff, getting ahead of the crisis. Very difficult for us to do. I'm not sure how to do that. You can require perhaps that some groups post their financials on their Website quarterly and show where they are in terms of their budget, what fund raising they've made, whatever. I don't think you're going to be able to prevent train wrecks. There will be some and they'll have to go to council. The key thing is that these contracts do come to council. Can you pull them, if you have an interest and have them discussed and they can be referred back to staff. It is a Brown Act body, you've got a lot of notice on it. And I'm not so sure, you know, as you go this broadly, that you don't overwhelm at least you will overwhelm the staff in terms of the quality of work that we can provide. So I

think you have to focus it in, you have to be very practical here. My other point, just last point here, we have some people in the audience that know this better than I do. Maybe so I don't keep rambling here, have them speak to that.

>> Ed Rast: Could we lead off with Scott, I've got a quick question for Scott Johnson. There was a prior slide that said recommendations from staff. If Sheila can put that back up again. Okay. Right, there is, number 1, amount of funding that triggers the NGB. Is there recommending from you or other senior staff of what those numbers should be?

>> We haven't fully discussed at a. I think to an earlier point, what we're trying to understand is, what are you trying to get at? Because let me clarify a couple of things if I may. As the City's finance director, I've been here for six years now. And transparency is what I'm all about, actually. We have disclosure requirements, you know, we're managing \$4 billion in debt in the finance department of citywide debt. We're managing a \$2 billion portfolio. And there is a lot, it's true that there is, to Mr. McFadden's point, there is a lot of delegation in the city. This is a multibillion dollar organization and we don't want to stop the train from going and providing the services. To the point about the procurement reforms, the feedback that we were getting is we wanted -- there was a real desire to streamline our procurement process. In my concern, when I first saw the original draft of these provisions was that we would stop the process. One of the reasons why we ask council to increase the delegation of contract authority is so that we can further streamline the process. However, saying that, another hat that I wear in the finance department in regards to the oversight, I drafted the provisions that council approved, in regards to the monitoring for the loan programs that we're referring to for the two nonprofits, relating to Dolce, they are under management with the city. We went through a very extensive RFP process, because the former operator who was under lease with the city at the time, had some challenges. We had to two out, we reacquired the property, and I'm very actively involved in managing that contract with Dolce. I meet with them twice a month. We report status reports to council. Team San José, the same issue. We have a team staff in finance and in the budget office. So when these issues come forward to us, we don't take them lightly. We do have a lot of delegation. Rightfully so. In the city charter, there are provisions in regards to the responsibilities of the city's finance director, and my fiscal responsibilities, and I take that very seriously. Because of that we are the highest rated city in the state of California with populations over 250,000. We have numerous awards that we received. And I -- but there has to be a balance with transparency and openness and we understand that. That's what we tried to do when we went forward with the procurement reforms that council approved. What I'd like to ask is, I'd certainly like to offer my services as well as the chief purchasing officer, in working with the task force in trying to craft something that would not stop the city from doing business but would still facilitate open government. And you know, I hope that answers your question. But we don't have a number. It really depends on what you're really looking for.

>> Ed Rast: I think that's a great recommendation and that's something the task force would welcome, especially the recommendations, where the triggers or where the amounts are. But I think we definitely don't want to go in the way of the reforms that are already in progress, I know that the city and your department has received a lot of awards for openness and everything else. So I think Bob and then Margie.

>> Bob Brownstein: In terms of your request for intent, and the problem is, intent is almost by definition somewhat general. And it's too bad Susan Goldberg, because this is an issue in which she clearly expressed the intent as well. But the idea is once we decided on, we don't want that openness and transparency lost, if that's provided by somebody other than the city itself. I think that's the key intent, so that we don't want people who have every right, if their neighborhood is providing dramatically less

services, it should be allocated on a universe basis, they need to know the decision that made them left out, they are told, decisions are paid by somebody else and you can't find that out. An open government should allow that to be found out. That is the meat and potatoes.

>> Ed Rast: Margie.

>> Margie Matthews: I have to take exception to that, that was not what I was going, I missed one task force meeting, that's when that was passed, I apologize to the members, and the nonprofits that have been fighting week after week. The public private partnership, in a participate, when you have the word private, it is in fact private. It was thought to be a great thing, there was lots of money and everybody was going to get rich off of this because the nonprofits would raise all kinds of money that would not necessarily be done in a city facility. Yes, the nonprofits depend on the city but the city depends on the nonprofits much greater, the city can't afford to run facilities. So the idea of these partnerships, the major arts groups, I'll mention I'm the chair of history San José, the city could not run those programs. If they could form a participate and develop a contract, the nonprofit could do the programming for the city facility. But the city always committed to maintaining their own facility. The problem is, it was never known how much it cost to maintain the facility, because the facility was supported by every department of the city. That figure was never established to any of the arts groups. That's the second point I want to make. And the third is, you know, these bodies are not policy making bodies. They have a contract with the city, just like a street sweeper or the company that makes the police cars. They are providing a service or product to the city, they have to abide buy item. They see the audit, many times it's after the fact. But it's just like a major foundation requires reporting after the fact and to see a clean audit and to open their books and that is what happens now and that should continue to happen. So to put a whole bunch of other requirements, and then we need to discuss these, on the nonprofits that are holding the city together, whether it's social services or arts group or not some a big mistake. These nonprofits depend on board members who want the -- they're not board members who just asked to go out and raise money, but they have authority, and they have some sense of pride in ownership in the nonprofits, that they are leaders of. And if you take away their authority, you'll lose all the board members and then there will be no money raised for any of these city facilities.

>> Ed Rast: Dave, and then --

>> Dave Zenker: Dave Zenker. Seems like there is a ton of brain power in the room. I'm interested in hearing what they have to say. I think it would help.

>> Ed Rast: Time is rung out, why don't woo have senior staff and then if we can have comments. Dan or --

>> Dan McFadden: The director of the art museum wanted to speak earlier, and I guess I can shed some light on the arts groups following Margie.

>> Hello everyone Dan Keegan, executive director of San José mutually art. I want to commend you for your hard work on this. Many of us who hold these issues fear and dear to our hearts have spent a lot of time reviewing what you you've done. This is carefully and thoughtfully done though not without potential pitfalls and problems. To complicate things a little bit more there are in fact major problems for the nonprofits if this document goes forward, as the various sections have been laid out. As a quick side bar, it may be instructive to look at the language from San Francisco ordinance section 67.4 B which defines the nongovernment entity as that which performance a government function related to the furtherance of health, safety or welfare. But the real question here may be one of terminology. I recommend considering using the term review rather than oversight. Review employs proper evaluation of performance past and oversight implies authority over an entity. The guidelines will effectively diminish the nonprofit's actions to the body. Thus as a board, trustees could not warrant to donors that they would protect their interests or

even that they could protect their interests. Furthermore our boards, which have fiduciary responsibilities, would not be able to guarantee those responsibilities could be exercised. The issue of the state of California nonprofit integrity act, ordinary review becomes government authority oversight beyond the actual board level of authority. The oversight issue is really about it ensuring that the city not get stuck with more bail-outs Bob. Questions or concerns could be addressed by the boards of the organizations. Also, opening organizations to Brown Act, I know you're saying that's not in there, it is in section 3B is a recipe for disaster. Donors do not want their actions vetted in public comment. Anonymous gifts protecting donors would be impossible, gifts of art in our case or long range planning would be impossible. Nonprofit noncity body portion, oversight portion of this proposal is approved, my staff and board will no longer have -- will no longer be the authority determining under section C-2 on page 2, budgets, level of programming, audience markets, staffing levels, and qualifications, and artistic choices under the risk clauses that you've included. Any of these decisions on the very things that define us as organizations must be made as recommendations, to the assigned policy body. This section alone will result in the loves -- loss of donors and trustees. This is precisely what you are trying to avoid by creating the policy in the first place. In conclusion we are supportive of creating an appropriate review policy and I commend you again of championing the goal of sunshine. As one of my trustees put it, the city carries the lion's share of financial responsibility for the organization. The whole purpose of public-private partnerships is to put the responsibility on the nongovernment provider, because that program would be provided better and cheaper. The ultimate reporting authority jeopardizes, the public-private partnerships, thank you.

>> Ed Rast: Dan?

>> Dan Pulcrano: Mr. Keegan, one, I wanted, Dan Pulcrano. I wanted to thank you for your comments. I agree with you, that review is better than oversight. I don't think it was the intention of this body to provide for government management of outside entities. So if that's a concern, I think we can definitely address that. I think the goal -- or intent was to provide some transparency, simply, that there is some information through which the public, the media, and the governmental decision makers, can review the effectiveness of organizations that are receive substantial government moneys. .

>> We're not opposed to publishing that information. Any citizen can got to various Websites and get their financials. You can go to guide star and pull up our financial records, as nonprofits it is pretty typical for these things to be in the public domain, so we're not opposed to that.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. Dan, I want to thank you. The choice of the word oversight is obviously an unfortunate choice of words. I don't think it was ever our purpose to usurp a public board's domain. Thank you for pointing that out. And thank you for pointing it out where it's a challenge. Because this task force has spent a lot of time on this subject and most of the conversation has been not to make this, you know, to create transparency and openness but not to create a major challenge for these public-private partnerships, you know, but just to create a more open and transparent situation. So I want to tell you how much I really appreciate your comments tonight.

>> Well, you're very welcome and I again would want to reemphasize that review versus oversight would make a big difference with our boards. It is a very delicate ecology in the nonprofit world and anything that can be done to appreciative that would be most appreciated.

>> Ed Rast: Joan and Bob.

>> Joan Rivas-Cosby: Very much more articulate than I could be. There is a close relationship with the City Manager office as well as the finance department. I truly believe that as long as the contract says what we want it to say and the body that's managing the city facilities or providing the service do away

we're supposed to do then we should get out of the way and let them do the work.

>> Ed Rast: Bob Brownstein.

>> Bob Brownstein: I wanted to ask you one more question, sorry that you're bouncing back and forth.

>> I get my exercise that way.

>> Bob Brownstein: Okay. I want to ask about using this tool of more regular review, to be able to try and meet the city's needs, which I think is a legitimate need, to protect itself from unexpected bail-outs. Are you thinking of a contract framework so there is more frequent review, not oversight but review, if the review indicates a red flag, that something is happening, that the city, as reviewer, sees is heading straight for a bailout scenario, that there is then some mechanism in the contract to enable the city to do something to try and avert the problem? I'm not sure what the thing is, but in other words, it's not sort of like you're doing review but all you can do is get the train wreck happen, but you can try and somehow have the capacity to try and stop it before it happens?

>> Yes, I think that's exactly it. And I would add, I think every nonprofit organization that is in this situation, certainly the museum of art because we're in a city-owned facility, recognize the incredible and fantastic support that comes from the City of San José to literally help us keep our programs running. And without that, we would cease to exist. So I think in any normal review process, if it is regular, Bob, it is going to catch problems. And I think if it's an irregular review process, an organization may go too far, and not be able to recover. So this is where I would advocate regular kinds of review. Because it's much easier to anticipate where things could be problematic, those things can be posed to boards and boards can be held responsible to answer the questions.

>> Dan McFadden: Could I ask the speaker just one question? In a former life I coordinated the arts here in the city. And the question is, whether the city should do this review, or is this review better done in the arts commission? And what's your sense of that? I mean right now, the commission allocates the funds but there's not a lot of follow-up periodically to see whether they're being handled the way that they were intended to be. And if fundraising is not coming in, it's always a surprise at the end. What's your thought?

>> I think the obvious place for review is with audits, finance audits, and therefore that review, whether it's with the city or the office cultural affairs, should be done with expert people, not with a panel that doesn't understand.

>> Ed Rast: We are running short open time. We need to discuss the next meeting which we tentatively scheduled for next Thursday.

>> Ken Podgorsek: A review of what we are going to be doing.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: I'd like to move the noncity government bodies back to the public meetings committee to meet with staff, and if the board is so willing, and Mr. Keegan is so able, I'd like to include him in that discussion because I think it would be beneficial.

>> Ed Rast: If he isn't, he could make recommendations. Your comments are great comments. It gives us perspective on getting to a solution. Margie.

>> Margie Matthews: I'm not on the committee but that's okay. What's helpful I found in other areas that I work in is that an actual round table or a focus group is better, more than one person and just talk to them and see. They're all different, that's the issue, every single one is different. I'd like to hear from the speakers in the audience, they've sat here all evening.

>> Ed Rast: We have a second. Discussion.

>> Can I ask just a real quick question? On the list, this may have been answered and I apologize, the list that we were provided and where it states governmental agencies, does this policy cover these governmental agencies? This is the 1 through 10? It does? So does this definition requirement for

nongovernmental body and noncity governmental body cover these governmental agencies? I'm saying yes and no.

>> Ed Rast: We'll go back and revisit, probably.

>> Margie Matthews: I'm sorry, I didn't get your question? Will you repeat it?

>> The list at the end of this table, 1 through 10, governmental agencies, does this definition of nongovernmental body and noncity governmental body cover those agencies?

>> It would be a noncity governmental body as it is defined currently. These are entities, public agencies who receive over \$200,000 for different types of services.

>> Ed Rast: If it's all right with the task force, I'd like to get public comment. We have two other public speakers. Bob Nazarenis.

>> The chief financial officer for the American musical theatre of San José. A couple of things I'd like to just make a comment about. One is that the American musical theatre came to the city for the first time to look for financial assistance due some unexpected, which happens in arts, situations that put us in a situation where we needed cash immediately. Also, let you know four months early, we have fully paid off that loan. We do not owe the city any money at this time. Scott Johnson's group, we have them on our finance committee and participate in our board meetings. And also, Lawrence Thu with OCA, we obviously applied for the T.O.T. From the arts perspective I believe there is review that's occurring and I believe what Dan said, I believe what's truly important, in participating in the evaluation of who receives what in the form of the grants, over the last couple of years, there were individuals, I think, on that particular council or commission, that didn't have the financial savvy that the current panel had this year, which I think was a substantial improvement. And in any event, I think you'll find the arts are willing to be very open about what's going on, and to the point where it's a review, not necessarily your involvement in oversight.

>> Ed Rast: James Chadwick.

>> James Chadwick, speaking tonight on behalf of the San José Mercury News. Two quick comments, one procedural, one substantive. I raise this because it's happened before. There was a substantive presentation in a graphical way, that was not made available to the public. My understanding, submitting everything to this body by the Friday before the meeting so everybody gets a chance to see what's coming up and gets a chance to respond in a meaningful fashion. It seems to me that if anybody should be observing this precept, it should be this body. The directions should be, they're submitted in advance or they're not submitted. That's my procedural point. My substantive point is this with respect to intent, I more or less agree with what Bob Brownstein said. The idea here is to get to things that the city would otherwise be doing that are being delegated to private entities. This does go on. It goes on all the time, not as prevalent as it used to be but still going on with business improvement districts and entities like that which are discharging what would otherwise be public obligations, now, it's not to get to everything that anybody does that get to public money, it's really to get to central city functions that are being discharged by public entities.

>> Ed Rast: Question to the speaker, are you speaking of city facilities?

>> Yes, I do. There may be entities that have -- this is something that probably the definition can get at, most of what they're doing is a city function, only the operation over the city facility might be subject to review.

>> Ed Rast: We had a motion on the table and a second? We have one, yes. We need to either discuss it or vote on it. Why don't you read the motion again.

>> Ken Podgorsek: Thank you. Read it, I didn't write it. We're referring this definition back to public meetings committee for further review. For further review with staff, and if possible, members of the arts

community.

>> Ed Rast: The nonprofit arts community so we would refer it for discussion. Margie.

>> Margie Matthews: I'd have to be in the right frame of mind when Bob refers to train wreck. The city is at huge deficit right now, and the arts community have sounded the alarm, the same alarm that is in public entities. Let's get rid of this whole train wreck thing because this is life as we know it now.

>> I'm going to abstain from this vote because I have provided services with the Santa Clara Valley water district.

>> Margie Matthews: If you disclose, we all have our affiliations. I think it might be okay to just disclose, is that right?

>> Ed Rast: Yes, right.

>> Ken Podgorssek: You can abstain because choose to. You don't have to.

>> Ed Rast: Or just because you disclosed, you can vote. Whatever you're comfortable, whatever you're comfortable with.

>> I'll abstain for today.

>> Ed Rast: Do we have consensus to go forward on the vote? All in favor. [ayes]

>> Ed Rast: All opposed, one. It will be referred back to the committee, representatives of the arts, nonprofit community participate, and staff also. I want to thank speakers, you started to direct us in the direction ever a very difficult issue. We need to speak about the next meeting. The chair recommended a special meeting for next Thursday. One of the things we want to remind everybody is, that we have a commitment to the City Council that we would try to finish up the first section by the end of April. So that we could then refer it back to them. So they would have sufficient time to go through the public notice process, and be able to act on it before the July -- what's the term for it? Recess, trying to find a better word for vacation. Recess. Do we have a quorum for the meeting? Sheila? I'm sorry.

>> We'll be missing five task force members, no legal counsel, a little short on staff.

>> Ed Rast: We should be able to cover these items.

>> We will not be able to come back with nongovernmental body.

>> Ed Rast: I know that.

>> We could wrap up the cost benefits discussion and the public meetings. We do need to spend some time talking about the phase 1 recommendations, the public process, the administration review of that. It is not a five-minute discussion.

>> Ed Rast: No, it is a long discussion. The original recommendations from the council, we need to ideally go back and revisit those. I read, getting prepared for that this meeting, I read a number of those and we haven't covered some of those areas. The original council recommendations. The original council referrals to the sunshine task force, indicated, the original ones back in March indicated we should look at a number of those things, we should need to look at the council recommendations, agendize that also, go back and look at those. The staff had done a great job of pulling those areas out, but we've never gone back and said do we cover those three things. That's part of -- if we send these over to the council and not cover the items we recommended to -- they recommended to us, we would be rightly criticized for not doing that. So the mayor's office point and the council's point is we need to wrap this up as quickly as we can to bet it over to them so they can agendize and move it forward before the release. Dean, did you want to talk to that?

>> Dan McFadden: I just wanted to say, rather than get everything in, if you can get the phase 1, the ordinance to council, I think that would be a major achievement. Yes, there are some loose ends to sweep up but I wouldn't let that hold up getting the ordinance in. Is that what you're saying?

>> Ed Rast: I agree. Dean.

>> Ken Podgorsek: Mr. Chair, before Dean speaks, there is no way before the end of April that we can get the nongovernmental work done. We can't sunshine it.

>> Margie Matthews: Then just take it out of the ordinance.

>> Ken Podgorsek: There you go.

>> Dean Monroe: Once this goes to the City Council and they take it through a committee, that would be the rules committee, maybe it goes there for a couple of meetings or so you're probably looking at a time period of 30 to 45 days. For council to have a chance to deal with this early or middle of June, wrapping it up before their recess, which is what they'd like to do, would be early May or so. I think staff is going to have something drafted for you in a week or so, I believe. You can get that on to the rules committee agenda by the first part of May or so would be terrific.

>> Ed Rast: Do we have -- task force?

>> Ken Podgorsek: I would say we have a very good possibility of finishing the NGB in early May.

>> Ed Rast: Do we make a motion that we get something in by -- whatever we get by --

>> Do you want to make that as a goal, have an agreement that's a goal?

>> I would like to have staff direction to go ahead and start on your phase 1 report. We have a significant amount of recommendations to work with. We'll just add the outstanding issues as we complete those.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: Tom Manheim. One quick item we would like to add to a future agenda, the videotaping quasijudicial bodies.

>> Ed Rast: Right.

>> Tom Manheim: When we went back and checked that, it is a broader list than he expected. We are hopeful it will be a 30-second discussion, we'd like to revisit that.

>> Ed Rast: I think there are one or two that the task force was interested in. Go ahead.

>> Dan McFadden: I think there will be a discussion and some things stay there as Dean said and considered a couple of times. Some things will be referred to staff I would suspect for furl analysis. What are the cost, council is going to want to know. They will be around for a while and it is going to be iterative.

>> Ken Podgorsek: Mr. Chair, does that mean we're having a meeting next week?

>> Ed Rast: A meeting next week.

>> Ken Podgorsek: One other work plan item. I'd like to see added to the agenda for the first Thursday in May a short discussion maybe in the 20-minute range, with the task force, to see on enforcement.

>> Ed Rast: Right.

>> Ken Podgorsek: I wanted -- the enforcement committee has to start meeting and since that's an area where, let's face it, we are cutting some new ground, I think it would be important for enforcement committee to get some recuperates from the task force on what their thoughts are on enforcement.

>> Ed Rast: Any additional task force comments? Staff comments?

>> I would just bring up that the next category scheduled to be discussed is public records. And I think what you might find, if we start the enforcement discussion sooner than at the end, we'll be in the same situation and deferring items to the enforcement committee, if you're following. So I would just suggest that you might consider enforcement at the end, after you've gotten through all your categories and then you deal with how you enforce each of those categories. Because that's how we seem to have come to the conclusion for closed session.

>> Ken Podgorsek: I disagree, and maybe I didn't present it correctly. I'm not looking to have a full discussion. I figure it's going to take the enforcement committee probably two to four weeks to actually come back with a document that we can start the review process inside the task force. What I think more

than anything else, as -- I'd like to see if members of the task force have ideas as to how they want the enforcement committee to approach it. Rather than we do it out of -- you know, out of our bets -- out of what we consider to be our best interest and everybody comes and goes, that's the wrong way, it's not what we want. I'd like to have a brief discussion, not take it out of order, have a brief discussion so we can set the tone of the enforcement committee.

>> Dan McFadden: Can I make one last comment, not for discussion but to say we have in the budget, a million 1 for sunshine, \$350,000 one time, \$750,000 ongoing. It was appeared down, you might say, but we all worked on it. That's what's in right now. Fully expected once you bet through records there will be additional needs, and those will go in at mid-year next year but that's where we are. Happy to give you a full report on it if you want at a subsequent meeting.

>> Tom Manheim: What we feel Mr. McFadden maintains was that would be what he was proposing when it was presented in a couple of weeks.

>> Ed Rast: Any further comments?

>> Move to adjourn.

>> Ed Rast: Any additional public comment?

>> So we're meeting next week?

>> Ed Rast: Yeah, we're meeting next week, right.

>> Ken Podgorsek: Did we vote on it?

>> Yes, we did.

>> Ken Podgorsek: There is a motion to adjourn.

>> Ed Rast: Motion to adjourn. All in favor? [ayes]

>> Ed Rast: We are now adjourned. Thank you very much.