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>> Ed Rast: If everyone would get the materials and look at it. Two new handouts, a complete copy of all the minutes from the time we started until last time, that's that large document with the clamp on it and going backwards. As we refer to minutes you can take a look at it. The second one was, Nancy Williams brought in a document from the chamber, I guess they had a meeting today, and they were -- and then the last one was James Chadwick, the attorney for the Mercury News, also brought in comments. Excuse me? It's the minutes, all the minutes we've ever had.

>> Virginia Holtz: So it's everything?

>> Ed Rast: Yes, everything. That way, if you have to refer to it, we can go so-and-so day and so-and-so page. It drove me nuts trying to look at them individually. [pause]

>> Ed Rast: Three additional handouts, one, a copy of all the minutes in the task force to date, the third was the James Chadwick had comments from the Mercury News. Sunshine Reform Task Force for Thursday, May 17th. Called to order and the first agenda item is approval of the May 3rd minutes.

>> Virginia Holtz: Virginia Holtz, I move approval.

>> Dave Zenker: Second.

>> Ed Rast: Dave seconded it. Discussion? All right, any discussion on it? All right, all in favor? [ayes]

>> Ed Rast: Opposed, abstentions, two abstentions, Nancy and Daly Pulcrano. We have got a very full agenda tonight. What we'll -- probably do is have -- what we have tried to do is move as quickly as possible. We've discussed most of these items before, with the exception of public subsidy. The only one -- the other items are basically comparing what we've done before. If the items were omitted or different from what you remember, most of you put comments in, that's what we'd take a look at the particular topic. I'd appreciate it if everybody would keep their comments concise and to the point. We've got a lot to cover tonight, we've got a lot to be done so weigh can refer it over to the rules committee so the council can act on it in June. And, okay. Sheila.

>> Sheila Tucker: Sheila Tucker City Manager's office. Just a couple of documents, revised public subsidy definition that Bob Brownstein prepared for us and then we also have the phase 1 report that I've provided in track change mode. I took a stab on which one you'd prefer, and so we went with that there this evening. That's all.

>> Ed Rast: Okay. Next item is definition of public subsidy, Bob Brownstein is not here tonight. And Ken Podgorsek will start the discussion on it.

>> Ken Podgorsek: Ken Podgorsek, good evening. Mr. Brownstein prepared what I would consider a very concise and to the point memo. He met with Dan McFadden concerning some concerns that staff and Dan had specifically. He made some alterations. I think he also outlined well in the memo where he still disagrees with Dan. And he has recommended language to go forward. I'd like to ask that before I put a motion on the floor, if staff has any other comments that they want to make relative to this.

>> Ed Rast: Tom was going to comment.

>> We have Scott Johnson our finance director, who would like to make comments this evening.

>> Scott Johnson: Thank you, Scott Johnson, finance director. Thank you for allowing me to speak on this item.

>> Ed Rast: Scott, I can't hear you too well. Maybe the mics could be adjusted.

>> Scott Johnson: Is that better?

>> Ed Rast: Thank you.

>> Scott Johnson: I thank you for allowing me to come speak on this item. I'll be brief based on the heavy workload you have this evening. I just wanted to make a few comments on the revised definition and make sure this was the intent. In the definition itself, a public subsidy is a provision of economic value. I want to make sure the definition is only restricting this definition and the purpose of the subsidy to the city

and the redevelopment agency, because there are other entities that we have under our jurisdiction. So I wasn't sure if that was the intent.

>> Ken Podgorsek: Do you want to expand just a little bit on that?

>> Scott Johnson: For example, we have a financing authority, we have other public bodies that I know are listed when you folks went over the list of public bodies. So I'm not sure if the intent is only restricting that particular issue to the city and the redevelopment.

>> Ken Podgorsek: I believe the intent was not to just restrict it to the city and the redevelopment agency. It was all the appropriate agencies.

>> Scott Johnson: You may want to add "and all related entities," or something like that. I'm asking for clarification, if this gets approved then we need to apply that so I wanted to get clarification. The other question I have is, under the provisions of economic value, cash payments, then there's loans at below market interest rates, I think it would be important to define what "below market" is. I would have a suggestion that you may want to define that as below the city's portfolio rate. Because if we're giving loans at below that rate, then that would probably be considered a subsidy, because we otherwise would earn a higher rate in our portfolio.

>> Ken Podgorsek: Yeah, it -- can I ask you just to clarify what that means? I think I understand it, but I want to make sure I do. What is a portfolio rate?

>> Scott Johnson: Oh, I'm sorry.

>> Ken Podgorsek: I'm sorry, Scott.

>> Scott Johnson: Oportfolio rate, that is the city we manage the city's entire investment portfolio. All the cash on hand has been invested in the market, subject to restrictions that the government provides. So that's our portfolio. So the City's --

>> Ken Podgorsek: Your recommendation would be to make it loans at below City's portfolio rate?

>> Scott Johnson: Yes.

>> Ken Podgorsek: Rather than market, market interest?

>> Scott Johnson: Right.

>> Ed Rast: Karl had a question.

>> Karl Hoffower: Karl Hoffower. If we were to say "below prime" or something like that, how much of a difference are you talking about between whatever the published prime rate versus what you're saying should be the definition?

>> Scott Johnson: Yeah, there's definitely a difference there, 75 basis points or .75% above what the prime rate is.

>> Ken Podgorsek: The rate is lower than prime?

>> Scott Johnson: Yes, we are restricted to U.S. treasuries.

>> Ken Podgorsek: I can see the logic you're saying. If it's below the portfolio rate then the city has a loss of income. If it's at or above the portfolio rate, it's ear a break even or a net gain. I see where you're coming from.

>> Scott Johnson: To so along those lines, as you'll sure you know, the city did enter into line of credit agreements recently with two nonprofits. And those rates are above the city's portfolio rate. So they would not be considered a subsidy. The way I would look at this. Because they were not loaned at a below-market interest rate.

>> Ken Podgorsek: Not under -- I wouldn't think -- by what you're describing, I wouldn't think that that's -- you might almost say that's an investment.

>> Scott Johnson: I would agree.

>> Ken Podgorsek: Yeah.

>> Scott Johnson: So I haven't considered that --

>> Ken Podgorsek: It's not a bad use of the city funds to get more money back.

>> Scott Johnson: Well, I bring it up because I know that it's been brought up in these meetings related to -- what some folks have dubbed as a bail-out so to speak of the rep where actually it's a line of credit agreement, they're paying us back, and we have some restrictions in regards to them managing those, and how frequently they have to repay that, much more restrictive than even a bank has.

>> Ken Podgorsek: Scott, let me give you a way to look at it. In many ways, a document or a policy like this would be enlightening because you could actually make the case, you'd be making the case in the public that it's not a subsidy because they're paying above the portfolio rate so it's actually a net gain to the city. It would only become a subsidy if at some point you forgave some of the loan. Or they didn't pay it back. So I actually think that could be a very -- that could be a positive disclosure, public disclosure, make that statement.

>> Scott Johnson: Okay, thank you.

>> Ed Rast: Nancy Williams has a question.

>> Nanci Williams: What you're saying is what I pointed out earlier. Many of niece subsidies were not called that, teen grand prix, Bob Brownstein talked about the bail-out of the rep. It wasn't a bail-out it was a loan. Very few are going to be considered a subsidy, the way they are packaged.

>> Ken Podgorsek: Then people aren't going to get confused.

>> Nanci Williams: I think some things will get caught in the net that we didn't intend to get caught in the net.

>> Ed Rast: Go ahead, Scott, finish.

>> Scott Johnson: Where parenthetically it says purchase price, actually it says on the buildings or access to buildings, by either the -- determined by either the city's purchase price or appraisal, I would suggest you have three different options there. It would be purchase price, appraisal or replacement value. We currently have an assessment of all the city property, because every year, when I go forward to renew our master insurance policy, we get an update on the replacement value. So that would be more readily available to us and less costly than to have an actual appraisal being done. So that's what I would recommend.

>> Ken Podgorsek: Yeah, it makes sense. It's easy for people to understand, too.

>> Scott Johnson: Moving on, on capital improvements to a public facility, operated by a private entity on which the private entity secures revenue, where I might have a concern about this is, we currently have private companies that operate facilities that are under a management agreement, versus them leasing that property and generating revenue. And I know this committee has talked in the past about the Hayes mansion where we contract with Dolce international. They contract for a percentage that is generated from that facility. We have a management agreement and basically they receive a management fee where they're not reaping additional revenues because we're making improvements to capital facilities.

>> Ken Podgorsek: You want to give an example?

>> Scott Johnson: The example I was giving was Hayes mansion. Dolce international manages the Hayes mansion on the City's behalf. Now, at some future time we're going to have to make some improvements to the Hayes mansion, just because we need to keep it up to the level in order to bring in, you know, the conferences there. So in that particular situation, is the intent for the committee to include those private companies that are under a management agreement to operate the facilities, or is it -- I thought it was specifically for those private company entities that are leasing city facilities, and then generating revenues on behalf of that lease.

>> Ed Rast: Scott, in your management agreement is there provision in there that the city will make

improvements or maintain it, or is that something that is not initially in the management agreement?

>> Scott Johnson: It really varies for the facility. I think on the Hayes mansion it does, that we maintain a certain level. It's not spelled out how much we're going to spend or what the improvements may be.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. Scott, what I want to remind everybody, this is a definition of a public subsidy. In itself it is not a triggering event. It became very obvious that we needed a definition of a public subsidy when we were dealing with the events on what -- you know, what's going to trigger a public subsidy event under sunshine. And the million dollars, when we went through all of that. So a capital improvement to a public facility operated by a private entity from which the private entity secures revenue, you know, again, it becomes the issue, I have a feeling that in a sense, that's very broad. But then it becomes much more narrow, when you start looking at what -- then what events actually would trigger the sunshine parts of the ordinance. So if you're make a \$500,000 improvement to a facility, if I remember the public subsidy section correctly, there's -- it's not in the ordinance. If you're making a \$4 million investment in a public facility, then it would -- then it would trigger. That's the way I'm seeing it as.

>> Scott Johnson: Yeah, I envision for Hayes mansion that we're going to make --

>> Ken Podgorsek: Substantial?

>> Scott Johnson: -- some investments in the future, we're going need to, I think, to keep it up to the level. So that's just one example. And I needed to know how do we apply that. Of course if we move forward, naturally, you know, staff is going to do a return on investment and present that to the City Council for their consideration.

>> Ken Podgorsek: Let me go this way. Let's go back to where Bob's concern was. Because I think let's use the example that Bob has, it's not a currently example but it's an example. A case where the city owns a sports facility, let's say, a stadium, they lease that sports facility to a private entity for a nominal fee. The entity gets to maintain or keep the revenue from the sports facility. It turns around and the city has to make investments to keep that up but the revenue the city's make relative to the investments don't seem to match up. And that's where Bob's concern is. The example I think you're using with the Hayes mansion is probably not a -- you know, so we're probably looking at the two extremes of an example. And the real challenge here is how do you capture, we've done this a lot, how do you capture this one and not capture this one? And I don't really think that you can. And I would say that the slightly extra work that would go in to justify that capital expenditure, doing a little extra reporting, openness, transparency, is a small burden for the city to pay to give sunshine and openness on large expenditures in the City of San José.

>> Scott Johnson: Okay. I also think --

>> Ed Rast: Are you comfortable with that?

>> Scott Johnson: I'm okay with that because I know we're going to have an opportunity to provide some input later on through the council. I would recommend, you know, well, when staff provides their input, I think that we're going to probably recommend some exceptions. Things that we think do not fall within these categories. So then we could, you know, make it clear. So it would be real clear to council and staff.

>> Ken Podgorsek: I think that would be an appropriate staff response to this. I don't think tonight we have anywhere near the time to go through it. And we expect that some of our documentation at some point is going to be refined and modified.

>> Ed Rast: Scott, I think one of the ways the staff could come back is take a look at that time agreements. And in my mind, if you start a facilities agreement at that point in time, that disclosures to agreements, revenue to improvements would be disclosed the first time. What I'd like to see, is after the

fact, after you've made your agreement, you decide you're going to put more money in that's where the disclosure should come out. I also agree with Ken that probably from the point of sunshine it would be better for the city in dealing with the public and the taxpayers to be more disclosure rather than less. But I think the staff can come back with something that would make sense.

>> Scott Johnson: I understand. I guess there is another issue that I would have and that is that the public perception of providing a subsidy, and let me give you an example. You know, the governmental accounting standards board on how we're defining some of these situations as a subsidy does not allow me to classify them as a subsidy and expenditure, as a matter of fact, the real-life example you know is the HP pavilion, and the direction that council gave us to move forward on that. Actually, we would be recording a contribution from the private entity, because they're making a capital contribution to our facility. We would capitalize that and amortize that over its expected useful life. It is a capital contribution by the private entity to the city. So along the same lines that we're talking earlier about, below-market rates, in the analysis, when we do a cost-benefit analysis or return on investment, and if we make a -- if we make a capital investment on a city facility that a private entity is operating on the City's behalf, and we do the fiscal analysis on that, and it turns out that the city will be paying out at the -- through the useful life of that capital improvement, that would probably be considered a subsidy. But if we're actually going to benefit from it, I would argue that's probably not a subsidy, you know, we're actually getting a benefit from that. But that's something you know, that issue we can address in the staff report.

>> Ed Rast: I think I agree with what Ken said earlier. I think once the sunshine ordinance is in place, I think it will make the public understand, use like Nanci and others have indicated, that some of the public think some of these are subsidies, and they're actually the opposite. I think we'll see a lot more clarity and a lot less public misunderstanding over what's going on.

>> Scott Johnson: And I just had one last comment, and that is, relating to this -- the example, because I brought this up at the last meeting relating to the city lead issue conduit debt on behalf of developers for affordable housing, right? And I think Mr. Brownstein was trying to address this by giving the example, if the city pays businesses or nonprofit organizations to make affordable housing units or discounted rides on buses, for example, it is purchasing the discount and not offering the subsidy. And maybe that's more of a layperson's interpretation, but we're actually not paying the business. We're issuing on their behalf. And it's the business that is responsible for the debt. It's just that it's -- it's a below-market rate that we're getting, because we're a government entity. And the federal government is allowing us to issue at that rate. Here again, I think this is something we can refine the concern related to make sure that affordable housing does not fall within this category. I don't think it's the intent of this committee for that to happen. And it's something that we can address, maybe, with some other language or actually putting that item as an exception to this provision.

>> Ken Podgorssek: Fine.

>> Ed Rast: Virginia.

>> Virginia Holtz: There have been some terms here tonight that were financing terms that I feel that I agree that there should be more clarity in bringing forward something to the council. And I would encourage that that happen. I'd also say -- also like to offer the fact to the general public, those might or might not be terms that are familiar to them, and so definitions would be -- and I'd like definitions of subsidy. You're saying some of these which we are calling subsidies are not in fact subsidies. So if those categories could be spelled out more clearly, I think that it would be to the benefit of everyone. And I would hope that that could -- that we could probably now that we're at this stage, we'll probably have to have it come from your office, to present to the council. As an addition. And giving examples I think is really helpful, too.

>> Ed Rast: Other comments? Margie.

>> Margie Matthews: Well, I have a concern that what Virginia's raising, and that is, the city doesn't subsidize its own buildings. They make capital improvements on their own buildings. And if anything, it's the partners, the private partner, be it multinational corporation or a small nonprofit in town, is make contributions, and gifting to the city money and other goods and facilities, in many cases, back to the city. So I'm losing this battle, but I would urge the council, and hope the staff, rather, plays fair with the nonprofits, if they're going to make exceptions for the big boys in town, I think they need to make the same exception, following the same principles for nonprofits. The theaters, the cultural institutions that have taken the burdens off the city and raised millions of dollars to keep them going shouldn't be reviewed as receiving a public subsidy to the extent that it's cash on the line. They're actually it's the other way around.

>> Virginia Holtz: What -- I'd like --

>> Ed Rast: Virginia.

>> Virginia Holtz: I'd like to ask, what would be the definition then of a city-owned building that is being used by, say, a nonprofit, whose rent is either nil, you know, there's no rent, or there's under market rate, what would you call that in financing terms, in the structure of contracts and agreements?

>> Scott Johnson: Just wondering whether that question was for me. Your question, we currently lease properties to nonprofits at below market rates. What would we call that? I would call it a subsidy, it's below-market rates. I brought this up at another meeting, when you think about a subsidy, you know, we should not, as a city government, only be thinking about the monetary issues. Because those, I think, that a city, you look at the quality of life issues, and what benefit are they bringing to the city, in providing those services as a nonprofit? So I know that's something very difficult to quantify, especially with this definition as it's currently defined.

>> Ed Rast: Nanci Williams.

>> Nanci Williams: I think we need to take into consideration, we've got these nonprofits, they might be getting subsidized rents on the properties that they're managing for the city. We have somebody from the tech who could tell us what their energy bill was, I heard it once and it was pretty frightening. The fact that they have to raise the money to pay the operating cost of these city-owned buildings is a huge financial burden so who's doing who a favor?

>> Margie Matthews: I might just tell you, we just had a meeting with the San José history board and the operating cost to operate the history museum, history park, 17 buildings, 21 acres, Fallon house and Peralta, is 21 million. Mow the lawns -- 1.7 million. The city's contribution is 800 -- it goes down about 100,000 a year. They're not subsidizing the programs at all. And in fact the history museum just as the other nonprofits have put millions of dollars. A \$30 thousand patio was laid this week by the Vietnamese community and gifted to the city. You're right. It doesn't begin to approach the operating costs of operating the city.

>> Ed Rast: My comment earlier, one second Dave. Assuming we can work out the details which are fairly complex, I think we're going to get a lot clearer picture where the city's money is spent and in the case of the nonprofits, what their contribution to the community is. In many cases they're providing huge contributions both in the service they do as well as fundraising, that is a benefit of the city financially. So I think what I'm looking for is in a lot of cases just a lot more clarity on the whole thick. And I think what that will also do for the community is some of the nonprofits that are doing a fabulous job for the city, they'll get better recognition and hopefully that will help them in traditional funding. Dave Zenker.

>> Dave Zenker: I agree, there's a big difference between a facility that's being run under a management agreement, and a facility that's being leased from the city. And I think the Hayes mansion is actually a

good example of that. And I think Margie made a good point of saying, you know, the city is not subsidizing itself by making capital improvements to its own buildings. And I'm worried that we're muddling up the waters by this provision alone. I don't want to see this just go to the council and get changed. I'd rather we get it right first. If there's suggestions from you Scott, or anyone, I'd rather get it right first. I don't want to spend a lot of times on it, obviously.

>> Ed Rast: The way I look at it, if the city is going to improve something by 50 or \$100 million, Hayes mansion or something else, they're going to spend 20, \$50 million to improve it, the public question would be, is it worth it or should we sell the facility off and spend the money on street repairs? I'm of the opinion that when you make large capital improvements to city facilities, that should be a public discussion. Because especially we've got, what, six years now of budget deficits, another four or five forecasted, I'd rather see that discussion. And as part of that discussion you come into the question of should we maintain this facility or sell it off?

>> Margie Matthews: Well, I think the public discussion happens already. It's the requirement for lots of studies and the delay that happens, and having the political debate over and over again, over -- you know, it's the community benefits piece as applied to improvements on public facilities.

>> Ken Podgorsek: Mr. Chair, Ken Podgorsek. You know, it's sort of interesting because I've noticed, we have a pattern in our conversations and I don't know if it's something that, you know, that -- and I wonder, you know, and I'm wondering, and I've fallen into this trap also and I want to make this comment. 2003-2004 Sunshine Reform Task Force, we're trying to bring sunshine and open transparent government to our community. There's a connotation that open and transparent government are a negative thing. I can see the Hayes mansion be a positive, I can see improvement at the arena being a big positive. I'm sure you discussed it in public, but I'll tell you, I think that you know, if more people actually understood what I learned tonight, that the loans to the rep are above the, you know, the City's portfolio rate, the City's actually making a profit on that investment, or that loan, I think would make a -- would be a good thing. And I think more people would think -- would think well of it. I don't think we put especially a subsidy in, I don't think we put an undue amount of burden, I think what we did though was create a situation where there's more light and more openness and there can be more educated discussion.

>> Ed Rast: We've got a couple, Nanci and Dan and couple of public comments.

>> I want to reinforce Ken's point, I don't see sunshine as a burden to groups, I don't think we should talk about it as a tremendous penalty that we're placing to these outside organizations who accept public funds to be somewhat accountable to the public. I think it's a benefit, I think it's good for the public, it's good for the organizations, it allows them to interact in the public, it creates interest in their organizations and I think ultimately it will be viewed as a extremely positive thing that isn't burdensome.

>> Ed Rast: Nanci.

>> Nanci Williams: I don't agree, but to Ken's point you said you didn't know anything about this rep deal until tonight. If you had gone to the meeting where the rep came and discussed those funds, it was made available. I think we're trying to make those reports available with more time for the public to analyze them and come to the meeting with some smart response. But as I said before, it sounds like we're overcorrecting. Let's go to the rep board meeting before they go to the city.

>> Ken Podgorsek: We haven't talked about that for a long time.

>> Nanci Williams: We're consistently talking about -- I know I'm a nonmajority opinion but we're overcorrecting.

>> Ken Podgorsek: I want to comment, many of us including me felt that was an undue burden to place on those organizations. I was never comfortable opening up -- for a variety of opinions on this task force, I

was never in favor of opening up the rep board's meeting to the public. I'm talking about opening up public process to the public.

>> Nanci Williams: But that public process exists today. And I think we're talking as if it didn't exist.

>> Ken Podgorsek: It could use some more sunshine and openness.

>> Ed Rast: We have two public comments, Sara Mueller. Oh, Scott, I apologize, I missed Scott.

>> Scott Johnson: I just wanted to make a clarification, that my comments, I want to make sure that the committee doesn't feel that I'm saying sunshine's not a good thing, or that it's, you know, something's wrong. What my main concern is, in applying these provisions in a practical matter in city operations, as a finance director, I just wanted to -- I'm looking for more clarification. And just want to make sure that we are, as we move forward in implementing, that we will be applying them in the intent that the committee is looking for.

>> Ed Rast: Scott, I appreciate your comments, and I think the rest of the task force does also. Because your comments have clarified a number of things and making the administration of the sunshine a lot easier and clearer. We appreciate your coming here and your comments. Let's see, we're back to Sara Mueller.

>> Sara Mueller from working partnerships. Any nonpublic entity securing revenue, intended to focus on the stadium that Ken pointed out that maybe operating a facility and then potentially could profit from a larger subsidy that could be provided by the city at a later time. I understand that there may be some clarification that would need to happen later on. I would recommend that we move forward the way that it is currently stated and talk about how we make sure we can better clarify things a little bit later on down the road. Again, this is an opportunity to provide additional sunshine and additional information on projects that receive significant public revenue, over \$1 million. It is not intended to be a massive burden. It is intended to provide an additional public benefit to projects that receive a large public subsidy. Thank you.

>> Dean Monroe, mayor's office. Just to go back to your opening comments here, I worry a little bit just about timing. You're coming on to an hour here. You have this incredibly aggressive agenda. Just to talk about the schedule, we're talking about this going to rulings two or three times, council twice, maybe you get finished by the last council meeting. I agree with the young woman here, agree this, pass on, maybe in your transmittal memo, you agree, that's healthy and so on. Discussing this three or four times you're reaching a point where you're not going to have a consensus on it.

>> I make a motion to move this to council.

>> We need to do it with the amendments, though.

>> If you want to treed amendments, we can incorporate that. One thing I wanted to point out is that there's one linguistic change that perhaps legal can tell me if this is significant. But it refers to per calendar year. The million dollars per calendar year, I believe it should read in a calendar year, because per calendar year seems to imply there's serial commitment to fund it. What if it's in one calendar year, not subsequent calendar years? Is that in a calendar year or per calendar year? Is that material?

>> Ed Rast: Virginia had a comment earlier.

>> I think you should explain what your intent is and then we can draft it according.

>> Dan Pulcrano: The intent is that in any calendar year there's \$1 million that it should apply to the ordinance.

>> Ken Podgorsek: Are we talking about that?

>> Dan Pulcrano: Per calendar year tends to imply that it's a million dollar a year contract. So for example if it's a million dollars one year and half a million the next year, is it a million dollars per calendar year?

>> Lisa Herrick: Lisa Herrick. You have to decide what your intent is.

>> Dan Pulcrano: That's in the report. Okay, that doesn't appear in this section? Okay.

>> Ken Podgorsek: Actually, later on Virginia --

>> Dan Pulcrano: Let's make a note to talk about that when that comes up.

>> Ed Rast: So we've got a motion and Ken?

>> Ken Podgorsek: We need to make some minor changes to the wording, not that minor. Somewhere it says city or the RDA, it should also add, "or other related entities," in both places. Rather than "market interest," it should say "city's portfolio rates." And then when it says "purchase price or appraisal or replacement value." And I will second the motion.

>> Already seconded.

>> Ed Rast: Fine, Margie.

>> Margie Matthews: I'd like to vote for the motion and I intend to but I would like to ask that the capital improvements to city facilities be separated out for a separate vote. I don't know how we do that procedurally.

>> Virginia Holtz: You want to severability --

>> Ken Podgorsek: you want severability on that. If the motion maker doesn't have a problem I don't.

>> Margie Matthews: Its the capital improvements offered to a private entity, the city doesn't subsidize its own buildings, I would like to vote no on that part of it.

>> Ken Podgorsek: You would like the motion to be everything but that and then a separate motion to amend that.

>> Margie Matthews: Yes.

>> Ken Podgorsek: As a seconder, I have no problem. He made the motion.

>> Margie Matthews: Or I could just register a no on that point. I'm not sure what you want to do.

>> Ken Podgorsek: No, I think that's --

>> Dan Pulcrano: I think we can do one vote and if you want a minority on that that's fine.

>> Margie Matthews: I want to vote for the motion but register a no on that particular point.

>> Dan Pulcrano: Can we do it in the minutes without a second vote? Is that okay?

>> Ken Podgorsek: We just ask for a second vote.

>> Nanci Williams: If I'm opposed to this whole thing, I probably shouldn't vote on the changed language.

>> Ken Podgorsek: It's a free language. If you disagreed --

>> Dan Pulcrano: Could I ask Scott something? Could you explain to us, succinctly, what is a portfolio rate? Is that actually the rate at which the city borrows or lends funds? Is there plain English? In fact, I think that when we put this forward we have to put this in plain language. Because nobody knows what a portfolio rate is outside of your department.

>> Ken Podgorsek: Actually I do now.

>> Scott Johnson: I can provide a definition to you later on. This is the rate of return that we -- the city earns on our investments that we invest in. Does that make sense?

>> Ken Podgorsek: It's the interest rate they get on the money from the Banks bank --

>> Scott Johnson: The interest we earn on the entire investment.

>> Dan Pulcrano: Could we say that in language that the citizens would understand.

>> Scott Johnson: The rate that the city earns on its investment portfolio.

>> Ken Podgorsek: Can I -- actually Dan can I make a suggestion? My suggestion would be, leave it, and let -- and then let a definition -- I know this is amazing but let a definition of portfolio rate be added.

>> Dan Pulcrano: No, this is --

>> Ken Podgorsek: It is a financial term.

>> Ed Rast: We're running very badly on time. Let's just --

>> Dan Pulcrano: This is material. Now that he's just explained it, this is not a lending rate, this is an investment rate which is very different. For example if I'm earning 4% on my savings accounts, but I'm borrowing money at, you know, eight or 9%, he's saying that if you loan it lower than the rate at which it could be invested, not a loaning rate but an investment rate. And that's significant and I can't support that at all.

>> Ken Podgorsek: Why?

>> Dan Pulcrano: Because we're comparing an investment rate is like half of -- half what you would loan at. So if you are loaning at the investment proceed rate, you're loaning money at half of which a commercial lending rate is and therefore, that is a subsidy. So we've just shot this whole thing apart by that change in language. That's material. So I can't agree with that at all. Nice try, though.

>> Ken Podgorsek: You're withdrawing --

>> Ed Rast: Let me get some clarification from Scott. Your portfolio rate is the rate you earn on money. What is the rate, you have a bond or other borrowing rate that you pay out. What are those two rates right now?

>> Scott Johnson: Okay. That's -- it really depends on what we're borrowing for. I mean, you know, we have a -- I membered earlier, we have a \$4 billion debt program. We're currently working on our G.O. bonds. So what we borrow money, usually, it's a lower rate, because we get a tax exempt rate than what the commercial lending institution would offer. The rationale for my suggestion, if I may just a second here, was that if we're going to basically loan someone some money, if we don't loan them the money, that money is going to be in our portfolio, and earning that rate. So that's -- that was the rationale for suggesting the portfolio yield.

>> Dan Pulcrano: You haven't factored in the risk of loss or any other factors though, or the cost of administration of the loan. If banks were to loan rate at their deposit rate, you know, without making any profit, that would be the same thing.

>> Ken Podgorsek: Yeah, but -- Ken Podgorsek. My comment to that, though, is this is a case where I'm going to be more on Scott's side. In some ways I've criticized the time of city's finances because they're not business like. But other times, I've also got to remember, it's a city. I mean, really it's a big nonprofit. The idea is, you know, they need to be able to be good stewards of their money. If it's in -- if they're making a -- if they're loaning money at less than what they're making in the bank, then you know, that would be oa subsidy. You could argue, I'm sure Bob's thinking about market interest, the question is, what is the market interest rate. You know, that becomes another -- that becomes a whole 'nother --

>> Dan Pulcrano: We have a significant disagreement between the maker and the seconder.

>> The Clerk: You now have registered an objection to a component of your motion which was to -- you went on to council with the amendments. So I would withdraw it.

>> Dan Pulcrano: I'd like to withdraw and remake the motion without the word "portfolio rate."

>> Ken Podgorsek: Actually if he's going to withdraw I'll withdraw my second. I'd like to move that we adopt the language as I just described.

>> Second.

>> Ken Podgorsek: With the exception that we're going to -- we adopt the language as I just described with the removal of the capital improvements to a public facility operated by the private entity from which the private entity secures revenue of which after we pass this motion I'm prepared to place a second motion on that table to include that language.

>> Second.

>> Ed Rast: All right, discussion.

>> Dan Pulcrano: I absolutely oppose this motion. If we're loaning money at the portfolio rate it's

absolutely a subsidy, make no mistake about it and it's ridiculous. We've gutted this motion.

>> Ed Rast: Mary Ann.

>> Mary Ann Ruiz: I supported this motion, and I'm not going to support it as it is but I would like to support -- I supported the original discussion. But now, it's just changed very rapidly, and I feel like it moved away from what we had -- what we were reaching consensus on.

>> Ed Rast: Karl.

>> Karl Hoffower: Karl Hoffower. I think Dan pointed out an excellent definition of what we were going to get ourselves into by changing this so I can't support this motion, either.

>> Ed Rast: All right. Let's see --

>> Ken Podgorsek: We've got a motion and second on the table. Let's put it up for a vote and see where it goes.

>> Ed Rast: Call for the question. All in favor of voting on the question. We're basically calling for the question. Which means we're going to close discussion. We're going to vote on closing discussion and then we vote on the motion. First one is closing discussion. All in favor? [ayes]

>> Ed Rast: Opposed? All right. We're going to vote on the motion as-is. We'll read the motion again.

>> Margie Matthews: Somebody has to read the motion.

>> Mr. Podgorsek will confirm.

>> Ken Podgorsek: I'd be happy to.

>> It is the original language with the loans at below the interest rate the city earns on its investment portfolio, otherwise known as "portfolio rate."

>> Ken Podgorsek: The city's portfolio rate.

>> Under building or access to buildings below market value as determined by either the city's purchase price or appraisal or replacement value, and then -- oh, I'm sorry up above a public subsidy is a provision of public subsidy by the city or RDA or other related entities, and then the provision about capital improvements to a public facility is not part of this vote.

>> Ken Podgorsek: That's the way I made the motion.

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

>> Ed Rast: Opposed? Abstentions? Sheila, did you get -- okay, so the item passes.

>> Ken Podgorsek: I will now put the second motion on the table. I move that we add the language that states capital improvements to a public facility operated by the private entity from which the private entity secures revenue, to this language.

>> Ed Rast: All right, discussion.

>> Ken Podgorsek: It needs a second.

>> Brenda Otey: I'll second it.

>> Ed Rast: Brenda seconds it. Public discussion? All in favor? Opposed?

>> Ken Podgorsek: Motion fails.

>> Ed Rast: We had three opposed.

>> Ken Podgorsek: No, you had more opposed.

>> Ed Rast: Four opposed. Let's start over again. All in favor raise your hand. And leave them up. So we can count. All opposed? Motion fails. Karl.

>> Karl Hoffower: With that motion failing, where does that leave it then? That's off? Okay.

>> Ed Rast: That section did not pass at all. So it doesn't go forward.

>> The Clerk: Can you also move it to-d since you have a five-five, you can either take no action on it, I mean, that's your -- that's a no brainer, but you can also defer it if you want to 'til the next meeting.

>> Ken Podgorsek: I move that we defer it to the next meeting.

>> Ed Rast: We've got to have the thing -- let's take a minute or two and talk about what the issue is. Capital improvements do a public facility, private entity secures revenue. Discussion, let's see if we can quickly do it. What is the people -- well, let's try, for a couple of minutes.

>> I think we've already discussed it. I think given our time constraints, you know -- given that section. I would allow -- I would suggest that a minority opinion go forward on this section. In suggesting it's a conclusion that minority issues.

>> Ed Rast: Let's move forward.

>> Ken Podgorsek: Some occasional dissension, pretty much on the same page, the fact that we're not on the same page here means there's probably a challenge with it.

>> Ed Rast: I agree.

>> Ken Podgorsek: I'm okay. I'll go to sleep tonight.

>> What was the last word of your statement?

>> Ken Podgorsek: The last word in my statement was that the fact that we've been pretty much for the most part on a consensus, and so that the fact that we're not -- we're obviously not on the same page as the task force here, that there's probably a challenge with it that is probably much more intense than the amount of discussion necessary for this topic.

>> Ed Rast: Thank you, Scott. All right, let's start out, the chair, the sunshine reform cover letter, the chair's letter, any comments on that? I'm sorry?

>> We're going to go through page by page?

>> Ed Rast: I don't know how else to do it, unless you've got a better discussion. Everybody's got copies, all right? So the recommendations, comments? Virginia.

>> Virginia Holtz: In a number of places, first phase, documents, we use the terms, in some places, on the calendar year, and in some places, on the fiscal year. And I think you would make more sense, because the city's on the fiscal year, to have the document read, in all cases, fiscal, instead of putting in calendar. And I can give you some examples.

>> Ed Rast: No, I think everybody gets the point.

>> Virginia Holtz: Okay.

>> Ed Rast: Anybody object to that? Any discussion?

>> That makes sense to me.

>> Ed Rast: We've got consensus. We'll change it from a calendar year to fiscal year, for financial issues. Okay.

>> Virginia Holtz: It's under agenda requirements, it's under -- it's throughout.

>> Ed Rast: You've got a good point. Dan Pulcrano.

>> Dan Pulcrano: Why don't we just say a year. Can we say "in a year"? Because all they have to do is split the million bucks between fiscal years and that's a loophole.

>> Ken Podgorsek: You can do the same thing within a calendar year too. People do that all the time. They make something on December 31st.

>> Dan Pulcrano: Then let's just say a year, a year, in any 12-month period. A year is 12 months.

>> Ken Podgorsek: My challenge with that would be, the tracking it. All the systems, all accounting systems are based on fiscal year. If we're asking them to track things, especially financial things, you know, yeah, you're right. You know, there's always going to be a way to get around something. That's just -- if we think we're going to come up with a totally air-tight ironclad document that nobody's ever going to figure out how to get around --

>> Ed Rast: Let's move on. We'll just leave it, James Chadwick.

>> On this point, you should -- it's simplest if you simply establish an economic threshold. If it's over this

amount, then the statute or the ordinance applies. If you try to track it by year, you're inevitably going to have problems. I don't know why you would track it by year. Just establish a threshold and go with it. Forget the "per year."

>> Ed Rast: Sheila Tucker.

>> Sheila Tucker: Sheila Tucker City Manager's office. This is an item by Mary Ann Ruiz.

>> Mary Ann Ruiz: That was my initial recommendation. I'm open, makes sense to go with the fiscal year. But --

>> Sheila Tucker: Agreed, I just want to remind you in the context of removing it altogether.

>> Ken Podgorsek: I'm concerned the city would have no way to track it, and will be more confused.

>> Dan Pulcrano: Is the time frame necessary? It basically raises the threshold and makes it hard to apply the ordinance.

>> Mary Ann Ruiz: The example that you brought up or Ken, was to then start an organization could then potentially break up the request, and then to fall below the threshold of a million. And so to avoid that within one calendar year, or within one year.

>> Ed Rast: One fiscal year. All right. Do we need to vote on this?

>> Ken Podgorsek: No.

>> Ed Rast: We're fine with changing it to fiscal year? Tom?

>> Tom Manheim: I don't have a problem with fiscal year or calendar year. It is within your ability to revisit fiscal year or calendar year. The goal was to go through and make sure that what we had presented captured what you'd done not revisit or rediscuss or reargue.

>> Ken Podgorsek: You're right, that's fair. Mr. Chair, my only question is, though, is this a tweak or is this a revisit? If it's a revisit, I agree with you.

>> Tom Manheim: I was speaking more to the fiscal year-calendar year versus no year. It's not trying to understand the implication of that.

>> Ed Rast: It's a revision.

>> Mary Ann Ruiz: My intention was just a one-year period, fiscal year, calendar year, 12 months.

>> Ed Rast: From a financial point of view, it's easier for the city to track it on a fiscal year basis rather than a calendar year. It makes sense for a fiscal year for financial issues. Anybody have a disagreement with it?

>> Ken Podgorsek: I don't. I tracked this stuff.

>> Ed Rast: So on the chair's letter, one of my comments on towards the box it, rather than saying we hope the City Council would afford thoughtful condition to our phase 1, I would propose to say, we are forwarding our phase 1 recommendation to the city. I lost something -- hold on a second. Basically there is no recommendation in there for a pilot project or to approve it so basically we're forwarding it to the city for implementation in a pilot project. The other thing we probably want to say in there and I'll get the language worked out is basically we still have some phase 1 issues that still need to be resolved and we'll be adding them to the phase 2, to the final recommendations when we get through. Does that make any sense? Yes?

>> Sheila Tucker: Sheila Tucker I just want to recognize at the end of the introduction --

>> Ed Rast: I can't hear you Sheila.

>> Sheila Tucker: At the end of the introduction, the introduction speaks to the pilot proposal. We're happy to include it in the introduction but it was addressed.

>> Ed Rast: What page are you speaking?

>> Sheila Tucker: Page 7 at the bottom. Under implementation.

>> It couldn't hurt to have it in twice. In the letter as well as in there --

>> Ed Rast: Also I think when they read it we want a pilot implementation also, we'll have additional suggestions coming through.

>> Sheila Tucker: What specific change would you like, Ed?

>> Ed Rast: That we want to put in that it's going to be a pilot program, that we will have some additional recommendations as we go through the rest of the -- the second phase to clarify some of the wording. And --

>> Sheila Tucker: On phase 1, we're going to come back?

>> Ed Rast: We have in the document a number of areas where we have not completed phase 1. It's been specified in the document. So we'll come back and clarify those.

>> Ken Podgorsek: One solid example is, we moved the certification process for closed meeting recordings to the enforcement.

>> Ed Rast: Right.

>> Ken Podgorsek: Section.

>> Ed Rast: There's a number of areas, we're forwarding these forward with what we have at this point. We'll clean up, have additional recommendations on phase 1. Okay. Is there any comment on -- let's see, III which is the task force members.

>> Are there changes? You're making changes, Ed?

>> Ken Podgorsek: How come my name's not involved?

>> Ed Rast: All right. Table of contents, any changes on table of contents? No changes, all right. So introduction, which is I. I'm sorry, on table of contents, there were cross-outs on, was it IV, where we crossed out noncity governmental body and renumbered ones below that.

>> Virginia Holtz: Are you asking for a motion?

>> Ed Rast: No, I'm saying are there any additional changes? so we're trying to go through.

>> Can we go section by section instead of page by page?

>> Ed Rast: All right, introduction is the next section. Is there any comments on introduction? Process?

>> Actually I was thinking of broader headings, introduction, definitions -- doesn't seem like there's as much discussion.

>> Ed Rast: Anything on background, process? Sunshine reform goals? The only comment I have on sunshine reform goals, I don't remember that we actually put forward sunshine reform goals, did we Sheila?

>> Sheila Tucker: We did that in the study session in November to the council.

>> Ken Podgorsek: She's right.

>> Ed Rast: Okay, fine. All right, public participation.

>> Virginia Holtz: Keep rolling. Keep rolling.

>> Ed Rast: Sunshine ordinance, phase 1, phase 2.

>> Can I just ask a point of clarification? Dean Monroe, Nanci, did you mean introduction as an entire section and definitions as an entire sections? And public meetings, not so much the subsection but the broader categories, Nanci, is that what you meant?

>> Nanci Williams: Yes.

>> Ed Rast: Dave.

>> Dave Zenker: Dave Zenker. I actually have some input on the implementation section, page 7, it actually relates to Mr. Chadwick's memo that was distributed tonight. I think we need to give a moment's thought to this whole notion of what we're calling the pilot basis of the sunshine ordinance. I don't want there to be any confusion about really what we're recommending here. You know, in my mind, this is my personal opinion, you know, I want to see an ordinance go forward. I want to see something that is sign

on the dotted line and gets implemented as an ordinance. Granted, a lot of the things that we are recommending are breaking new ground and we want to see how they work and we want to be able to revisit them. But ultimately I want to be careful I think with the words "pilot project" or "pilot basis" and make sure whether it's through the way we describe it in this section or through the intent of the way we describe it we're very careful with what we call "pilot basis" so the council is clear that this is in fact our recommended ordinance.

>> Ed Rast: Dan.

>> Dan Pulcrano: I think Dave's point is excellent. I don't think we're giving a year or two of our lives for a pilot basis. If staff wants to have a pilot project, it should be in their report but I'm comfortable striking that language as well.

>> Ed Rast: Brenda.

>> Brenda Otey: I think on a whole we are asking for an ordinance but on some items we did talk about a pilot project. As discussion it should be a pilot project, maybe it's appropriate that it remains a pilot project, and on other cases we're going for an ordinance.

>> Ed Rast: Tom.

>> Tom Manheim: Tom Nan I'm. That is what we're saying, not that this is we're going to try it out and if we don't like it, we'll just not do an ordinance. The idea behind the pilot is that we will be looking at how this works, and we'll likely be coming back, if there are areas that aren't recommendations on how to modify it to make sure it does work. But there's no implication, when we use the words pilot project, that this is intended to be temporary, or that it wouldn't go forward.

>> Ed Rast: Karl.

>> Karl Hoffower: Karl Hoffower. I can appreciate that, I certainly don't want to have -- that we all contributed to a pilot thing. But I don't believe there is any language here that sun sets this. So when it gets passed it would be an ordinance. But it has the intent that we are willing to be flexible on it. So as long as there's no sunset provision in here when they pass it it goes. And it's a program that will be implemented. That's from a legal standpoint, is that your understanding?

>> Lisa Herrick: Lisa Herrick, that's true. This is a report and recommendation, this is not drafted in the way of a pilot project. It looks a little bit like an ordinance, because we've looked at some ordinances and there's some similarities, but it is not --

>> Karl Hoffower: Right, this doesn't say city code section friction.two-4B.

>> Lisa Herrick: This is technically not an ordinance you're putting forward, it's a report and recommendation in some format that looks very similar to an ordinance.

>> Ed Rast: Margie.

>> Margie Matthews: I agree as much as I've been rifting in some ways, it's up to the council to decide what's pilot and what isn't. We could say the task force recognizes there might be potential unintended consequences and the council may, you know, implement this on a, you know on a pilot but we urge the council to implement the full ordinance as soon as possible.

>> Ken Podgorsek: That's clear.

>> Margie Matthews: We're recognizing that's their decision but we want this to go forward.

>> Ed Rast: I've got a suggestion on wording it and I apologize for not writing it down. Revise the implementation paragraph to the following. The task force has expressed frequent concerns about balancing the need for developing workable sunshine recommendations and the city staff and the city staff, financial and administrative challenges that might be faced in implementing the phase 1 provisions. The city staff and department input analysis and recommendation task force also recommends, recognizes that it may be potentially unintended consequence of the proposed sunshine

ordinance and therefore recommends that the provisions identified in this and further reports be implemented on a pilot basis to allow a more complete review of the effectiveness, impact on resources and workload on the city processes. What it says essentially is we want it implemented and they can modify it as they go.

>> Dave Zenker: I vote for Margie's language.

>> Margie Matthews: We recommend a pilot and we really don't.

>> Ed Rast: Okay, so take that out, all right. Dean Monroe.

>> Dean Monroe. The council expects to vote on an ordinance. I mean this will be their recommendations as was said, so they'll approve their recommendations, at some point after that an ordinance will come back. But I think in all the Reed reforms it is everyone's sense that at some point, a year or 18 months, it doesn't have to be stated ahead of time, but there is a general consensus that they'll look at all the 34-plus Reed reforms to see what's working and how they can improve them subsequently. So again council looks to improve these -- approve these recommendations and then on their own initiative their sense I believe is that a year or 18 months they will relook at this and see what works best.

>> Margie Matthews: I think the staff gets it. , if we can just eliminate that feeling that, or that statement that we're recommending a pilot, we can recognize that the council may institute it on a pilot basis but we nevertheless urge the council to implement the provision as soon as possible.

>> Ed Rast: Stop basically when you get to the word -- just stop it at the words implemented, cross out everything on the pilot basis to allow more effective review, workload and process, just cross that out.

>> Dan Pulcrano: Yes.

>> Ed Rast: Okay. So the sentence reads, the first sentence is as is. The second sentence reads the task force however recognizes there is potential unintended consequences, therefore recommends --

>> Margie Matthews: And that the City Council may choose to implement some of the provisions on a pilot basis. Nevertheless, we urge the City Council to.

>> Dan Pulcrano: Implement it.

>> Ed Rast: Okay.

>> Dan Pulcrano: To provide for evaluation.

>> Ed Rast: All right. So definitions, anything else on that section? Good. Okay, definitions?

>> Dan Pulcrano: I have a question. Lisa Herrick, I have a question. Is the definition of lobbyist in 1.11, is that consistent with the City's lobbyist ordinance?

>> Lisa Herrick: The city's lobbyist ordinance, one of the City's lobbyist ordinance relates to lobbyists who lobby to the city. This relates to lobbyists that the city hires to go to Sacramento and Washington, D.C. for alleviate and administrative actions that would benefit the city.

>> Dan Pulcrano: Okay, thank you.

>> Ed Rast: We're in definitions.

>> I have one simple suggestion on definitions, in section under meetings, 1.12, in section B, in the definition of a serial meeting there is one small change that you could make that would actually solve a point that came up, in a series of gatherings could occur by use of direct communication, personal intermediaries or technological devices, the policy body has to do it, if it's not them doing it, if it's a staff member doing it, it's okay. If you change is employed to involves, you would eliminate that potential loophole, and I don't think it would cause any harm that anyone would be concerned about.

>> Ed Rast: Does everybody understand away he's -- okay. Refined. Any comments? Lisa Herrick.

>> Lisa Herrick: Lisa Herrick, I don't have a comment about that particularly, but I just wanted to point out when staff looked at this again, we noticed -- wrong section. We'll get there.

>> Ed Rast: All right, so we're deleting the word "is employed" and substituting "is involved."

>> Lisa Herrick: I'm sorry, chair, wrong section but not entirely. One of the things that we noticed when we went through the definitions again is on section 1.7, the definition of council appointees. The last several words there say "and any other person appointed by the City Council pursuant to the charter. As it turns out there are a couple of commissions that are established by charter, Planning Commission, civil service commission, and the council technically poise those commissioners, those are not council appointees in a manner we were discussing them. What we are really getting, the City Attorney City Clerk, IPA, I recall how we got there, it's because we didn't want to exclude any other person who might be in the nature of the council appointees as we have listed.

>> Staff person appointed by the city? Because newspaper of the commissioners are paid positions.

>> Lisa Herrick: They get stipends so that gets a little dicey. Could I ask this question? Sit the intent as I understand it of the task force not to include Planning Commissioners, civil service commissioners, council salary setting commissioners, or any other commission set by charter? Then I'll fix it that way. I think that's a better waive handling it actually.

>> Ed Rast: What?

>> Lisa Herrick: To the extent that someone were added as an appointee, I think it would make sense to -- because there are a lot of places throughout the municipality where we talk about people appointed by the charter or appointed by the council. And I think it would make more sense to amend this section than trying to deal with this -- with the big net, we've talked about nets tonight so --

>> Ed Rast: On item 1.1, agenda, the description of the agenda is not consistent with the idea that we asked for a statement of exception to policy that we do later on. In other words, you've got -- hold on a second -- we passed a motion that said in the agenda description you would have any exceptions to policy stated as part of the agenda description.

>> Lisa Herrick: Yes, and that's in section 2.3.010 I think. You know, the -- it's your report. You can add what you want to add. We talked about the definition of agenda and you approved the definition of agenda. You're now saying that an agenda description should include certain things and it seems to me that that belongs in the section that belongs to the agenda description. But if you want to add it to your definition, have at it.

>> Ken Podgorsek: If you think it's helpful, put it in.

>> Lisa Herrick: We don't have this thing entirely memorized. 2.3.020 or 10? Excuse me, right. I was off by one number. And in fact it's the underlining, the underlined addition there.

>> Ed Rast: Bottom of page 20. Ken, what do you think, put it in?

>> Ken Podgorsek: It doesn't hurt.

>> Ed Rast: Let's put it in.

>> Sheila Tucker: Sheila Tucker I just would caution that you when we do add a requirement in multiple places, as the ordinance changes, there's, you know, more of a chance that there could be discrepancy in it. As you amend the ordinance. That's just a thought. We're happy to add it to both places.

>> Dave Zenker: Is it part of the definition is the question?

>> Ed Rast: Excuse me.

>> Dave Zenker: If it's a requirement it should be in the --

>> Ed Rast: We'll leave it off, that's fine. Okay.

>> Ken Podgorsek: We're easy tonight.

>> Ed Rast: Yeah, we're easy tonight. Is there any additional changes on the definitions? Tom Manheim.

>> Tom Manheim: Tom Manheim on 1.12 (a), (b) and (c), throughout there, we noticed that the section on meetings refers only to policy bodies. We would recommend adding ancillary bodies there, since they also pay hold meetings.

>> Ken Podgorsek: I would agree that's consistent.

>> Tom Manheim: We would suggest doing that. One other -- one other -- no, next section. No, I'm sorry, it is this section. Under policy body 1.14.

>> Ed Rast: You changed 1.12 (a), (b) and --

>> Tom Manheim: Wherever it says policy body we will just add the words --

>> Ed Rast: (c) 1, (c) 2, (c) 3, (c) four.

>> Tom Manheim: Under the meeting section acknowledge wherever it says "ancillary body, we'll add eye public body." 1.14 is policy body, under C where we -- and this is very similar to the last one that Lisa just mentioned where we talk about boards, commissions, committees, other bodies, we go through listing them. Then the last line, "or any other policy body." When we looked at that we're afraid that there will be an unintended consequence. And the best example I can give you is this task force. When you broke up into subcommittees, looking at this language, each of those subcommittees would be policy bodies subject to all the noticing and public meeting requirements. There's sort of an unintended consequence when you add the language, "any other policy body." You're saying any policy body can create more spoil bodies.

>> Ken Podgorsek: I see what you mean. Okay.

>> Virginia Holtz: I thought they were ad hoc committees which didn't need that.

>> Tom Manheim: But under this section, they could be policy body.

>> Virginia Holtz: You're recommending removing "or any other committees.

>> Ed Rast: Or policy bodies created by ordinance --

>> Lisa Herrick: That doesn't match with your definition of policy body though --

>> It becomes a circular argument though.

>> Ed Rast: 1.14 (c), the last five words.

>> Virginia Holtz: Me I move back to the previous page at the very bottom? Under 1.13, nongovernmental body.

>> Ed Rast: Right.

>> Virginia Holtz: It seems to me that when we were creating this definition here, under A, we were -- when we were talking about that contracting, we said excluding leases. And I think that we need to add that in there.

>> Excluding what?

>> Virginia Holtz: Leases, lease agreements. Is that correct? I was -- I got that out of the minutes.

>> Ken Podgorsek: Yeah, she's right.

>> Mr. Chair, Lisa has a comment.

>> Lisa Herrick: Lisa Herrick, I recall that comment, and also someone suggested the phrase "fully maintained" be included. Technically all of these are lease. Every entity that is occupying the city facility is leasing it. What you're trying to get at is not the sandwich shop in some city facility but whoever is occupying fully that city facility as opposed to some small-time tenants. So I think that was certainly my understanding of the task force's intent. If that makes sense to you then I think that's a good way of handling that.

>> Virginia Holtz: Thank you for clarifying that, Lisa.

>> Ed Rast: Okay. All right. Is there additional comments in section 1, definitions, on pages 8 through 14?

>> I'm sorry, Mr. Chair, James Chadwick.

>> Ed Rast: James Chadwick.

>> The definition of policy body in 1.14 (c), was that language other policy body at the end of that, was

that stricken?

>> Ed Rast: Wait a minute.

>> If that's the case then I would just suggest that the task force consider, not necessarily now, but at some point, whether standing committees created -- if you look at attachment 1 as the list of policy bodies, it's a much longer list than the list in 1.14 (c). Standing committees created by one of these policy bodies that meet on a regular basis probably ought to be giving public notice and complying with the requirements for policy bodies. So I would just suggest that a revision be made to add in standing committees created by formal action of policy bodies.

>> Ed Rast: Discussion.

>> Lisa Herrick: Lisa Herrick the council committees are on that list. The standing committees of the arts commission, the standing committees of the police and fire retirement board, the standing committees of the federated employees retirement board, those are I think all on that list but we can take a another look at it.

>> Are you suggest any standing committee of the city is on this list?

>> Lisa Herrick: As we understand it currently all Brown Acted committees and standing policy bodies of the city are on that list. In addition to all the other ones that would come under definition of policy body.

>> So right now, you have outstanding committees created by the City Council, the RDA, the other listed policy bodies in 1.14, is that correct?

>> Lisa Herrick: Well, what you're asking is, 1.14 (c), I mean, that doesn't translate. What I'm telling you is that that attachment includes to the best of my recollection, the standing committees of the council, the stancheon committees of a half dozen can miscellaneous councils.

>> If you've listed them consistently, that's one concern. The other concern I have is this list isn't -- there's nothing to say that all of these policy bodies are included under if definition of this list. Exemplary. .

>> Ken Podgorsek: Basically the bottom line is that if a policy body creates a subcommittee or a standing committee, if -- it would at the very least, if it wasn't defined as a policy body it would at the very least fall under the definition of an ancillary body and therefore their meetings would have to be noticed and recorded and minutes and the whole authentic.

>> So a committee that is created to serve as an advisory committee to a member, so that is any standing committee create bide policy body?

>> Ed Rast: You're talking about a councilmember, a mayor's transition team.

>> Ken Podgorsek: Evergreen task force, neighborhood council in district 3.

>> What you're referring to Ken, a board served to the member, not to the policy body itself. And I don't know that that's a distinction, but if it's not then perhaps the word member is what's a little confusing in there.

>> Tom Manheim: Mr. Chairperson.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: If I understand what Mr. Chadwick is suggesting, I'm wondering if just to say all boards commissions committees, standing committees created by other -- well -- or any other standing committee.

>> Lisa Herrick: The council committees are actually captured in subsection A or section A. The council committees fall under section A and we can identify all committees, we can say all boards commissions committees or other bodies created by ordinance and their committees. I think that's a better way of capturing that than than the hang at the end of that section.

>> Tom Manheim: So we would just change, "or any other policy body" to "and their committees" right?

>> Ken Podgorsek: And their standing committees?

>> And their standing committees. I don't think you need to have every ad hoc committee.

>> Ken Podgorsek: That's fine.

>> Ed Rast: Margie.

>> Margie Matthews: I hope I can ask about attachment 1 or ask a question about attachment 1, which is examples, and I think we should add, I know this isn't an inclusive list it is just as an example, but it will drive it home to the council and the listeners if we include the sunshine task force and I guess we're an ancillary body.

>> Policy body.

>> Lisa Herrick: Number 55.

>> Margie Matthews: We're already on there?

>> Ken Podgorsek: We're a policy body.

>> Margie Matthews: I think I mentioned this before, the sharks should be on there, should illustrate what they're talking about. I'm not sure where the mayor's transition committee would be, that's a real live committee.

>> It's under ancillary body.

>> Margie Matthews: Where why is the mayor's transition committee an ancillary body but we're not?

>> You're created by the council.

>> Margie Matthews: I can't understand why the tech museum and children's history museum, are policy bodies but the San José rep and the San José stage are not.

>> Lisa Herrick: Well, I can explain that.

>> Margie Matthews: Okay.

>> Ken Podgorsek: I'd like to have that too.

>> Lisa Herrick: We discussed that last time, but I'll tell you how that shakes out.

>> Margie Matthews: And the tech is considered policy body.

>> Lisa Herrick: If you go to your policy body definition and you go to section E-2 --

>> Margie Matthews: What page are you on?

>> Tom Manheim: Page 12, top, of the track-changed document.

>> Ed Rast: It goes everybody is -- then it's top of page 2.

>> Lisa Herrick: Now I've lost my -- all right. Okay, so E, and then you need to go to subsection 2.

>> Margie Matthews: Okay.

>> Lisa Herrick: At the last meeting there was a suggestion by the public meeting committee that that subsection E-2 be deleted because of the following mischief that I'm going to describe to you. The-to the extent that a group exists primarily to exercise authority delegated to it by the city, then they will be captured as a policy body. And we had a big discussion about Team San José. Which is something that we kept latching onto I think throughout all the discussions. Bob Brownstein brought up last time that there would actually be other groups would be captured, those groups have been identified and listed for you. Again, this is not exhaustive but this is as close as we think we are. So there are groups that exist only because they are either -- because they bid on an RFP, to fulfill city services and that's why they exist in the first place, or they really exist only because they are functioning in a city facility, which is where Mexican heritage corporation comes in, TAC, San José museum of art, children's discovery museum and museum San José. You asked about the sharks, reign management corporation was formed and exists primarily to exercise authority, managing and operating the arena. But --

>> Margie Matthews: And incidentally because these are policy bodies they have to adhere to all features of the Brown Act.

>> Lisa Herrick: Beyond the Brown Act, really.

>> Margie Matthews: So we are opening up all these meetings.

>> Lisa Herrick: Right. This is what was decided at the last meeting. The somewhat arbitrary result is, and I'll even move away from the arts groups, but you'll see that 72 and 73, Norcal waste systems of San José and Greenteam of San José are policy bodies because they don't have any other client but the City of San José and they were created to respond to an RFP. On the other hand, if you get onto nongovernmental bodies Greenwaste recovery happens to have another contract, like capitola and Aptos. They don't exist because of San José. Inmates but Norcal wasn't formed to --

>> Lisa Herrick: They were created for San José. The two theatre companies are not dependent on -- if we took the rep away from the -- the facility away from the rep it's likely that they could hold plays elsewhere. But San José museum of art and the other museums and -- I'm just telling you, this is the best analysis that staff has been able to do. It's arbitrary, it's random. I don't like it. But this is -- this is -- that's the explanation.

>> No, it sounds like you've taken the organizations that existed before they got a city building given to them. That's the difference. The tech didn't exist before they had a building.

>> Lisa Herrick: The tech and Mexican heritage foundation existed in some form, but not in their current form without the buildings. You're right, but sort of and that was the analysis.

>> Mr. Chair.

>> Ed Rast: Yes, James Chadwick.

>> James Chadwick. Just to comment on this. I think we're turning on the definition of what it means to exercise authority that has been delegated. I don't think it was the intent of the task force, I don't think it was the purpose of that language to say that anyone who provides services to this city is delegating work to the city. Pursuant to a contract that they exist primarily to exercise authority delegated to the city. There's more to exercise of delegated authority than merely providing services. Now where exactly you draw that line, I'm not sure. But there is legal guidance on this so it's not as if we're existing in a vacuum here. A cable television provider, the city delegates authority to operate local systems such as community television program. A company that collects fees for public improvements in the business improvement district, there's more going on there besides providing services. If you look at the legal guidance, there's a place to draw that line somewhere other than just providing services.

>> Has this been voted on?

>> Over and over and over.

>> What's the issue?

>> Margie Matthews: If you look at attachment 1 based on the discussions the task force had last meeting, a whole lot of nonprofits and the sharks and the arena management are now policy bodies. This is a consequence of the direction to staff. We don't need to go over it again. I registered my opposition to it. It's just it's going to be very, very, very difficult for the council to figure this out all over against.

>> Ed Rast: Yes, go ahead.

>> My name is Terry Boyle. I'm the deputy president and chief financial officer of the tech museum of innovation. The tech 100% supports the 10 goals being discussed here today of the Sunshine Reform Task Force. We do have a difference of opinion as to why the tech museum is considered a policy board. The tech museum does not exist primarily to exercise authority. It has been delegated to it by a policy board. There was a spirited competition between the cities of mountain view, Sunnyvale and San José early on. San José won out. Type of activity, we do have a 55-year lease on the building but that's about it. We are not a spot board. Subjecting the tech to the Brown Act and everything else required of it here in my mind is just outrageous and a tremendous overcorrection of a problem here. So I understand Lisa your definitions and the best one type of activity, but I just want to register from the tech standpoint,

we do support the sunshine but we do not support the classification of the tech or the activities under that.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. I want to point out, I don't think it is the direction of the task force to put these in under the policy body. I think Mr. Chadwick's explanation of why they're not a policy body is exceptionally valued. I think legal staff is overinterpreting, you know, and if there's a way to describe the intent of the task force better in this section, I would certainly be open to that language, because it's certainly -- I certainly don't want -- I don't want to revisit that whole conversation again.

>> Ed Rast: Dean Monroe.

>> Hi, Dean Monroe, mayor's office. I somewhat agree with Ken. When this goes to the council, a lot of these conversations will be held over again. They'll have the same reaction as this gentleman and I'm sure they'll be additional discussion. I recommend you go forward, you've done your best and discussed this from hours, from every conceivable perspective. At the next round, there will be adequate chance for these folks to provide their input, perhaps there will be or won't be changes. Stay with it please and don't reshape it.

>> Ken Podgorsek: Mr. Monroe, in Webster's dictionary, next to ad nauseam, there is a small "SRTF." We discuss everything in incredible detail.

>> We always say that's not our intention and it doesn't change.

>> Ed Rast: Is there anything else in this one section? All right, so section 2, public meetings.

>> Dan Pulcrano: I wanted to bring up on pages 17, 18, and 20, the per-year, after thinking about this, I believe even more strongly that Mr. Chadwick has caught a very important loophole in this ordinance, which is, for example, let's take two subsidies. Let's say one's for \$1 million and one's for let's say \$1.5 million. One of those subsidies would be subject to the early notification requirement if it fell into a fiscal year. However, if it was 50% or 80% larger if allocated on a calendar year basis would not be subject. In fact you could do a \$4.5 million subsidy and not have to do an early disclosure on it, I could come up at the last minute if it was \$4.5 million simply by saying it was spread over a five-year period. It was \$900,000 a year for five years would be exempt from early disclosure, whereas the million dollar, simply because it was confined to a year would be under the requirement. I would propose we simply remove the per year. And say if they're spending \$1 million, it should be subject to the early disclosure.

>> Ed Rast: Karl.

>> Karl Hoffower: My question would be, is that if you take -- if you remove these years, "per calendar year," then someone who gets \$500,000 a year or let's say they get \$50,000 a year, and ten years later, does that trigger it or do we think that they'll be doing business for ten years and they'll be getting 50 grand, how many years does it extrapolate when you hit that dollar amount or is it because you're accepting a subsidy sometime in the future that you can get it?

>> I agree, they can value the contracts on a five-year, \$5 million, or a five-year \$4 million contract, would it apply under that or not? I actually like your earlier language, that says fiscal or calendar and not necessarily say you're doling it out every year.

>> Dan Pulcrano: My read on it, someone can correct me if I'm wrong, each time they voted, if someone, unless they get three half-million-dollar subsidies, each time they came up they would have to go back to council. That would be the check, they would require multiple votes and there's more than one bite at theam and see that they're coming back for more money.

>> Tom Manheim: Tom Manheim. If we start a contract with somebody and it's under a certain amount and over time the amount of the contract is increased until it hits a trigger level where it requires council approval, it goes to council. So it's not a time issue for us, we track those things.

>> Ed Rast: Earlier, Virginia made a comment about having it fiscal year rather than calendar year. That's easier to track. Scott.

>> Tom Manheim: Whatever you direct us to do, we'll do.

>> Ed Rast: We're not talking per fiscal year, right? Okay, great.

>> Dan Pulcrano: I'll make that as a motion if anybody wants to second it, that we would removing the time requirement if it's over \$1 million.

>> My only question, I kind of agree with the logic actually. My question is, when I'm reading it, I'm reading it as an item. When I'm reading it I'm reading it as an agenda item. Maybe we can clarify that language a little bit. It states there's a trigger. I'm very concerned about the stacking issue. I like it better that if -- once it hits a \$1 million trigger it's no longer applicable. If we can find a way to clarify the language I fully support that motion.

>> I understand that, Lisa.

>> Dan Pulcrano: Mary Ann is concerned about stacking, items adding up to more than \$1 million.

>> Lisa Herrick: We had this discussion last time, that's why we talked about in a year. So if you're talking about a contract that, you know, \$8 million but it's over eight years, that's not a good example. Over ten years is a better example. Then my understanding, Bob's intent was that that would not, at least in the public subsidy discussion, that that would not be what he was trying to get at. He meant on a per-year basis, that's my recollection. I think that's what Mary Ann tried to address at the time. Trying to remember the meeting, it was the calendar year issue.

>> Mary Ann Ruiz: I was mainly concerned about the stack issue, of bringing forth different items.

>> Ed Rast: If I remember correctly one of the items was, Dean you can correct me, our overall commitment was about \$2.5 billion --

>> 3.2 billion.

>> Ed Rast: If we get into a lot of million here, million there, you're going to spent a huge amount of time here. Dean.

>> If I'm understanding the dialogue correctly, under 2A, on the question of what Getz posted early, if I'm not mistaken, almost everything is posted four days early. Can't we take out the language and say everything that's over a million dollars has to get posted?

>> that's what we're doing. We're taking out the year requirement.

>> Ed Rast: Does everybody agree? Brenda.

>> Dan Pulcrano: 17, 18, and 20, I can show you.

>> Would you give us the specific paragraph designation, so we're sure we have it, Mr. Pulcrano, could you please give us the specific paragraphs rather than page numbers?

>> Right, absolutely. Okay. The first one is at the bottom of page 17C. We're removing the language that says per year. At the top of page 18, D, first and second line, we're removing per calendar year. And on page 20, 2A, same thing, remove per calendar year. I think I caught them all. Did anybody else see any others?

>> Virginia Holtz: There's one on page 31.

>> Dan Pulcrano: Does anybody have a PDF we can search?

>> Virginia Holtz: Page 31, 3.5 (b).

>> Ed Rast: We need to find them.

>> Ken Podgorsek: We can do a sweeping motion.

>> Dan Pulcrano: Thanks, James. I think we had consensus. I don't think anybody objected to it, did they?

>> Ed Rast: On page 17, let's get the number here. It's 2B, going down page 17, VIII. Items heard by a

council committee that require a full council action such as, and when you look at this, the number B which is the time sensitive issues. In effect what you've done is, in 8 and B it almost repeats itself. The time sensity issues are emergency funding and A, C and E. If you took B and renumbered them and made -- so it reads --

>> Ken Podgorsek: You're suggesting deleting B?

>> Ed Rast: Deleting B and taking the B and make it time sensitive items discussed at council committee that require full council recommendation, such as A, C, D and E, just renumber them.

>> Margie Matthews: A, for example, pay come directly to the council and not go to a council committee, if it's an emergency repair. I think this captures it.

>> Ed Rast: To me, if you're going to do it this way then you've got to define the definition of what's time sensitive items. It opposite up a whole new section.

>> The Clerk: I think I can help clarify. B should probably followed by a colon, C, D and E should be after B. We were asked to define what kinds of time-sensitive items would come to committee.

>> Ed Rast: C? D and E would become 1, 2 and 3.

>> Ken Podgorsek: That makes sense.

>> The Clerk: Can I explain it. Time sensitive items that require full council action on the committee's recommendation, colon, indent, 1, 2, 3, these are examples of time-sensitive items that would go to a council committee, like specifically rules.

>> Margie Matthews: But E doesn't come out of a council committee. It may come out of closed session. I don't think it comes out of a council committee.

>> Ed Rast: But it has to go to a council committee?

>> No.

>> Ed Rast: We're fine. We'll just redo that. Okay. Anything else on -- let's see --

>> I have one other things, Bill Robin son, San José Mercury News. Additional memos where additional information has been received after the initial memo was received, I apologize, I wasn't here for your discussion, what's the intent of that?

>> The Clerk: I'd be happy to jump in. Tom, supplemental memos generally refer to things like from the Planning, Building, and Code Enforcement, an item will go to Planning Commission but all of the information relating to that land use item has already gone out in the council agenda and then Planning Commission hears it so planning staff will put out a supplemental memo, saying this is what the Planning Commission did on this particular item, this is their recommendation. Another example of that is a memo goes out, it goes out in the packet, you know, the 13 days ahead of time, and after that point, staff gains new information that they want to share with the council before they take their action so they'll issue a supplemental memo sharing that additional info, it is not something that changes substantially the recommendation but it's just additional information. Add something Tom?

>> Tom Manheim: If there is any substantive change at all they just get pulled and reagendaized. They are minor things that are clarifying. They're not expansive, they don't change recommendations.

>> I wonder if it would be clarifying to add words you just used, minor, not substantive, something?

>> The Clerk: I'd just like to point out. This is definitions that the rules committee and the council have already approved. So all we did was embed that into this report.

>> Supplemental memos come out any time or there's a time limit as well?

>> Ed Rast: There's a time limit?

>> The Clerk: If there's a significant change we're going to pull them and defer it.

>> Joe Horwedel:.

>> Virginia Holtz: We could put the word between additional information, say additional clarifying

information. Would that do it for you, Bert?

>> The Clerk: I'm sorry, it doesn't cover the Planning Commission. Planning Commission is additional information.

>> Karl Hoffower: I recommend leaving it alone. I think I understand what a supplemental memo is. It's just part of the process.

>> Can no one leave?

>> Ed Rast: We're going to have to stop if someone leaves.

>> Ken Podgorsek: One of us can leave at a time. Out of the nine members, no buddy system, guys.

>> Virginia Holtz: We can have all of the discussion we want, it is just in the making and passage of a motion.

>> Ed Rast: Hold on a second. Public meetings. We were already in it so we were talking on 17. We've looked at 18. So we're looking now at 19, 20. And then we're -- I'm sorry? We're --

>> Ken Podgorsek: We're on public meetings.

>> Ed Rast: Is there any additional comments on public meetings?

>> Before we pass on public meetings --

>> Ed Rast: James Chadwick.

>> Excuse me, James Chadwick, Mr. Chair, can I make a comment, bottom of page 19, this provides for special meetings on four days, four calendar days notice. There's no definition of special meetings. And I don't believe there's any need for special meetings. I don't believe this provision should be in the ordinance at all. Because there is already provision in the ordinance for emergency meetings. If there's any kind of emergency, and as you can see, this is an action by a policy body is also on page 19, they can take action on shortened notice under the Brown Act and under the ordinance to address any kind of emergency that arises. A special meeting is just a way to get around the normal ten-day notice requirement. There's no other need for it.

>> Ed Rast: Go ahead, Karl.

>> Karl Hoffower: I defer to Sheila.

>> Sheila Tucker: I just point out that on several occasions we've set special meetings.

>> Karl Hoffower: There's no emergency, just give ten-day notice. Why have --

>> Why have the meetings between the two meetings?

>> Margie Matthews: There accommodation a time when you want to get your work done. It's not public emergency but you want to get your work done in an expedition way. I want to remind the task force we are not going to discuss content, we already had the discussion.

>> Ken Podgorsek: We agreed with that, looking in the minutes.

>> Lisa Herrick: Mr. Chair, Lisa Herrick. On the topic of emergency meetings, we also noted, staff noted that the provision for emergency meetings is missing from the ancillary body section, and you may want to allow ancillary bodies to be able to hold emergency meetings as well. I don't know if that was an oversight but it's not --

>> Ken Podgorsek: No, I actually remember that discussion. We decided that we couldn't come up with a good reason why an ancillary body would have to hold an emergency meeting. And since their entire requirement is four days' notice, why, what's the big thing?

>> Lisa Herrick: I recall Mr. Balagso talking about the gang task force and the work they've to do on short notice, critical decision that were made in terms of gang violence and mobilizing different groups. So I think there has been discussion at the task force about some emergency-type situations.

>> Karl Hoffower: Mr. Chair. Under ancillary bodies section 2.3.020, special meetings, they have the ability to call a 24-hour special meeting so it's a moot point in my opinion.

>> Ken Podgorsek: That's true and that's where it came from. I still have a very hard time. Accepting that example.

>> Ed Rast: Let's move forward. Any additional items? Are we finished then with section 2, which is public meetings? Additional comments? Okay, so we're at section 3, closed session.

>> Lisa Herrick: Mr. Chair.

>> Ed Rast: Lisa Herrick.

>> Lisa Herrick: On reviewing it again, I noticed the section concerning the early involvement process in labor negotiations was not included in the closed session section. And it should be somehow. And I intend to make that. But that's something I noticed an omission when I was going through carefully again.

>> Ed Rast: You're talking about labor negotiations?

>> Lisa Herrick: I think the section is early public involvement process, yes.

>> Ed Rast: That was one of the ones we were going to bring up.

>> Lisa Herrick: That's already on our list.

>> ed, I apologize, one thing that was confusing, 2.7 B, there is a section here where you say any group of two or more persons that wishes to make a public comment, must be permitted to speak for a maximum of four minutes. The reason it's confusing there to define I think an A time for groups when you haven't defined any amount of time for individuals. Do you guys intend to define a amount of time that individuals are allowed to speak? You shouldn't be defining any time or you should be defining time. That would be my suggestion. I say individuals three minutes, groups four minutes. Whatever you guys want to do.

>> Ed Rast: Tom Manheim.

>> Tom Manheim: I believe four minutes was arrived at because currently the standard amount of time was two minutes so if you want to change that to double the amount of time allowed for individuals or something like that would be a way around that.

>> Ken Podgorsek: That would actually make it more --

>> I remind the task force this wasn't an original reform propose, it was recommended that the task force increase the speaking time for certain individuals or groups from two to four minutes. Currently it is at the discretion of the mayor for council meetings and typically we allow two minutes. But that can be extended upon the determination of the chair.

>> Mr. Chair, James Chadwick. I would just make a point that at recent council meetings, public comment at some meetings has actually been limited to one minute. There's currently no lower limit. The mayor can -- the presiding officer, the mayor can set it at whatever the mayor decides. Now, constitutionally there's probably some lower limit. And I frankly doubt that a minute is sufficient. I don't think anybody can say something intelligent in a minute, I can't say something intelligent in ten minutes but there are other people that can speak more acutely than I. I would say as a default, three minutes at a minimum.

>> Virginia Holtz: I would say a minute of three minutes, or a maximum of four for groups.

>> Ed Rast: Comments, discussion.

>> Ken Podgorsek: You Mo, Mr. Chair, I was wondering if we might, instead of using the word max, use the word minimum, instead of a floor, make it a ceiling. Public comment would be a minimum of two minutes, and where it says here is a minimum of 4 minutes, if somebody wants to yield their time to somebody else. That way, that way we give discretion to the council, should they want more public comment. Which I won't hold my breath.

>> Ed Rast: Margie.

>> Margie Matthews: I don't think that recommendation would be accepted. But it's probably not wise to do that. There are some evenings that the chamber is packed. And if -- if they're not held to one minute --

>> Ken Podgorsek: One minute, though? I know what you're saying.

>> Margie Matthews: Reduces the effectiveness of the public hearing.

>> Ken Podgorsek: I actually understand there's something in the Brown Act that doesn't allow to you do that. I can't remember, but I remember that at some point, limiting public comment to under 2 minutes may be a violation -- I have a sneaking suspicion it's a violation of your free speech rights but I think it may actually be another thing. That's not the issue before us so I don't know.

>> Ed Rast: I think the point is well taken that if we're going to put four minutes in there we need to take a look at what it is. I'll tell you, if you think bit just from a practical point of view, you have people spend 15 to 20 minutes to get to City Hall, they sit there and listen for an hour to whatever the conversation is and then to be limited to one minute for public comment, I just have a real problem with that. And I know other people have had, there has been three or four cases recently, Dave Zenker was limited to one minute just the other day. He wasn't happy about it.

>> Dave Zenker: Dave Zenker. The agenda item before ours was 20 speakers, the agenda item on ours there was 30 speakers. I didn't blame the mayor. But a consensus up at the dais, amongst the people sitting up there, seriously I just felt like there was just a lot of really wasted time up there. And I feel like if they're going to reduce public participation then at least make your comments succinct and be prepared. So I would -- the only reason I'm speaking right now is to encourage we move on. I don't think we'll fall on this right now and putting minimum time limits right now isn't going to go well with the council. I think we should continue pushing forward potentially later as a sunshine commission.

>> Ed Rast: You want to move forward then?

>> Virginia Holtz: Leaving it as it is.

>> Ed Rast: Do you want to make a motion on it?

>> Virginia Holtz: Let's just leave it.

>> Ken Podgorsek: I'm ready to.

>> Ed Rast: Move to closed session. Section 3. Okay, closed session.

>> Margie Matthews: Just a question on this. I've noticed, and I keep looking for confirmation, if some of us vote no on certain things, that's just the way it goes, and it's not noted here, unless we file a minority report.

>> Ed Rast: That's correct. You have the option of doing that. Okay. On 3.6, on disclosure of closed session, discussions and actions on page 31. They're on February 24th, page 3, there was -- it read the report of the closed session decision must include -- for real estate, we're talking about real estate, the report of the closed session may include the disclosure of real estate funds not disclosed previously for that purpose, it was a motion put forward and voted upon. I didn't see that anywhere in this disclosure, no real estate at the disclosure. Lisa Herrick.

>> Lisa Herrick: The disclosure section you're looking at is as you said disclosure after closed session.

>> Ed Rast: Right.

>> Lisa Herrick: The requirements that the task force agreed to shake out in section 3.4 (a) 1 on page 30. As well as --

>> Ed Rast: That's discussion before the session.

>> Lisa Herrick: What you're referring to is discussions before the closed session, not discussions afterwards.

>> Ed Rast: No, it does both. First paragraph of it says, February 24th, page 3, halfway down the page it reads that the committee recommends in addition to limiting closed session discussions about real estate, if the funds are not budgeted for these purposes, they are to be discussed in closed session, the possible use of these funds must first be disclosed in open session.

>> Lisa Herrick: Right, before the closed session.

>> Ed Rast: Okay, then the second sentence says, the report of the closed session decision must include a full disclosure of the use of any funds not previously budgeted for that purpose and the full disclosure of the opportunity cost of those funds. Yeah, the report of the closed session decision is after the fact. So you have to do one thing before, and one thing after. And we don't see the after in 3-6 for real estate. We see that the before is 3 --

>> Lisa Herrick: I know exactly where you are. Let me read this.

>> Ken Podgorsek: She just needs to go through it.

>> Lisa Herrick: Okay. I don't disagree that this is what the minutes say. If that's what you want, that's type. That's not really what I understood the intent of the task force to be to be. I believe that the intent of the task force was that -- that the requirement be that the discussion take place in open session, before the closed session.

>> Ed Rast: Right. But what happens sometimes is that they'll go into closed session and then there will be further discussion about additional funds that were not discussed prior. And come out of it. And therefore they've got new potential sources. And I think the example that Mary Ann used was potentially measure P funds for the soccer stadium.

>> Lisa Herrick: I recall all of that. That was not my understanding but I hear -- I mean I recall the discussion is why I cut you off. I remember away you're talking about. If the intent is the report out as well, we can at that, done.

>> Ed Rast: 3.6 (a), then numbered, number 6.

>> Lisa Herrick: Right, I'll figure out where it should go.

>> Thank you Lisa.

>> Lisa Herrick: Uh-huh.

>> Ed Rast: James Chadwick.

>> Mr. Chair, just on that same topic about items that were identified for reporting regarding closed sessions that don't seem to appear in the draft phase 1 report. Discipline of council appointee, and that's in the minutes from February 24th, 2007, at page 2. There's a provision in there that relates to public employees, it's verbatim from the Brown Act, there is no provision which discusses what this task force decided on, which was to report out on the identities, the discipline and the reasons for discipline in a council appointee was disciplined. It's kind of unlikely, I don't know if that's ever happened but the task force didn't want it in there as far as I can see. One other item in the November 18th, 2006 meeting at page 7. The task force says appraisals used in the condemnation of property should be disclosed after the deal was finalized. Again, I don't see that anywhere in the phase 1 report. And because I can't help but elaborate, I wouldn't restrict it to appraisals used in condemnation.

>> Lisa Herrick: Could you give me the dates?

>> I can look it up again but it's November 16th, 2007, at page 7.

>> Lisa Herrick: Thanks. I have what the task force, I have the motion.

>> Ed Rast: One of the questions I had is, in the in a number of these motions we talk about council appointees and then later we talk about public employees. Remember, we talked about the idea that many of the times we were talking about not the employees under the City Manager's office. So I guess what we're talking about, since the City Manager does those, those are not discussed in council closed session?

>> The only employees are the council appointees. The six council appointees.

>> Where are you?

>> Ed Rast: Page 32, action taken to appoint employee discipline, a discipline of a public employee in

closed session. We have a couple of instances when in effect you're talking about council employees.

>> It's number 4, page 32.

>> Ed Rast: What I'm thinking this is, it could be somebody under the City Manager.

>> If you want to change that you can. I don't think it makes a difference on the point of view of the city's ability to understand the intent. There is only to my knowledge six employees to go on. Approximate.

>> Ken Podgorsek: Let me ask a question, does the City Manager ever meet with the specific employees underneath the City Manager?

>> Tom Manheim: I don't believe they do. Lisa, I'm sorry, I didn't know whether you heard that question, it was a question of closed session, whether the city would meet to discuss the discipline of the employee?

>> Ken Podgorsek: It only covers the people hired under that. It would be only those six people.

>> Are you making things so narrow that you're potentially precluding something out in the future or --

>> Ken Podgorsek: Leave it, I think we talked on that.

>> Ed Rast: Section 3.

>> This is on limitation of designation, place 29 right now. I think there's just a wording issue, I think the task force's intent on the Real Estate negotiations was to make clear that the only person, his restriction to the negotiator, the way this is written, it says, you can discuss these two things, would I suggest this is actually closer to the wording of your original motions. Real property negotiations, a policy body may not address any other subjects than instructions to the negotiator as to where the money is being deposited, January 18th, 2007, page 3.

>> Does anybody object to that?

>> I need a minute.

>> Lisa Herrick: The parenthetical, I recall, is part of that motion. I do recall significant discussion about that.

>> Tom Manheim: Tom Manheim, if I could refresh the task force, it is impossible to talk about a real estate action regarding the potential That does affect the value and the task force did discuss that fairly extensively. I feel like I'm passing on the ghost of Dan McFadden who is not here today,.

>> Does anybody have any other changes to the report before we move on to the next agenda item?

>> Virginia Holtz: We're paying attention.

>> Dan Pulcrano: Mr. Chadwick.

>> James Chadwick, thank you, Mr. Pulcrano. With respect to section 3.3, I have a concern overall about subdivisions B and C. The the overall concern is that the listing of these topics and the listing of these authorities suggest that the authority of the -- of policy bodies or ancillary bodies to meet in closed session, under the sunshine ordinance, would actually be broader than it would be under the Brown Act. And controversial discussions --

>> Dan Pulcrano: What page are you on James?

>> 3.3B and 3.3C. 3.3B is -- list of authorities. 3.3 (c) is topics. The task force clarified its intent which was, you know, any listing like this was not intended to expand the scope of topics that could be addressed in closed session. But that cautionary language is not in here. Would I suggest for the most part these two provisions are strictly, they're just unnecessary. They could be easily addressed by simply saying that except as otherwise provided in this chapter, closed sessions of policy bodies may be held as permitted by the Brown Act or any other provision of state law that authorizes closed session. This long listing creates confusion and it's going to suggest to people who read the ordinance that a closed session is proper when it may not be.

>> Ed Rast: Lisa.

>> Lisa Herrick: Lisa Herrick. Ed Davis and I were very clear about the fact this was not intended to expand anything that is permitted under the Brown Act at this point. Having said that, I agree with Mr. Chadwick that this is really unnecessary and I really didn't like writing it and deleting it would have no --

>> Would make you happy.

>> Lisa Herrick: It's -- it doesn't really have any proper place in an ordinance like this, I don't think, but there was some discussion about the fact and there was a motion, I could find it if you wanted, that you wanted the task force deregulated that the policy bodies be listed, those that held closed session now be lifted and the authority under which they do be lifted, and so I did it.

>> Ken Podgorsek: Can we change our mind?

>> Dan Pulcrano: Based on a legal opinion?

>> Ed Rast: Mr. Chadwick.

>> Thank you Mr. Chair. 3.3 (a), no dispute about this. It's nice to know, this body can hold a policy body, and this one can't. The rest of it really does not except with respect to the portion that Mr. Robinson was referring to where it implementation the task force's recommendations for some narrowing or some very precise definition about when real estate matters can be discussed in closed session. Or what kind of real estate matters can be discussed in closed session.

>> Ed Rast: Your point is to replace B-1 through the end well,.

>> Yes, and R, perhaps put C as something like it and pride for closed sessions to be head, that the bodies listed in 3.3 A can hold closed sessions under the Brown Act.

>> Could you maybe make a specific suggestion, that we could react to?

>> I will, I will. I would strike all of 3.3B.

>> Ed Rast: B 1 through 8, strike. I would strike 3.31 C-1 and C-3 through C-15. And I would add language providing that, except as otherwise provided in this chapter, closed sessions of policy bodies permitted by this section to conduct closed sessions may be held as permitted by the Brown Act or by other provisions of state law expressly permitting closed sessions by such bodies.

>> It's in his memo that he passed out.

>> Dan Pulcrano: Lisa Herrick, are you okay with that?

>> Lisa Herrick: This is your report, you need to agree with it. I thought this was unnecessary, I just said that a few minutes ago.

>> Dan Pulcrano: Does anybody have objections?

>> Ed Rast: Let's make a motion --

>> Dan Pulcrano: We don't need a motion. Does anybody object and move to strike? All right.

>> Ken Podgorsek: We just took Real Estate.

>> Ed Rast: C-2 would be in. It is going to be B, there is something that is an inherent nature.

>> We have about 15 minutes to go. Circulate we be prepared to stay until 9:15 or so?

>> I can't.

>> Ed Rast: We already covered 3.6 and so is there anything else on section 3? Okay, so we're finished with 3. Public information, is there anything on section 4? I got lost here.

>> Ken Podgorsek: Ed, what's the section on appealability? No, it's appeal items of significant community interest. As defined in council policy Section 30.

>> Lisa Herrick: It's in the public meetings section, 2 --

>> Ken Podgorsek: Lisa, I saw it. I believe it's there.

>> Let's go back to 4. Okay.

>> Ed Rast: On 4.2 B, communication, okay. The -- when you get down in the second last line it says

half-way over it says in the discretion of the council board or commission, communications center received in the last three business days, must go, clearly designated then it says after the documents have been on file for 48 hours after they're received they may be removed. Maybe I misinterpret that but the concept of receiving a document from the public and then at the discretion of the council, board or commission, pulling it out of the chronological file, doesn't make sense to me. Am I misreading this?

>> Lisa Herrick: Yes. I believe your comment was to remove the clause from the council, board or commission. But if that's not your intent then you're already -- that sentence in the beginning already says they may be removed and if you take out that clause, it says they maybe removed and placed in a chronological file. If you are requiring that documents be on file for more than 48 hours before being removed you should change it that way.

>> Ken Podgorsek: Lisa can I try something for you? Ken Podgorsek. I think more importantly is, you have it in the public file that's for 48 hours. You then place it in a chronological file, giving us the feeling that it's going to be taken out of the 48-hour file, if a council board commission whatever decides that they don't want it anymore, it hits the circular file.

>> Ken Podgorsek: Not removed, replaced.

>> Virginia Holtz: I say moved.

>> Ken Podgorsek: They could be placed in the --

>> We could certainly change it.

>> Ed Rast: I'm sorry, didn't hear you tom. Go ahead.

>> Tom Manheim: If that's the feeling. We can move it.

>> Ken Podgorsek: we not use must.

>> It could be aggressive or mandatory, it's a terribly misused word.

>> Dave Zenker: Just one other thing, Mr. Chadwick caught it as well. We had gone round and round and round about labor negotiations, I was one of those people who heavily participated in their, we came up with the idea of the annual study session, I don't know where that needs to repair but --

>> I said I left it out and I'm going to fix it.

>> Ed Rast: It's going to appear at 4.6 or somewhere in there.

>> It was a closed session provision. I don't know, it's discussed in the contell of one really.

>> Ed Rast: In the April 5th minutes page 2, it makes sense to put it in public outreach section somewhere. So you can say,, 000, be it's an already renegotiation public section --

>> Ken Podgorsek: It can be under C.

>> Tom Manheim: Or public information if that's --

>> Ed Rast: Okay, anything further on section fourth? Attachments 1 --

>> Lisa Herrick: Excuse me, Mr. Chair, Lisa Herrick, I wanted to let you know there are a few more nongovernmental bodies who fit the current definition, beyond those listed in attachment 1. And they are up on the screen. But it's raging waters,.

>> Virginia Holtz: That's us, isn't it?

>> Dave Zenker: There is a guy named Mike Rowitzer.

>> Lisa Herrick: Mike Rowitzer corporation. He operates and manages the San José Muni golf course. And attachment 1 has courseco Llc. And Los Lagos golf course, and rancho dell pueblo golf course.

>> Ed Rast: Marjorie and Dan Pulcrano.

>> Margie Matthews: Question on the minority reports, there was at least one -- I think there are two minority reports submitted, or four altogether and only two here.

>> Ed Rast: We're on attachment 1.

>> Ken Podgorsek: Mr. Chair, one quick comment. I want to echo Margie's earlier concern. I think items, I think Mexican heritage tech museums and I'd like to have staff reconsidering, San José museum of art, children's discovery museum aren't policy bodies.

>> Tom Manheim: Tom Manheim. We have done our best to analyze the language and the intent that you have given us. If you don't want these, you need to either give us specific language that says accept these particular ones are not policy bodies, or you need to somehow clarify the distinction. Because this is our best effort to interpret the language as we understand the intent of the task force.

>> Dave Zenker: I'm recommending we just move on and let it be hashed out in rules.

>> Ken Podgorsek: Okay.

>> Ed Rast: Dan Pulcrano.

>> Dan Pulcrano: I see tremendous public utility capital potentially being expended on this, because this is going to ignite all these groups who are going to appear and it could significantly detract from our work, that's my worry. I think we need to go through what the effect of these various sections are and make our own determination. Because I would disagree with -- I think this is some interpretation that went into these decisions. I think Tom is right, we do need to clarify. I think other things about omitting this attachment, and then having if opportunity to spend a little bit more time on the specifics.

>> Tom Manheim: Tom Manheim. I don't think staff could, in good conscience, put forward something and withhold a document that we believe helps inform the council's decision. I mean, I'm not trying to be difficult, but this is our -- well, let me rephrase it. If you don't want to put this forward I think staff would feel as part of due diligence informing the council, we needed to let them know what we thought it covered.

>> It's very possible they would ask and get the document later.

>> Karl Hoffower: Karl Hoffower. One thing we did go into excruciating detail is what is or isn't a policy body. They should look at our ordinance or our recommendation with the definition, and then plead their case, then if they fall within it immigrate, if they don't, they don't. It doesn't have to do with if your name got thrown on that list or not. It is per the definition what you actually are, as defined by the phase 1 of the report, so it doesn't matter.

>> Dean Monroe, I agree with Karl. You've spent hours going through this. I think all these nonprofits and entities will descend on the mayor's, the council committees, and the rules committee. I think at this point you'll need to go forward and try to wrap it up.

>> Ken Podgorsek: Mr. Chair, can a task force with this report send forward a note that we don't believe that these qualify as policy bodies and we disagree with staff?

>> No. If you're in the definition and you fall within it you're this. If you don't, you don't.

>> Ken Podgorsek: I don't think they fall within the definition. As I read the definition, I agree, I don't think they exercise authority, I don't think they fall within the definition.

>> Karl Hoffower: Even if we said that it wouldn't have any meaning. Ken goes back to, you fall within the definition or not. If you don't fall within the definition, then you don't.

>> Ed Rast: I think it will be worked out between the staff and the council.

>> Lisa Herrick: Lisa Herrick. Minority reports, Ms. Matthews referred to four, we do have two. We received more reports this evening.

>> Margie Matthews: Seems to me there was a minority report, the subcommittee did some work of and the larger task force changed it somewhat. I believe I remember seeing a co-signed report from that same subcommittee, where there was a letter filed as a minority opinion. Maybe I'm wrong.

>> Ed Rast: Karl.

>> I'm curious, was that as part of the community or task force?

>> Margie Matthews: doing it as a member of the business community.

>> Do you have the earlier one I sent because I forgot to bring a hard copy.

>> Karl Hoffower: I have a question then. There were things I disagreed with. I thought we only had the ability to submit a minority report --

>> Could you submit a minority report on any item I were dissenting on.

>> To paraphrase all did I was pipe into Margie's minority report opinion and express that I agree with her and I also agree with Bob Brownstein's opinion.

>> Ed Rast: Anybody who voted in the minority on a particular item, can submit a minority report.

>> Ed Rast: we have to approve it that way.

>> Margie Matthews: Could I ask staff to e-mail the minority reports? I don't think I've received all of them.

>> I seventh over one that was very short earlier and I forgot to bring a copy of it. I started to work on this one with an attachment, and that's where my focus was. Do you have it? It's not very long.

>> Ed Rast: Why don't you and Sheila work it out.

>> Would you like me to read it?

>> Karl Hoffower: It's my tush to talk right now. I have a problem as a sunshine committee that we set this code of conduct that if there was a deadline to be met and we're taking things in after a deadline, I'm sorry Nanci, I become extremely uncomfortable that suddenly we are ignoring a deadline? Is that what's occurring?

>> I think it's discussed and agreed upon at the meeting you were asked Karl, that may be why it wasn't communicated to you.

>> Actually what was sent out is, it said if we had any changes to the report they should be submitted to Sheila by Wednesday. I didn't meet will organization I represent until this morning. It was at that time that I explained that I was a dissenting vote on a number of issues, and that they authorized me to submit a minority opinion.

>> Karl Hoffower: Again, if the deadline was there, then the deadline was there. I mean --

>> Nanci Williams: I got the report on Tuesday, I represent an organization that meets once a mop it was not possible for me to get their opinion, they wanted my feedback.

>> Dave Zenker: I vote that any and all feedback that were accepted tonight go into the final draft that were received by city staff.

>> Ken Podgorsek: Second.

>> Margie Matthews: Karl, did you want more time? That would preclude anybody submitting one tomorrow, right?

>> Dave Zenker: If city staff feels they're okay with that I'll revise my motion.

>> I don't see any problem with accepting minority reports tomorrow, it is not anything you're voting on. You would have to have them to me by tomorrow.

>> Ed Rast: What time?

>> By noon.

>> Dave Zenker: I would like to revise my motion that any and all minority reports be accepted by noon tomorrow and everything we agreed upon consensus wise be adopted by the task force.

>> Ed Rast: Who was the second?

>> Margie Matthews: I seconded.

>> Ed Rast: You agree? All in favor? Opposed? It passes, by noon tomorrow. That's minority dissenting vote. We skipped over attachment 2. Is there any questions on attachment 2?

>> Ken Podgorsek: No.

>> Ed Rast: We've now organ through -- we're going to have the minority reports in tomorrow. Any

additional comments?

>> Ken Podgorsek: Mr. Chair, I move that we send the report forward as amended, and as amended this evening.

>> Ed Rast: We have a second from Dave. Clarification question. When can the final or the revised copy be finished? I would think we would want the task force have a look, what we have talked about is included.

>> Sheila Tucker: What is the goal here? We're going to send it back out to review?

>> Ed Rast: To approve what we've talked about with amendments. If the staff looks at amendments, send it out to the task force, see if there's any last-minute suggestions.

>> Sheila Tucker: I wouldn't suggest that.

>> The Clerk: If you want to do that you have to have a meeting.

>> Ed Rast: All right. So we have a motion on the table?

>> Ken Podgorsek: And a second.

>> Ed Rast: Discussion. Discussion? None. Okay, all in favor? [ayes]

>> Ed Rast: Opposed?

>> We have a report. It's probably at rules for two weeks. Goes to council on the 19th and or the 26th.

>> Dean, could I ask would it be helpful to have a couple of us at the meeting or how do you expect that to go as far as presentation of the report?

>> Ed Rast: We've got the next agenda item.

>> I was just asking if it would be helpful to have a couple of us at the meeting, the rules committee meeting?

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

>> Would it be helpful to have a couple of us at the rules committee meeting?

>> Ed Rast: Dean Monroe.

>> Just to respond to that. I did have a chance to chat with the mayor about that. I think the protocol is not much in the way of reports. I think they want to jump into questions and answers. So I think it would be terrific if most of the committee or certainly the chairs could be there. That's a meeting at 2:00 on Wednesday afternoons, it's not in the evening. If people could come I'm sure the rules committee members would like to thank you in person and subsequently at the council as well. But in terms of presentations I think to make a few comments presenting the report to them. Ceremony usely but not substantively is what's the protocol involved. Then an hour or two hours of discussion at that meeting.

>> Would that be our chair or --

>> Ed Rast: Anybody.

>> The Clerk: Then we might have to notice it as a joint meeting, Dean, if we have a quorum of the task force. I would really encourage you not to do that or if you're going to then we'll just notice it as a joint meeting.

>> Everybody is invited. There is no issue to a public meeting?

>> The Clerk: There is a issue if there's a quorum.

>> We'll throw someone out if that happens.

>> Ed Rast: Lee, why don't we -- we'd be discussing it with the rules committee.

>> Virginia Holtz: I would assume it would be the chair, only the chair that would be answering the questions.

>> Dave Zenker: Why don't we ask how many people are intending to go.

>> The Clerk: We video stream those live.

>> Ed Rast: Lee, is there a problem just of noticing it? We've got enough time, right?

>> Dan Pulcrano: I'll plan to attend.

>> The Clerk: It's the mayor's meeting.

>> Can we see who's interested in attending? Everybody interested in attending?

>> Ed Rast: How many people want to go to the rules committee meeting?

>> On if 30th?

>> One, two, three, four, fives, six, seven.

>> Ed Rast: That's eight. We've got a quorum. Just to be safe, I think we should notice it. Lee, are you okay with it?

>> The Clerk: Yes.

>> Ed Rast: Look like you're not real thrilled.

>> The Brown Act says the members of one body can attend a meeting of another body, as long as they don't act -- maybe joint notice is going to be a good idea. If you are going to be presenting your views as members of the body, that's different but you can be there and watching.

>> Ed Rast: I'd rather have notice.

>> Ken Podgorsek: We don't have enforcement yet.

>> Ed Rast: We're going to notice it and go from there. Okay. So next agenda item is role of the enforcement committee. Do you want to defer that off?

>> Ken Podgorsek: I would like to defer that to the next meeting.

>> Ed Rast: Upcoming agenda and work plan. We've got two meetings in June, then take a break for July and come back. Enforcement we thought enforcement would go, not ready. Public records, my suggestion would be that we take a look at the role of the various -- that we got committees coming up, maybe we do a quick discussion on each of the committees for the first meeting in June and also we could take a look back on -- and try to define the topics so that each committee goes forward with at least a general outline of the topics they're supposed to work on, not that they can't bring more in. That gives them some direction rather than starting off with a blank sheet of paper. Does that make sense? Sheila?

>> Sheila Tucker: No.

>> Ed Rast: I'm sorry, what?

>> Sheila Tucker: No, you have to help us understand what it is you want to do.

>> Ed Rast: First meeting in June what we can do is go through the role of each of the committees we have running. Give the task force members, direction to the committee, further direction would be they would take those items and come back with clear motions so that we don't go around in circles. If there is additional information we need from staff we could request that at that point in time. First meeting in June. And then we would have sufficient time in the next month or two to get that information.

>> Sheila Tucker: So we'll deviate though with how we've been approaching the work plan item, the San Francisco model using the Milpitas language, to scope out what needs to be addressed, what the Brown Act says in them and what we think key questions are because that's what we've been doing for the last two section. That's what we've done for public reports which is what we should go to next. I just want to make sure that's a productive discussion for the ones that we haven't scoped out yet thoroughly.

>> Ed Rast: What I'm trying to do is try to narrow the discussion so the committee can take a look at some of these things rather than go around where we've done in the past, we go with an awful lot of what ifs, we go for hours on end. I'm trying to figure a way to narrow --

>> Sheila Tucker: I'm not sure we can do that. It's going to take staff help to help the committees take a look at what the scope of their work is going to be. It's not an easy or quick prep. For the discussion.

>> Ed Rast: Dave Zenker.

>> Dave Zenker: I think you have a good idea in at least discussing some committee structures and

dynamics and getting a little bit of input from the task force but ultimately we need to roll up our sleeves and dive into public records and go. I'd be interested to know who that committee is because we might want to actually break that subject into a couple pieces.

>> Ed Rast: Right.

>> Dave Zenker: And separate it into separate committees. I don't know, I just think -- you know, whether we're going to have a break in July or not we just need to dive right in and get to work on it. No reason to hesitate.

>> Virginia Holtz: But I also feel that there's some value in having staff come in with what they've done in the past, with putting together the information from the others, as well as staff comments on -- because that might alleviate some of the issues that we bring up that are just repetitive that are already in place that we have kind of reached agreement that we're going to follow the San Francisco ordinance. That would have background material before it just opposite it up.

>> Sheila Tucker: That's how staff would like to approach the public records section. As you know we took law enforcement records out of order somewhat. We would like to kind of step back from that and start with a staff overview of our public records program and how records currently managed and what the public record act says so we all have a baseline of information to start the discussion. Public records will roll out I believe in three sections, one is the types of information to be disclosed. Police records being one, but a lot of several categories. We'll talk about the process for disclosure. And then the appeal if records aren't disclosed. So you know, we can definitely have a staff presentation, staff would like to spent a little bit of time on housekeeping items, too. I know we all did not expenditure this task force to go this far. Maybe there's some policy issues we should go over, our absentee policy, what the remainder of this year will bring us and when the work plan looks like in terms of a schedule commitment.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: I would love to hear public records at the next meeting myself. I would ask that the role of the enforcement committee be allocated for 20 minutes at that time beginning of the next meeting. Enforcement is the one section that isn't in any ordinances, we are going to be cutting new ground there in many ways. I know enforcement committee would like to hear what the task force members are thinking. Because then we'll go start doing our work, and once we're done with some of the other topics we'll be ready and we won't have to -- maybe we can cut a little time out there.

>> Ed Rast: So let's see --

>> Virginia Holtz: David had a good suggestion, he was asking about could you refresh our memory who was serving on those committees, are they already decided and closed?

>> Ed Rast: No, I know on public records, Susan was originally on it, Dan Pulcrano was on it.

>> Sheila Tucker: I'm going to have to look that back up. Susan was definitely on it. I'm going to have to look it up and I will e-mail --

>> Ed Rast: Ken was on enforcement.

>> Ken Podgorsek: Susan was on it, Bob and Ed and Susan and I. So we'll ask Susan again.

>> Ed Rast: We can work it out, staff and we can work it out. First meeting in June do a presentation by, we're going to do 20 minutes on enforcement, staff's going to do a presentation on public records, and it --

>> Would it be helpful to do a presentation on the city's current public records program as well as an overview of the public records act?

>> Ed Rast: Yes, and we anticipate that the police records we will not cover until at least August?

>> Sheila Tucker: Pardon me?

>> Ed Rast: We will not get to police records until August or perhaps later?

>> Sheila Tucker: Part of that will be a plan for how we address public records, we'll want to factor in the amount of time, the break in July and see what we can get accomplished as a part of that discussion practically, but we'll have the full framework of the issues we need to address so at the meeting we can lay the groundwork on the plan for discussing those and maybe have the subcommittee discuss work in certain areas.

>> Ed Rast: Lee is going to bring up some of the issues of the diminished rate of absentee. Hopefully, Burt will get appointed by the media people.

>> Ken Podgorsek: After tonight he won't want to -- after tonight, you may not come back.

>> Ed Rast: Run for the door. Okay, anything else we need to cover, public comment?

>> Ken Podgorsek: Move for adjournment.

>> Ed Rast: Do we have any public comment?

>> When is the next meeting?

>> Virginia Holtz: June 7th.

>> Ed Rast: June 7th.

>> Ken Podgorsek: There is there is a motion and second to adjourn.

>> Ed Rast: We have a motion and second to adjourn. All in favor? [ayes]

>> Ed Rast: We are adjourned.