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>> Ed Rast: If you've not signed in, please sign in. The parking validation machine is in the hallway. Public speakers, we've requested, but it's not required, that you sign a speaker's card. And for task force members and the public if they would make sure they talk closely to the microphone so the audio equipment can pick you up. Last thing, if you have electronic equilibrium, cell phone, pager, et cetera, would you turn them off so they don't interfere with the meeting or the audio equipment.
>> Ed, does that mean my laptop should not be on the network?
>> Ed Rast: Your laptop is fine. It's cell phones and pagers.
>> If you make a rule I have to keep it turned off even when I'm not here that would be good too.
>> Ed Rast: Also, when it happens when it rings, it blocks out everybody talking. If everybody would have a seat we'll get started. We're going to call to order the Sunshine Reform Task Force. We'll start again. We're going to call to order the Sunshine Reform Task Force for Thursday, June 7, 2007. And the first agenda item is approval of the May 17th, 2007, minutes. Do we have a motion?
>> A motion approval.
>> Second.
>> Ed Rast: We have a motion and second. There are any corrections, changes?
>> Shall we call the vote?
>> Ed Rast: I was waiting -- there's no comments on it? All right, all in favor? [ ayes ]
>> Ed Rast: All opposed. Any abstentions? Two abstentions. Bob Brownstein and Bobbie Fischler. Second agenda item, comments from the chair. Yesterday was our second rules meeting on Sunshine Reform Task Force, and we're going to have an update on that as the fourth agenda item. Other than that at this point I have no additional comments. So let's see, Sheila Tucker will have the review of materials.
>> Sheila Tucker: Sheila Tucker City Manager's office. Moving down to document C, there's two documents here related to the rules and open government meeting update, and we'll put those into context in our next item here. But it is a proposed meeting schedule for the Rules to consider phase 1 recommendations. And then a response from the mayor's office recommending a different schedule. We handed out a response to the mercury from the mayor. That would be what that is in response to. The next document is just your final phase 1 report and recommendations. It was not final as per our last meeting, so you do have a final copy of the report. You also have the staff's phase 1, preliminary comments in your packets this evening. Under document E, you have a matrix that provides the entities that are covered by the currently-proposed ordinance, what entities are policy body, which are ancillary and which are nongovernmental bodies. We will be discussing that item under 4 B and looking at those areas of agreement and disagreement with the.
>> Councilmember Williams: Staff and the task force later in the agenda. Document F is our policy on absences, and we are going to spend a little bit of time talking about just meeting logistics and as we move into a new year, the meeting schedule and some of our policies as we move forward into another fiscal year. Document G is a comparison of the implementation and enforcement costs of other municipalities. We agreed to open the discussion enforcement. We want to bring into context some of the things you might want to be looking at as to enforcement. Phase 2 subcommittee composition, we need to definitely revisit that. We've had some changes. There were some questions, and I dug back through all the meeting minutes to find out what we had established along the way. So we'll take a re-look at that, and be sure that those assignments are clear and make some adjustments as needed. Thank you.
>> Ed Rast: Any questions of Sheila? Phase 1 report and recommendations. I think Sheila you wanted to make a comment on the update.
>> Sheila Tucker: Yeah, I'd like to go ahead and start with the 5-30 rules committee meeting. Most of you

were here, not all of you were here yesterday. Let me lay out the process and decisions that have been played out along the way and where we're at based upon our meeting with the mayor's office and the task force and rules committee meeting. On June 30th, we were first before the rules in the council chambers with the phase 1 recommendations. They began discussing some of the provisions, primarily public provisions categorization of entities, see how that shakes out and we'll need to report back to rules. The second one was to establish a work plan where the Rules Committee would take each section throughout the report. So we did return yesterday with a proposed work plan. They did ask that we begin with closed session, and that's what we proposed. Now, the mayor's office had an alternative schedule that they wanted to bring forward. We began on public information and we began with a few of those provisions. But I think very quickly they realized the complexity of the issues involved and took action to set a special meeting to spend more time, allow more time to go through these recommendations and identify areas of concern. So we have met with the mayor's office this morning, and looked at calendars and schedules, and are proposing a special meeting to be held on June 27th. This will be a joint meeting of the Rules Committee and the Sunshine Reform Task Force. The meeting is proposed to be held from 8:30 to 11:30 and from 1:00 to 4:00. We're not certain it will take that long a time but we wanted to schedule as long a time as needed. And if we'll complete the review in advance then we'll obviously end the meeting. But it will be an all-day session. We are looking for comments from the committee. And we will be sending an e-mail out tomorrow requesting that they get their comments and questions to us in advance of this meeting. And we are hoping that we can work with the subcommittees, either the lead folks in each area or that team to provide also written responses to those questions and concerns. Because we have ample time to do so. We are looking at asking for comments by the 15th. And then turning around responses on the 22nd. We're hopeful to be able to work with the subcommittees and answer questions around intent, directing at staff for intent, and administrative matters, what's in the task force, we're hoping that we can work with the task force to facilitate the meeting on the 27th, really. And we'll get the information back out and see if we've adequately answered those questions and have further discussion if necessary. We are looking at several outcomes of this meeting. What we would like to do is seek input and specific recommendations on sections 3 and 4, that's closed session and that's public information. And we want to return in early August with our final recommendation, so we can move forward in those areas. What we also want to do is go over the categorization of entities. Come back in September with the public meeting provisions. We want to solidify who's impacted by this ordinance before we go out and do outreach on what's required of them. That is it in a nutshell. The mayor's office is here, Dean, if you have any further questions or comments.
>> Ed Rast: Let me start off with a couple of questions. When you asked for input by the 15th, is that input by both the task force, the mayor's office, the councilmembers --
>> Sheila Tucker: The rules and open government committee members.
>> Ed Rast: I was trying to figure out who you were speaking of. The rules committee will have it. Will there be additional input from the staff on what they see the impacts are by that 15th meeting?
>> Sheila Tucker: No. Staff will respond primarily to whatever questions or concerns are raised.
>> Ed Rast: So there will not be another.updated staff report on impacts on those two sections before the 15th?
>> Sheila Tucker: No. I envision a report that lays out each of the questions or areas of concern that were late out, and what either staff response is or the task force response is as relevant to the question.
>> Ed Rast: We've already received the mayor's office responses or questions on those two areas.
>> Sheila Tucker: Right. And Bert.
>> Ed Rast: And Bert, right.

>> Sheila Tucker: We want to focus the discussion, have them get us their materials, and have them focus on what we know the areas of concern are, as opposed to going through the ordinance line by line.
>> Ed Rast: So those comments will be out on the 15th, the task force will have time they'll be distributed by the 22nd, the task force members will be able to answer those questions by the 27th, then, that's what you think?
>> Sheila Tucker: Well, we're hoping that we get the comments from the committee members on the 18th, we'll be working with you during that week to formulate what those responses are.
>> Ed Rast: Okay.
>> Sheila Tucker: Getting communication from me and I'd like to as I mentioned be able to work with the subcommittee leads or chairs and have them work with their groups to get responses back to me. If there are questions that should be directed to the task force.
>> Ed Rast: Okay, great.
>> Sheila Tucker: Does that sound manageable?
>> Ed Rast: Yes, Judy Nadler.
>> Judy Nadler: I apologize for not having my cell phone off. Apparently what I missed was important, because the date of June 27th is something I want to clarify. That's a joint session of this group with --
>> Ed Rast: Joint session between this group and the rules committee.
>> Judy Nadler: On June 27th and 28th, I'm leading an ethics in leadership camp for officials. Our chair is going to be there, and we have a number of folks from the city who have already signed up to do that. And I know the mayor, his schedule is just so he will be addressing the group over the lunch hour. But I regret that was not on the schedule. I checked every schedule that I knew of before setting the dates for this camp which I did about a year ago. So I just thought I'd better mention that. I'm not expecting anybody to change anything. I'm just FYI.
>> Ed Rast: Yeah, you're right about that. You're aware who's going to go to that? The people on rules committee would be Judy Chirco, David Cortese, the mayor, Sam Liccardo and Pete constant.
>> The Clerk: The four committee members are the mayor, Judy Chirco, Sam Liccardo, and Dave Cortese. We offered the 11:30 to come back at 1:00. We are so limited on space and their availability, that became the only possible date to do it in June.
>> Judy Nadler: I'm sorry if our chair couldn't be there but just to get that conflict out in the air there.
>> Ed Rast: Any additional comments from the task force? Dean had some comments, or did the task force members have an opportunity to take a look at that time mayor's comments?
>> Dean Monroe, mayor's office. I'll answer any questions the members may have about the mayor's memo. I don't think you should feel too bad about missing the rules committee meeting. My sense going forward, there will be quite a few rules committee meetings and city councils dealing with this issue where there won't be a conflict where you will be able to attend. If you saw the rules committee meetings, the last two of them, they haven't made a lot of progress, necessarily. There will be a lot of other meetings you can attend at the City Hall. Also I thought I might respond to Bert's three questions here. Bert I'm going to let you actually characterize your response or issue. These are responses we've gotten from members of the task force about the mayor's memo on 4 and 3. Bert, do you want to do that? Ed, should we do that? Is now a good time to do that or is that unnecessary?
>> Mr. Chair.
>> Ed Rast: Sorry, Virginia Holtz.
>> I beg your pardon?
>> Virginia Holtz: I believe that we have agreed that memos that come to us the night of the meeting would not be discussed that night, the night of the meeting.

>> Ed Rast: You're correct.
>> Virginia Holtz: And I don't know if that --
>> Ed Rast: That's true, you got a good point.
>> Virginia Holtz: -- is a problem or not.
>> Ed Rast: The item itself, the mayor's memo was distributed in the packet. Verbally if someone wanted to ask questions about the mayor's memo, rather than specifically discussing the late memo that Bert brought in, that would work.
>> Just to clarify, this memo was actually submitted, intended to be a memo to the rules committee. This memo was actually intended to be a memo to the rules committee. I just sent it to the task force as an FYI. So I don't know that we need to discuss it here.
>> Ed Rast: Any additional questions on the mayor's memo to Dean?
>> Great, thank you.
>> Ed Rast: Bob Brownstein.
>> Bob Brownstein: Talking about the mayor's questions on section 4 or everything in the mayor's memo of June 5th?
>> Ed Rast: Wait a minute, I didn't understand exactly.
>> Covers sections 4 and 3. Either one's fine.
>> Bob Brownstein: Okay, I had a question on mayor's comment on 3.3C.
>> Ed Rast: Mr. Brownstein, if you could talk into the microphone please.
>> May I interrupt? It has to do with this question, the formatting of it. It was very hard for me to read the mayor's memo, I read it but without having the document it's hard to know what he's referring to so it kind of defeats the purpose of informing people. But for the purpose of this section and Bob's question could we flash on the screen the section we're talking about so we know what we're talking about?
>> Ed Rast: Also further down in your agenda packet is the actual phase 1 report also. But I agree, it would be helpful to flash on that one section so you can see it.
>> Bob Brownstein: 3.3C. On this paragraph, the mayor asks for a clarification. Because of what he believes to be an inconsistency, between potential use of property and proposed development. And let me -- let me say what I think this paragraph is trying to say, Dean, and see if that answers the question. When people are discussing in closed session the price of a piece of plot, it's almost impossible do do that without some reference to what the property's going to be used for. Let's say the redevelopment agency is trying to assemble parcels, I don't know how you could talk about that purchase without recognizing it's a very important piece of property, because you needed to finish the assembly of these other piece of property for this very, very big project. That would be a legitimate mention of the use of the property in terms of dealing with price. But what you would not be able to discuss in closed session is the merits of doing the project at all. In other words, that's what we mean when we say, the discussion may not include discussion of any proposed development. In other words, you wouldn't be able to talk about in closed session, should we be doing this, should we be assembling these, should we bring in ABC corporation because it would be good for the economic development of the city. That issue would not be suitable for closed session. So do you understand the distinction?
>> I think I do.
>> Bob Brownstein: I think that's what we're trying to say. And I mean, it's a subtle distinction, but a real one, in terms -- It's just reference to determine price and you shouldn't be having a discussion about everything else involved with the merits of the project, it's going to have traffic impacts, multiplier effects, those should not be in closed session, those should be in open session.
>> Thank you for that clarification.

>> Ed Rast: Any additional questions?
>> Well, Dean, as long as we're talking about this even, I'll pretend that I didn't submit a late memo and just ask you a question.
>> I'm not sure that's consistent with the code of conduct.
>> You disqualified yourself from questions by submitting a memo. It was the one point that I was the most curious about which had to do with 4.3 A. And I was not entirely sure frankly that I was -- that I was reading the mayor's suggestion, this is I think E -- 1E in his memo, that I was reading the mayor's comments correctly, personnel matters, it sounded to me as if he meant, you don't have to disclose that such a meeting -- that any meeting took place at all. And my suggestion in the memo might -- and my question is, isn't there a way to acknowledge the fact of that meeting, the fact that it had to do with personnel matters, some number of the people who attended, without compromising any privacy right? It just seemed to me that there's a very easy way to provide some level of disclosure there without committing the sin that you're worried about committing.
>> Yeah. Good question, Bert. Ed and I talked about a little bit two days ago or so. I'll ask. The mayor's been gone the last couple of days, I haven't been able to ask. But I will check with him early next week on that.
>> Excuse me, Mr. Chair. Sheila Tucker.
>> Ed Rast: Sheila Tucker, right.
>> Sheila Tucker: I wanted to recognize that this is going to be the purpose of the study session, going to be to review the committee members' concerns and questions. While I know there's a temptation to go through these we'll be seeking a written response from the committees, and we'll need to revisit all these with the committee, these issues. So I just wants to point that out.
>> Ed Rast: It's a good point. Dan.
>> Dan McFadden: I'm not sure whether I should point this out here or later on the agenda. But some of these are add-ons and corrections. Probably the biggest difference between the mayor's recommendation and the staff recommendations relate to the recording, the taping of closed session. We said our concern was that there be no taping until there is a protocol to begin. And the mayor's memo says the taping should begin immediately, and the tapes should not be released until there is a protocol in place. It's a little bit confusing, there is a protocol in place, and that is, the majority of the electeds vote in open session to release material. As soon as I tape, you're going to have requests. They're going to be considered by the full body, either it will go to Rules and then be referred to the council as a whole, and voted on in open session. And that will be the protocol. Because it will preempt the discussions here. I believe firmly, that that will be the protocol. The problem with that being that the -- as it comes in and is handled that way, it's bound to be very time consuming in terms of the agenda and the other items of city business that the council would normally consider. And we don't know how many requests there will be but I'm sure there will be quite a bit, because I'm sure Bert's very curious about what's on those tapes. So I think it will take the council away from business. So it's not a minor concern. Why I had pushed the idea of no taping until we had a protocol in place was so we could minimize the impact of that. So we'll see how that plays out. I can clearly see how it benefits the press because it's definitely a story that continues and benefits some plaintiff lawyers, but I'm not sure what the public benefit is and I don't see how it serves to increase public trust. But it sounds to me like it's a done-deal, at least the mayor's recommendation. And there may be others on the council who really see it as a problem and may want to hold off and wait for the protocol to come forward from the sunshine task force before they begin recording. That's my point.
>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: I have a quick question for you Dan, and then I have a comment. My quick question is, and I want to make sure I didn't hear you incorrectly, is that if they start recording now, and there is a process currently in place, the one you described, the the process that we will be putting forward or potentially recommending in the future, the council will be eventually putting this process in place, the fact that there's currently a process in place would not preclude us from suggesting a newer process?
>> Dan McFadden: No, no, once it gets going, let's face it, the process is very complex, the certification, it radically changes the role of the City Attorney, there's issues arounds that. And then the appeals process the issue of cost and we've discussed that. So while that's being refined here, if the recording targets immediately and there's a series, that's going to start the precedent. That doesn't mean the council couldn't adopt the recommendation of the task force at a later date, that's fine but it moves ahead of the task force, is my point.
>> Ken Podgorsek: Your question posed is a good question. And your comments, the task force recommendation going forward, the mayor's recommendation going forward, doesn't preclude that you make a convincing counterargument to that. You know, from my perspective, I'm okay with the council calling that one and just saying, you know, this is a good argument or ours is a good argument and let that one just fall where it falls. Because ultimately what I believe will come from this is recording closed session with a certification and appeal process that is different than putting it in the hands of the City Council. I think that will be the ultimate result. What happens in the interim, if the council is so moved to take on the recommendation of the task force to start recording now, and go through their processes currently in place, you know, that's why they get the big bucks.
>> Dan McFadden: Could I comment very briefly? I don't disagree. I just wanted to point that out. Because I think it will be an issue that will be debated. Should go forward. I won't be here but that's important. If you want my personal opinion, not the administration's opinion, the attorney-client privilege and the state law, where we have no discretion, those will be certified on the front end. They don't tame. Economic risk, employee negotiations and economic deals, those go into open session. Those don't even go in closed session. Those will all be done in the open. That's where I think you'll ends up personally. But we can all speculate about it.
>> Ed Rast: Judy Nadler.
>> Judy Nadler: I don't want to beat this dead, but I know the task force knows, I have serious concerns about the taping. But despite that just comment that it is my sense that it would not only be the media that would be very interested. I mean your comment Mr. McFadden about Bert Robinson can't wait to get that. But there are many people now that are very interested about what's happening at City Hall, the veil of secrecy or alleged veil of secrecy. The public hears what they hear, 30 the media. There are many more people than reporters looking for stories of what happened in City Hall.
>> Dean Monroe, mayor's office. The mayor is not going to change his recommendation. Dan got to spend 15 minutes with him a while ago, given how impassioned he is. He'll have another chance at rules. I don't know whether you want to go over this grounds again. This is in response to the mayor's recommendations. And we're past where Dan is.
>> We've talked about this and I'm sure the three weeks I was gone and I was ill, it was discussed too.
>> Ed Rast: I've got a couple of comments for clarification to staff, I guess. On the mayor's memo, on the first page, 1B, it refers to city policy manual 6.11. That is the same text as in City Council policy 033, which is on the Website. So that --
>> We'll correct that.
>> Ed Rast: Yeah, right. On -- let's see, on section F on page 2, F 4.4A. It refers in there to lobbyist reports both at the state and federal level. We don't have access to it so it would be hard for us to

comment without seeing those reports. That's F. Because we don't know if what we asked was included in that, those reports.
>> Mr. Chair, just to clarify, are these comments that you'd like us to be sure to get passed on to the mayor's office?
>> Ed Rast: No, because when the documents come out, we could look at them. Comments are going to be gathered from everybody.
>> Your request is to get those to everybody?
>> Ed Rast: Right, at least reference so we can see them. I would like to take a look at, as an example, F. But allow can I comment if I've never seen the -- both reports. In other words, the mayor's recommendation, substitute our paragraphs for two lobbyist reports. What I want to see are the two forms themselves, not the 12,000 pages. No, I agree.
>> Ken Podgorsek: We need to plant some trees for the trees we're killing.
>> Ed Rast: The protocol for release of tapes were 2A, section 3.2A. That's fine. And the last question relates to -- it relates to G, it's a question to the task force. When you look at page 2, 1G, 4.4B. It says, lobbyist under the employment of city should be banned from raising money, so on, so forth. Basically, we asked for if you look at the actual 4.4B, we asked for disclosure, and the mayor is recommending that the lobbyist be banned from raising money, which is a greater, stronger than just disclosure. My question comes down to I'd like to get some comments from the task force. There is a serious of recommendations both in the Reed reforms and elsewhere, areas that we've made recommendations on. What is the feeling of the task force, should these changes like the mayor has like in this particular case be included in the task force recommendations or included in the proposed ordinance? In other words he says delete the section, but how is that going to be handled? Is it going to be added to the reform ordinance, or is it going to be handled in a council policy, a memo, or another piece that will not be as part of the municipal code? The rationale is, if it's not part of the municipal code, it can be easily taken out or revised at another point in time by a future mayor or administration.
>> Dean Monroe, if you go to that level of detail you can have a lot longer conversations about this. Also I guess I'm hoping that where the mayor goes beyond what you're suggest, that's a good thing. Perhaps leave it, that's additive, that goes before the council. I wonder if you should spend time discussing these items that go beyond your recommendations. That's a good byproduct of what your recommendations are.
>> Ed Rast: Will that be part of the act or a separate document?
>> We don't know.
>> The Clerk: That will be the revolving door policy.
>> Ed Rast: Bob Brownstein.
>> Bob Brownstein: You mentioned regarding lobbyist for the city, I'm assuming what the mayor's referring to is -- I'm assuming what the mayor's referring to is contract lobbyists, not city employees who would be lobbying on behalf of the city. Is that correct?
>> He refers to both. All right? So we've got two different situations. One in Washington that's a contract employee and the one in Sacramento is a city employee. So I believe his recommendation will prohibit both, from contributing or fundraising.
>> Bob Brownstein: So the city employee who is engaged in lobbying has a different set of rights than any other city employee?
>> If I could clarify, he's talking about a single employee. Roxann Miller is actually a city employee, in Sacramento. The task force recommendation was that it not cover city employees. So if that answers your question.

>> Bob Brownstein: I understand what -- what I'm trying to understand is what the mayor is proposing and it sounds, Dean, that you're saying that a city employee that was assigned to lobbying would be prohibited from engaging in political activities that every other city employee is allowed to engage in.
>> I think that's an accurate read. I mean, I'll bring that up to him. That's a good point about the consistency issue. But that --
>> Bob Brownstein: I have no question about the contract party.
>> That's how it reads. Okay.
>> Ed Rast: Joan.
>> Joan Rivas-Cosby: Joan Rivas-Cosby. The lobbyist ordinance, who would be eligible, that would widen very much who would be considered a lobbyist.
>> Ken Podgorsek: These are lobbyists that are employed, either by contract or as employee by the City of San José, not lobbying the City of San José.
>> The Clerk: Joan, FYI, the City Council will consider lobbyist ordinance, those who lobby the city, on June the 19th.
>> Ed Rast: No additional comments, 4B, categorization of the ordinance. 4B. On the public meeting profession provisions, categorization, to find areas of disagreement. Sheila.
>> Sheila Tucker: Coy just start by explaining what's before you? So what you have here is the definition for policy body and ancillary body, and nongovernmental body, by each section, subcriteria. We've put those bodies that we've recognized in the phase 1 report and there are a couple of extra, by the way, because we've continued to do work with staff, along the way, and we'll footnote that as we go through. Those in bold, staff believe make policy decisions or administrative -- or about administrative or quasijudicial matters. So there was something recognition at the Rules Committee meeting on the 30th that the task force concurred with staff, that policy bodies should only be those bodies that set policy. We the took a stab at identifying those, so that's what the bold signifies.
>> Ed Rast: Let's take a look at this real quick. In my reading of this if you take a look at A and B, I think there will be a little disagreement that those are basically policy bodies. Any comment?
>> All of them in bold?
>> Ed Rast: All in the box.
>> Why are those in bold, Sheila?
>> Sheila Tucker: Those are the ones that we looked at that make actual decisions about policy or quasijudicial or administrative matters. We feel that 6 through 10 and 3, and sections 8 A and B are ancillary, they merely advise the policy body. They make no decisions. They advise another policy body.
>> I just have a question. Why are we going over this again? How come the rules committee isn't going to do this?
>> Ed Rast: Tom Manheim.
>> Tom Manheim: If I could clarify briefly. At the last meeting actually, Mr. Podgorsek pointed out that he did not believe that the list we had previously provided, the actual entities that were in each category reflected the intent of the committee. That was again raised in the Rules Committee. There was consensus about the members of the rules committee. They had concern about the length of the list, they asked to go back and talk to the task force to see if there wasn't agreement on which entities should be in which category, setting aside the -- and then we could go back and look at the particular language that had originally gotten them into one category or another.
>> Margie Matthews: I thought they were going to work with each other on this.
>> Tom Manheim: Good delegation.
>> Ken Podgorsek: Mr. Chair.

>> Ed Rast: Ken Podgorsek and then Lisa --
>> Lisa Herrick: Lisa Herrick attorney's office. I want to clarify what Tom said or emphasize what Tom said and that really is, I think that the committee foresaw that there could be so much difficulty with the definition which you all experienced that it would be helpful to identify the bodies that you wanted to be policy bodies, and those that you wanted to be ancillary bodies and those that you wanted to be nongovernmental bodies. I think that's what we're trying to talk about. Who do you want to be a policy body, ancillary body and nongovernmental body.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: Ken Podgorsek. As Rules, Councilmember Liccardo made an excellent suggestion of how to finally name names. And the City Attorney that was present made a recommendation, that could be referenced to a council memorandum, which then could -- it's easier to change a memorandum in the long run than to put something into the ordinance itself. I thought both of those were excellent suggestions, I'm sorry it wasn't a memorandum,.
>> Resolution.
>> Ken Podgorsek: Resolution, thank you. I want to offer just a little bit of a different thought on that process. One of the things that we've done from day 1 here is that we have worked very hard to create an ordinance that had little politicalization of the process. We weren't looking for the political bodies themselves, what the ordinance language defined and that's what we attempted to do. I'd like to offer something as a thought, because maybe -- I'm not totally, I thought the suggestion made at Rules was an excellent suggestion and it might be the ultimate solution. I want to offer a thought. And that is that we alter the language slightly. I think in general, based on our long discussions, those bodies that are strictly advisory, and we have many of those in San José commissions and things. But where their role is they have no policy aspect. We do have some advisory bodies that are the final decision maker on some areas. I think I would define them as a policy body. But the vast majority of the advisory bodies in San José advise a policy making body. I think we could very easily add language in here that would define advisory bodies as ancillary bodies and subject those bodies to the ancillary body rules. One of the reasons I say this, I'm looking at it from a neighborhood standpoint. We've said from day 1, we don't want to gum up the operation of the City of San José, and make, you know, make items take, you know, two and three and four months longer, just because what's necessary to get through the process. Many of these advisory bodies only meet once a month. A four-day requirement for memos, in many cases, is better than what we have before, which is a five-minute requirement. So when you look at that time fact that all of these items that are in the ancillary bodies, this information will be out in the public, they are not making the final decision. You will still have the bite at the apple with the final decision maker at the time. I believe that we could very easily just define in here advisory bodies. I want to also make a couple of other quick comments on a couple of other sections. Section E-2. This was a section that, at a previous meeting, Bob Brownstein put a motion on the floor to delete this section. And I voted against that. Now that I've seen this list, there are a couple bodies in there that, quite frankly, I think should either be ancillary bodies or policy bodies. But I don't really -- I'm not smart enough to figure out how to get those two in and not bring in the others. Because I look at the vast majority of this list and I believe that they all satisfy as NGBs and should follow with a few minor exceptions. If someone wanted to put that motion on the floor again I'd be open to reconsidering that. Also, item number F, E, item number F which is the body related to grants over $200,000, you know, I think it's a really great idea but I think from day 1 when we were starting to discuss this, we really considered those bodies were really ancillary bodies. And you know, maybe we need to leave it in here. Maybe that's a good thing. Maybe you know, from a neighborhood standpoint, when I started looking at and I started advocating for some of the ancillary body

rules, all of these groups were in my thought process were ancillary bodies. Obviously it's not a big deal to me if they're policy bodies because I get even more disclosure, more openness. But I'm not really getting less openness from a neighborhood perspective if they're ancillary bodies. Because right now, most of these groups have real challenges, I shouldn't say that. Let me rephrase that. There are times that the openness aspect of these -- of this decision-make process of these groups hasn't always been stellar. And as an ancillary body defined in this ordinance I think it would be stellar. That is at least my thoughts. Most of you know, I've thought a lot, public meetings is very important about neighborhood leaders. I've thought a lot about it. But with all that, the neighborhood leaders have also said to me, there's a balance. We don't want things to be we want openness, we want transparency, these are my thoughts on that subject.
>> Ed Rast: Virginia and then --
>> Virginia Holtz: I'm going to give an example of one group that's listed on here aas a policy body that in my mind is not a policy body. And that is, the Guadalupe gardens.
>> Ken Podgorsek: I agree with you 100%.
>> Virginia Holtz: It was not created by the city. It was created as a nonprofit organization. It does carry out work for the city on behalf. But I'm just --
>> Ken Podgorsek: I agree.
>> Virginia Holtz: -- kind of saying, I just felt that that one did not fit the category under policy body.
>> Ken Podgorsek: One quick thing on that. Ed and I did submit a comment in the phase 1 report that actually outlined exactly what you're saying, some of those in E-2 we don't really believe satisfy that requirement. But you know, I'm not going to split hairs here. The last thing we need is to be fighting about this five years from now because everybody has got a different way of viewing it.
>> Ed Rast: Sheila, you had comments.
>> Sheila Tucker: Yes, Mr. Chair, Sheila Tucker, there are a few things that staff do completely agree with. Can we start and go through each category and we'll discuss those.
>> Ed Rast: Lisa Herrick.
>> Lisa Herrick: I can pressure Ken's comment about trying to finest the definition. I really think you should take the body, look at it and categorize it. Ancillary, policy or nongovernmental, that's what the Rules committee directed us to do.
>> Brenda Otey: I wanted to first of all find out, the ones that are in bold print, those are the ones you believe should remain in that category and the others, in a different category at some point? Okay. I think if we can understand why they -- looking at the language, as it's in the proposed ordinance, why they would be exempt, we can go through it and actually understand why they should be in one category or another. So I agree, we should start at the top.
>> Ed Rast: Let's see how we can do it. Ed Davis.
>> Ed Davis: Excuse me. I think this process of taking a look at the individual entities is helpful. In fact, as I recall, I think I suggested that as a test to see how well the definitions were working. And before we start looking at each individual entity, I would suggest that maybe our definitions aren't working. I remember a lot of discussion here, in terms of how we define a policy body, is an entity that otherwise performs policy function. If they delegate that policy function to an entity, then that entity is a policy body. So hearing the discussion, this evening, that there are a number of items, number of entities on this list that don't perform any policy functions, it looks to me like I agree, that's overconclusive. Because as I understand it, that was never your intent to have entities that weren't making policy decisions characterized as a policy body. Maybe our definition is not very good and if we're having trouble with that and we can't tell or staff can't tell which is the policy body and which isn't, maybe the problem is with our definition and we feed to

go revisit that again.
>> Ken Podgorsek: That's my point.
>> Sheila Tucker: Sheila Tucker. I would completely agree that was the intent. But there are several categories that are much broader than that. It's based on how entities are created. And they actually meet more than one criteria. They're an ancillary body because they advise but they were also created by council, ordinance or resolution,to so they're a policy body. And you have added a criteria that if it meets two of the provisions, the one with greater transparency applies.
>> The problem there, she left off the other half of the definition. It's not just being created buy policy body but to exercise authority, meaning policy authority delegated to it by the policy body. And that's a critical part of the distinction. And if that's not clear to staff or anyone else, then we need to fix that definition. Because that was my understanding of what we agreed.
>> Ed Rast: Bert and then Ken and then Bob.
>> I think Ed, what you're talking about refers to there's a set of definitions here. There's a set of criteria. What you're referring to is only, as I read it, criteria E.
>> Ed Davis: E 1 and 2, that's right.
>> But I think where people are starting to get into trouble is way before that. Is looking at A, B and C. Now, the thing about A, B and C is, when you look at that, you might say, we're all looking at this as if this is something the task force created, the definition of a policy body. These A, B and C are actually almost directly analogous to what's in the Brown Act. The Brown Act has a definition of a legislative body. A legislative body that is subject to the rules of the Brown Act. So this definition of a policy body here, somebody made a decision that we're going to define a legislative body, go beyond it. But if you're looking at this long list of these bodies and saying we don't want all these bodies in here, the way you got them in here is, you followed the Brown Act. Now, there are some restriction on your ability not to follow the Brown Act.
>> Ed Rast: You're correct Bert. But the issue is, my understanding, staff can correct me, is that both the policy body desks and requirements and the ancillary body definition fully meets the Brown Act in both cases. The ancillary body also meets the Brown Act. Excuse me?
>> Lisa Herrick: Lisa Herrick. The requirements exceed the Brown Act.
>> Ed Rast: In both cases they meet it.
>> I understand, but that's not what you did with your definition as I read it. If you want to move those wholesale to ancillary bodies, I don't see where that gets you.
>> Ken Podgorsek: I appreciate what Bert is saying. If we use that as our premise, then we have to use the concept that was brought forward at Rules by Councilmember Liccardo, and I cannot remember the City Attorney that was present at that time. I believe, because the ancillary bodies are more -- are slightly stricter than the Brown Act, I believe we can for purposes of this document define a policy body differently. I also -- I would like to make, if you'd bear with me, I'd like to make a very quick attempt to change a couple definitions to show you how just a slight change in our definitions would solve this challenge. And if it doesn't solve it very quickly then I believe we just need to move on and go, this is policy, this is advisory. Let me just try. In A, if we removed the words, "or advisory." If we removed the words, "or advisory," all those ones that are not bold automatically drop off. If we get down to C, if we add the -- if we add language, I don't have the exact words, but if we add simple language and I'd defer to the attorneys here, that would say that to the end, and their standing committees, that make -- that -- let's do it this way -- that have a decision-making authority granted by ordinance or council. I guess ordinance is the same thing. If we go down to taking it just a little bit further, almost all of those would then move over to ancillaries. If we go to E-2 and just eliminate it, notwithstanding the couple that I think should be there,

we'd solve that. If we go to section F, and just eliminate it, all of those would become instantly ancillary bodies. Those are the simple changes. If that doesn't work, we need to move to the other method.
>> Ed Rast: Bob Brownstein.
>> Bob Brownstein: I have a basic difficulty with the effort to try and reduce the number of policy bodies through A, B and C, that are contained in A, B and C. And the basic idea is, basic problem is, this notion that policy-making is identical to final decision-making. Policy-making is much more than final decision-making. Policy-making is a process that includes many levels of thought, interaction, debate, preliminary decisions, and then final decisions. And people who are excluded from most of the policy make process, except the final decision phase, or have difficulty participating except in the final decision phase, aren't allowed the kind of full meaningful participation in observing, monitoring, interacting with and controlling their government that I think we want them to have. Once major debate, evaluation, judgment, and advice has been rendered, there maybe rerelatively minimal opportunities to significantly impact what has already gone on in these earlier stages of the policy making process. And when you look at some of these groups that are -- that are not in bold, I mean, City Council committees, I mean, the whole thrust of the City Council's strategy towards decision make now is to download much of the process into the -- at the committee level. An awful lot of the debate, an awful lot of the thinking, an awful lot of the critical judgments are going to be made at the committee level. And I can easily envision people finally realizing what's happening, showing up at full council meetings, and being told, where were you whether the committee met? The answer will be, I can't get my act together to be there for the committee meetings. When you are talking about like the Coyote Valley task force, the day that the Coyote Valley Specific Plan, shows up at the City Council, is not the day you show up at the council with your hydrology report. You have no chance of impacting that decision if you wait until the end. Now, part of the problem we have here is that a lot of the work that these groups do are on issues that often are not important to a lot of people. And are relatively routine. A lot of groups that nobody pays attention to, like the mobile home advisory commission, can make decisions that are extraordinarily important to 10,000 people living in San José. And I'm very reluctant to weaken the ability of people to be full participants in that overall policy-making process. And I don't know how to guarantee that, other than having the full requirements of policy-making body be applied to these groups, even though, in many cases, it will be overkill, because the issues aren't that important. But when it really is important, people won't be excluded, and be chasing a train, a policy train that's left the station and going 50 miles per hour and they're never going to be able to catch up to it.
>> Ed Rast: I think we've got a real lot -- a large number ever things to cover tonight. Would I like to get to the actual item itself and go down through the list and see what we can come to agreement on.
>> Ken Podgorsek: Ken Podgorsek. It's extremely obvious that my suggestion isn't going to go there quickly, but do I want to make a quick comment. I wholeheartedly agree with Bob. I absolutely agree. Moving -- but in a concept is moving these advisory bodies to an ancillary body, we also need to remember, that the requirements under ancillary bodies are a significant improvement over what we currently have in the City of San José. Especially in the area of memoranda and reports. And there's a lot more openness here and a lot more ability for the public to get to this information. I'm just going to make this one very quick comment. Part of the problem that we're running into here is that this is new. And any time you're going to put a new process in place, the first answer, by everybody, when you're dealing with a new process, is, oh, my God, it's going to take so much work. Because this is human nature. This happens at our offices, this happens at our home. Within a year, no matter what process we put into place, whether it be the process that's sitting here now or a slightly altered process, everybody is going to get used to it and it will be business as usual and it will not be such a big burden. That said, we have to

also be reasonable in our process. So I suggest that we go down to your method, Mr. Chair.
>> Ed Rast: Okay. Let's take a look at that time first five, is there any disagreement that the first five should be policy bodies? Okay, so we have a consensus, the first five should be policy bodies. All right. Okay, the next five, which is 6 through 10, and I would agree with both Bob and Ken on this, that these -- that the -- if you look at that time concept we talked about which is exercise authority delegated to the policy body, the City Council delegates to these county committees, which we discussed many times, the authority to make policy, and on most of these council committees, you have slightly less than a quorum. And this -- and we talked about the concept of 10 and 10. The idea that we would have 10 days' notice for the council committees, and the commissions that make policy, or make decisions of that type, the rules would then have four days and you'd have another ten-day notice. So this gets to the 10 and 10 if you keep those in the policy area. Any discussion on that particular area? Ed?
>> Ed Davis: You've got to be careful here that you don't eliminate and make it narrower than the Brown Act requires. I think Bert pointed out, policy area A parallels the Brown Act. For instance, you can't eliminate advisory committees. This definition advisory is a little broader than the Brown Act. But the Brown Act covers under certain circumstances, advisory committees as well. So we're going back to where we were several months ago, in terms of re-doing the universe here. And what I would suggest is if we have a committee, that you know, we go back and have them take a look at it and re-review and look at all these various policy bodies and see if it's consistent with the meaning of what we were trying to accomplish.
>> Ed Rast: I think that's what we are doing now, trying to go down through it.
>> Ed Davis: But A is prominent in changing the language --
>> Ed Rast: We're not changing the language.
>> Ed Davis: Okay, but look at what they do is -- it may be that --
>> Ed Rast: Ed, I think our intent here is when we talk about 6 through 10, I think the consensus of the task force, is that they delegate the policy body to them --
>> Ed Davis: That's my point. You're talking about section E, in terms of exercising authority. The Brown Act does not use that language with respect to the kinds of bodies described in A. It's pretty clear that those are bodies defined by the Brown Act that have to be legislative bodies. We can't change that. We can't monkey with that.
>> Ed Rast: You're saying move 6 and 10 down to E?
>> Ed Davis: No. I don't know what 6 through 10 do. All I'm saying is don't analyze those by the definition contained in section E. Analyze that by the definition contained in section A. You see what I mean?
>> Ed Rast: Bob.
>> Bob Brownstein: I think Mr. Chair, the problem here is not the direction you're going but the language you use as a rationale. I believe what you're saying is 6 through 10 should be policy bodies. But don't justify that, let's say the policy bodies --
>> Ed Rast: Sheila.
>> Sheila Tucker: This is an area where the task force differs on. It's five days for rules and seven days for other council committees. And we would recommend that these bodies remain as ancillary bodies.
>> Ed Rast: Let me see if I can understand what you just said. The council's recommended that these committees, be seven days.
>> Sheila Tucker: No. Well, as we went over, when we were reviewing this recommendation, the committee -- the rules committee made a decision back, you know when the date was? On what committees would operate and what their agenda and staff report time lines would be.
>> Ed Rast: Right.

>> Sheila Tucker: And staff believes that the cycle time needed to efficiently move items to council is -- is less than ten days. And so the requirements of a policy body would be problematic.
>> Ed Rast: Okay. What you're saying though is, if I heard you correctly, you said the council recommended seven days for these committees.
>> Sheila Tucker: Five days for Rules. Seven days for the other council committees.
>> Ed Rast: Okay, that's what I said, seven days. So if we move these committees or the staff recommends we move to ancillary, we'd go below seven days into four.
>> Sheila Tucker: Five.
>> Ed Rast: Four.
>> Sheila Tucker: Well now --
>> Ed Rast: Four.
>> The Clerk: Council's already taken that action to set the cycle time.
>> Ed Rast: Seven days.
>> The Clerk: Recognizing the ten day, recognizing the Sunshine Reform Task Force recommendation of ten days of sunshine on every item. But in order for the council committees to do their work and get the item to the council, so they can make final approval, the council approved a five-day release of agendas items for Rules, a seven-day release of agenda items for the other council committees, and then they're moved on to council. So they're well beyond the ten days. When you add it up, by the time it goes to council and county approves it.
>> Ed Rast: Yes, I fully understand that. But if the staff is recommending that this is a not be in policy, but you're recommending it goes to ancillary what you're doing is taking the recommendation to go from seven down to four.
>> The Clerk: Council has already taken that action, we're not recommending that we change the -- what council action we've already gotten. We're not recommending that we change the notice.
>> Ed Rast: So staff recommendation is that these stay at the council --
>> Mr. Chairperson, I think the challenge that you're dealing with is we have two different set of criteria. The task force has established ten days for policy bodies, four days for ancillary bodies. The council has established seven days for the council committees, and five days for Rules. We are not suggesting -- all we're pointing out is that the policy body would put them in a category where more time is required than council has already decided should be allotted them. If -- which you certainly have the right to do. If it is -- if it is -- drops back to ancillary body at four days, we're not suggest that the council would eliminate its requirement that Rules would still be five days.
>> Ed Rast: But the council's requirement is not right now within the ordinance itself.
>> That is correct.
>> Ed Rast: That is for a future administration -- current administration could drop back to 4 if it meets the ancillary body, which would be essentially against the recommendation of the task force which is for more days. Judy Nadler.
>> Judy Nadler: Judy Nadler. I think we should do what we they is the right time. If it's ten days, go for its. It's up to the elected officials to decide what to do with our recommendation.
>> Ed Rast: Brenda.
>> Brenda Otey: Particularly they decide what the council is going to take up. If you are going to see what the council is going to take up or have some effect what's coming out of the Rules Committee, they're giving you less time than they are for all the other committees.
>> Ed Rast: So where are we on this?
>> Ken Podgorsek: We agreed ten days.

>> Ed Rast: Consensus for ten some Section through 10. Tom.
>> Tom Manheim: Just in the interest of full disclosure so you're aware of it, if the council accepted that, it would be 30 days. It would be ten days for committee, ten days to go through rules and ten days to get to council for any item.
>> Ed Rast: All right. Dan.
>> Dan McFadden: I just wanted to get it in early. I think it's already been said. There's no disagreement that these are policy bodies. It's on the number of days' notice. I wouldn't get into the discussion about policy and ancillary and splitting hairs. But really say, there's agreement on policy, that these committees are very, very important to the formation of policy. It's really how many time in process, and whether things get stale before they get to council. That's the essential question.
>> Ed Rast: Okay. We can figure it out. Let me ask a question to the task force. Is it the -- our intent is to go ten days. And in the event that the council does not agree, is it the intent to stay, then, at at least seven days? Their decision to make, or we just go for ten?
>> Judy Nadler: Judy Nadler. I don't want to get into let's make a deal.
>> I would agree. It is not only days that are considered, there are other areas. So I just don't want to -- I agree, I think getting to Dave's recommendation --
>> Ken Podgorsek: Mr. Chair, I also wants to look at in a sense when we were the public meetings committee met and talked about times and the different policies and NGBs and the whole bit, the concept wasn't to make this multi27-layer charts that made it so confusing that nobody could ever figure out what applied to everybody. So if you start going, well, you know, this one has a exception, they really don't do ten, they've got to do seven, nobody is going to be able to figure out what anybody's notice requirements are in this town.
>> Margie Matthews: I'm registering a no vote on that. You looked around and said, everybody wants ten days but I'm registering a no vote.
>> Bob Brownstein: I'll make a motion that 1 through 10 on A be policy bodies.
>> Second.
>> Ed Rast: Discussion? Vote? All in favor? [ ayes ]
>> Ed Rast: Opposed? Two acknowledge you got two, Joan and Margie. And abstentions? Okay, so -- all right. So B. You've got Planning Commission, civil service commission, which are --
>> Excuse me, Mr. Chair, we didn't get the no votes.
>> Ed Rast: Joan and Margie.
>> I'll move that these be policy.
>> Ed Rast: Bert makes the motion, Ken seconds it, discussion? All right, public comment. All in favor? [ ayes ]
>> Ed Rast: Opposed?
>> Margie Matthews: I'm opposed.
>> Yes, Mr. Chair. We'd like to have the opportunity to provide input. We believe that the council salary setting commission is already ancillary. That would be our comment.
>> Ed Rast: Any task force comment? Apologize.
>> Margie Matthews: My no vote is that the council salary setting commission not be a policy body. It's not that I'm voting against all of these, I want to make that clear.
>> Ed Rast: Let me ask a question of staff on that. Isn't there a recommendation process right now that the council salary setting commission actually set the salaries as a policy? And not go to council for the vote?
>> The Clerk: No, no, no. It just recently happened. The council salary setting commission meets every

other year and they meet for approximately four months. They develop a recommendation. The recommendation goes to the full City Council and the City Council takes action. They most recently took affirmative action, but the last three cycles the council has not taken any action.
>> Ed Rast: I thought in that discussion there was some recommendation that they goo back and consider eliminating the vote by the council.
>> The Clerk: The council gave us direction to look at a possible charter amendment whereas the council would be taken out of the process of making that decision.
>> Ed Rast: Right. So therefore, if that occurred, the council salary-setting commission under the charter would be a policy body.
>> The Clerk: In the charter amendment then says that the council salary setting commission is the one that makes it. But there -- I'm not argue, I'm just trying to give you a little more information. We were given direction to explore options. So one of the options would be that perhaps the council salary-setting commission's vote would be final, or some other method for finalizing the council salary so the continual themselves doesn't have to vote on it.
>> Ed Rast: What I wanted to make sure was that the task force when they were looking at this item understood what could hatch in the future, if that passed that it would then be a policy body. Ed Davis.
>> Ed Davis: Maybe this will at least clarify if I haven't expressed it enough, what my concern is. And my question of staff is, is the council salary setting commission a board or commission established by pursuant to the charter?
>> Yes.
>> Ed Davis: In order to make it an ancillary body, if you vote that way, you're going have to change the definition to read, all boards and commissions pursuant to the charter, except the salary setting commission. You're either going to have to change your definition -- you're going to have to change your definition if you move something that qualifies, something we defined as a policy body, somewhere else.
>> Ed Rast: So do we have any further discussion? Margie.
>> Margie Matthews: Well, FCC we have to change the definitions. Because the definitions as they stand keep everything where they are. The Rules Committee advised, you go and tell us what you want and then they'll change the definition.
>> That's what I said. If you're going to change all of this you're going to have to change the definition which may -- and I don't know how exactly you're going do that.
>> Ed Rast: Get something to do to get the vote that we're talking about or all three fails, that's correct.
>> It was pointed out earlier, by a councilmember at the Rules committee meetings, there are bodies established by resolution that have these requirements.
>> Ed Rast: Further discussion? We have a vote on the motion? All right. Let's see, the motion is that the B, 1, 2, 3, be as policy bodies. All in favor? [ ayes ]
>> Ed Rast: Opposed? One, Margie.
>> Margie Matthews: I'm opposed, I'm in favor of the staff recommendation. Will that do it if I say that?
>> Ed Rast: Right. No abstentions, none. All right. Now we're to J. If you take a look at the ones that are in bold, which is number 4, 11, 16, 17, 26, 30, 36, -- 38, 39, and 43, let's discuss those first, and then we'll discuss the ones not involved. Do we have a motion?
>> Ken Podgorsek: I move that the ones in bold that you just described are policy bodies.
>> Ed Rast: All right. Do we have a second? We're first going to talk about the ones in bold and then we're going to talk about the ones not in bold. Clear off as quick as we can. The ones in bold, the motion was that they be defined as policy bodies, Ken made the motion, Bob made the second. Discussion? No discussion. Staff comment? Public comment? Ask for a vote. All in favor? Opposed? Abstentions. It

passes. The ones in bold are --
>> Ken Podgorsek: I have questions.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: But Bob's been patient.
>> Ed Rast: Bob.
>> Bob Brownstein: I would suggest we delete in the definition the reference to standing committees. That would eliminate from the list the arts commission executive committee, the arts commission public art committee, and it would eliminate the retirement boards, committees, for both federated and police and fire.
>> Ken Podgorsek: And they would be defined as ancillary bodies.
>> Ed Rast: Why don't you call out the numbers.
>> Bob Brownstein: These are number 6, 7, 19, 20, 21, 31, 32, and 33.
>> Ed Rast: Clarification, Bob. 32, and see if I can catch other ones, on 20 and 32, it says there that the committee of the whole, which indicates that the whole group meets together. Sit your intent to -- because you have a quorum --
>> Bob Brownstein: I see, thank you for catching that. I don't mean to eliminate the committees of the whole. I want to eliminate the standing committees. So --
>> Lisa Herrick: Mr. Chair.
>> Ed Rast: Yes, Lisa.
>> Lisa Herrick: I want to encourage the group to follow the Rules Committee's direction to not to redefine everything. Could you choose the bodies that you want to fit into the particular category and when it comes down to it we'll either revise the definition or prayer -- the word-submitting isn't where we should be going. Having said that, to answer your question Mr. Brownstein about the investment committee as a whole, when staff was make these recommendations, I inquired of the retirement board, and although those committees of the retirement boards are labeled investment committees of the whole, they do not make any final decisions. The committees themselves make recommendations that apparently the board then has to reconvene as the board to knock the investment committee of the whole to actually make policy decisions. Just some information for you.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: Ken Podgorsek. I want to isolate a custom commissions that I generally think are advisory commissions. But I think have some policy -- may have some policy aspect. So I just want to get a clarification. Specifically looking at the airport commission, the arts commission, and the historic landmarks commission. I believe that these three commissions, although mostly advisory, do have some decision-making authority, that have been designated to it. I believe the arts commission has some authority relative to public art. I believe that the -- if I remember correctly, I believe the airport commission does have some authority relative to certain size of contracts. Especially inside the airport itself. And I believe the historic landmarks commission is the -- can be the final authority on historic permits in historic landmark districts. I do acknowledge that the majority of their work is advisory but they do somewhere a decision-making aspect. And I just want to ask staff if they're familiar with that and can clarify.
>> The Clerk: Well, I'll speak for staff. We've spent a lot of time with all the department heads on these lists, going through each and every one of them to make sure we did understand. We've had healthy debate, whether it's policy or advisory. The art commission and airport commission, decisions are approved by the council. Historic landmarks, I wish I had somebody here from planning. But I believe that the Planning Commission has some approval of the historic landmarks recommendation.
>> Sheila Tucker: Actually -- excuse me Lee -- we did get input from Laurel Prevetti and they did make

some decisions about historic permits. So we would recommend that they remain in the policy category. The other two we recommend that they move to ancillary.
>> Ed Rast: So you're saying 23 historic landmarks make policy decisions?
>> Ken Podgorsek: They have some.
>> Sheila Tucker: They have some. Mr. Chair, can I suggest we start at the top? It's a little bit challenging for staff to keep up request you.
>> Ed Rast: So we've had a motion that took the ones in bold. Now, we're going talk about going down the list. Okay.
>> Bert Robinson. At the risk incurring the wrath of the staff here, maybe I'm the only one in the group that is in this situation. I feel totally unequipped to go through bodies, some of which I haven't even heard of, to say whether it's advisory or policy, if that's really what the Rules Committee wanted us to do, I just don't see how that's a thing that this task force can do with any level of intelligence. I actually found the way that Bob was heading to be more in the area of something that I can wrap my mind around. Which was to say, okay, let's take the standing committees of individual commissions as a group, and eliminate them. That's something I can -- I know what a standing committee is. I can figure that out. So -- but if somebody's going to ask me, you know, what the federated employees retirement board exactly does, what the mobile home commission exactly does, I don't know. I suggest we don't go through them one by one. I suggest we figure out a way to collectively go through them so we can make a recommendation.
>> Sheila Tucker: Staff made a recommendation on policy bodies. We feel that policy bodies should be only those bodies that make policy, make or have the authority to set policy. And chairman Rast concurred with that recommendation. Hearing that there was some collective concurrence between staff and the task force, they asked us to go back and take a look at this list, and see if we could not come to some agreement.
>> Ed Rast: Let me ask, maybe I can simplify it. If the task force members would take a minute and read down through the list, that is not in bold, and see if there's any of those groups they think should be policy. And maybe have individual questions. But if you look down through this, staff has said essentially 23 should actually be bold. We need to make a new motion in taking that in. Before we do that, is there any other groups that people are aware of should be policy?
>> Bert Robinson. There is no way I can do that. I'm going to mention one group that I know that is not in bold, I get calls about, on a fairly regular basis, why can this group be more public, number 22, Healthy Neighborhood Venture Fund does some level of review of grant proposals and makes awards or suggested awards, which I then believe go to the council for ratification. In the nonprofit community as I understand it, the work of this group is of intense interest. And I constantly get calls from the people with who say, you in the nonprofit community are not getting enough notice about how their grant proposals have been viewed. This is just one group that I happen to know about that I happen to get calls on on occasion. I believe this group knows this body better than I do. But again, I don't think how, again, if we're going to pick and choose, I don't know how we can do a good job of that. My preference would be to say, I don't see what the ten days notice hurts on these groups, I don't know how we can make a distinction between ten and four, the council knows better what these groups do than we do. My inclination, I wouldn't make this a motion, but my inclination would be to leave them all in the policy groups. All these groups are intensely important to somebody who has a lot of interest in at least some of the things that they do. And if the council looks at it and says, some of these groups aren't appropriate in that category, they know this stuff better than I do. But I would urge this task force to go for longer notice and more disclosure, rather than try to make distinctions we're not equipped to make.
>> Ed Rast: Margie Matthews.

>> Margie Matthews: I am one of the group who happens to know almost all of them. I'm a little disappointed that the Rules Committee punted this back to us. The second comment I'm going to make, I'm going to support the staff recommendation. They sat around and had every department head in some meeting and went down body by body and gave it their honest input and are advising on what is a policy body and what isn't. So I'm going with the staff recommendation here. Good staff and I trust them. The third thing is, even if these groups are not policy bodies, but they're ancillary bodies, there are still strict noticing rules and all sorts of other things. Even if they're not ancillary bodies, they still have to abide by the Brown Act in terms of noticing. It's not like they're going to go underground or anything. It still was a big improvement than what it was before. This is taking an awful lot of time here. Some of us are paid for this and some are not. I really don't want to go over this for hours and hours.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: I'm going to go with Margie? With the exception of the historic lands marks commission, which we have already determined and defined as a policy body. The reason why is when I started originally got on here and I started thinking about the concepts of ancillary bodies, the Healthy Neighborhood Venture Fund was actually in that group. The cap grant committee was actually in that group. These were the groups that I was approached on saying, we need more openness because the openness wasn't there. There was -- I want to remind everybody again, ancillary is -- the ancillary definitions and the requirements are greater requirements than currently in place, and they do have a reasonable amount of sunshine. And we all agreed that those were good requirements for groups that weren't at the level of the City Council. And weren't the final decision-makers.
>> Margie Matthews: I'm with you on that.
>> Ken Podgorsek: Yeah, I'm going to go with staff, too.
>> Ed Rast: Bob Brownstein and then Ed Davis.
>> Bob Brownstein: I agree disagree with Margie and Ken's approach. It's not that staff didn't use a serious criteria, I think they were looking at these bodies and trying to determine whether they made something close to final decision making as opposed to advisory decision making. And I look at these bodies and ask, are they an intrinsic part of a policy-make process, such that the action that they take prejudices the final outcome. And if it does significantly prejudice the final outcome, I think it's a policy body, and people need the chance to get in at the ground floor if they're going to have a serious chance of impacting what the decision is going to be. My idea would be to have the entire list ancillary bodies, with the exception of the standing committees, which would be advisory bodies. That's where I'm coming from. This is that people of goodwill can disagree with. But I just am very uncomfortable with the thought that people are going to miss decision making points that are really critical to the quality of their lives if we don't have the greater disclosure.
>> Ed Rast: Ed Davis.
>> Ed Davis: Let me -- my recollection could certainly be faulty, is when we originally started talking about defining what's going to be a policy body and what's not, one of the things that we did not want to do is simply make a list and saying, this is a policy body, this is an ancillary body. But that's exactly what we're doing now. Now, I have no problem if that's what you want to do legally, I don't care. And that may be the easiest solution, is just take all of these things and say for whatever reason, as long as you meet the minimum Brown Act requirements, this is going to be a policy body, this is an ancillary body. Then you just need a mechanism to, when something happens, where something new is created, and you know, I've dealt with government long enough to know, that they may just decide, we'll change the name of this committee, or we'll create a new one. And you've got to have a mechanism for putting them in their slot. You could probably create a mechanism but if that is your intent, rather than changing all the

definitions to fit the particular type body, simply go through all these things, say this goes here, and that goes there. And we can probably do that, oh, three, four days, I don't know. But that would be much better than what we're doing now. Now we've got a mixture. We have a definition, and apparently we have resolutions that you voted on, that this is going to fall into this category, and this is going to fall into that category, regardless of what our definition says. So it may be easier just to go through each entity, and put it in a slot. I'm not sure that's -- that gives you relatively little flexibility, but it solves the problem of working out a definition that meets your various needs. Because I agree with Bob, that I think what happened with staff is, they had a number of considerations. Including, well, it's going to be a burden on this particular entity, regardless of what they do to meet a particular requirement of getting, you know, the minutes out and whatever. And that certainly is a valid consideration. But what I'm saying is, if you are going to have a variety of different criteria that are heart to quantify, just simply go through the list and put them in a slot.
>> Margie Matthews: That's what they told us to do.
>> Ed Rast: Let me make a comment. I have a concern, if we don't, as a minimum, designate what we think policy bodies are, even with no question, like we just did with the ones in bold, that what will happen is, the rules committee or someone else will look at this and go, all right, we've heard all the arguments. We can't take all of these and put them in the administrative advisory body, because of the administrative burden. So you'll put some into the ancillary categories. If I looked at this one, I agreed with the ones in bold but there are two or three others ones, no question it's a policy body. So they don't get swept into the ancillary body. I agree with the living landmarks one, the Healthy Neighborhood Venture Fund and to me the Coyote Valley task force is essentially a policy body, together with the Evergreen task force, which is buried later on. As a minimum we should say absolutely these are policy.
>> Ed Davis: Lisa may be up to drafting a general definition that would include those you just described where the city makes a compelling argument that no, they shouldn't be in there, and there's a difference of opinion. But you can't draft a definition that's going to sweep in those three or four committees, and exclude the others.
>> Ed Rast: You're right. But my concern is practically, from a political point of view, and I don't know how they're going to go. But if you're sitting and if you listen to rules and as much as they had a, shall we say, a difficult time getting through a couple items, and they've got a deadline, my concern is they're going to take this list and take a look at the staff's recommendation, take a look at we couldn't come up with a reduced list that they would consider practical. And they may just sweep all these things, just go, all right, look at it logically, a tremendous amount of these, we have a tremendous burden for the city, all of the ancillary requirements exceed the Brown Act, so let's shove them over. Judy Nadler.
>> Judy Nadler: Judy Nadler. I think we've put a lot of work into this and we should not try to crystal ball what's going to happen. If they look at it and have a different take on it, I'll at least feel I've put my hard work into it into putting forth my best recommendation. I think there's a big dose of optimism, and we should do what we think is the right thing. And we will put the final decision with the people who are going to have to face the community, with whatever form of sunshine reform, you know, they decide to agree on.
>> Ed Rast: Margie.
>> Margie Matthews: I have a suggest how we could handle this. I would like to put on the floor a motion to accept staff recommendation, except it probably won't happen. But maybe we can manage this, if it doesn't get too excessive, if somebody wants to make a motion to make historic landmarks commission in bold, we can vote on that. That would probably pass. And so maybe if people made motions if it doesn't get out of control again, just selectively on what's really bug them about this, and vote it up or down and

make your case. But go on the assumption that the staff has put the work into it and this makes sense. But that's just a suggestion for thought.
>> Ed Rast: Lisa.
>> Lisa Herrick: Lisa Herrick. Staff grace about the historic landmarks commission. Just so you know, this matrix was created and then circulated last Friday. We received information about several of these groups that we'll flag once we go through them, if we go through them, so that you understand where -- if our -- if we've changed our minds about them. So I just want to make it clear that we agreed with you on --
>> You want to put the historic landmarks commission in bold, it an error?
>> Lisa Herrick: It's not an error. We have more information that we learned on Monday that leads us to conclude that it should be a policy body.
>> Can you tell us what all those are? Is that difficult to do?
>> Virginia Holtz: Yes, I would like to have any changes that you're make fog this document heard now before we start going through it.
>> Lisa Herrick: Well, we could do that or we could go one by one and discuss them and then I could tell you. I could tell you generally where the changes are but it won't be particularly linear because I'll be going spot by spot through them.
>> I think it would be helpful to hear them.
>> Lisa Herrick: Okay, I'm not sure exactly what you're asking for.
>> Virginia Holtz: Can you do it by groups?
>> Lisa Herrick: No, no, I can do it by groups. As far as -- excuse me. Okay.
>> Brenda Otey: It's okay to do it by groups. Would you give us the motion information we would need to make a decision? I don't feel comfortable having one group included, one group excluded, without knowing the criteria for their exclusion.
>> Lisa Herrick: We did not consider whether or not we thought it would be an administrative burden. We sincerely, and I think Mr. Brownstein articulated it well, whether he disagrees with us, but he captured what it is that we did. We looked at whether or not, the group made a final decision, whether they made a decision about policy, and they were the final decision-making body or if they made a administrative or quasijudicial decision.
>> Ed Rast: So which ones are those?
>> Lisa Herrick: Those are bowled.
>> Ed Rast: They are bolded.
>> Lisa Herrick: Probably my chart now has changed. Let me go through your chart and do my best. I think I'm going to have to go through your chart, I think that's a better way to do it and go through each one. That's the way I need to do it because otherwise I'm going to miss something. Advisory commission on rents, no change. We think that should be an ancillary body, for the reasons we stated before, not making a final decision, airport commission, same, no change to our recommendation that we think its should be an ancillary body because it's not bolded. Okay? So wait, can we agree to what I'm talking about? I'll try and be more clear.
>> Virginia Holtz: Say that again, please.
>> Lisa Herrick: Airport commission, our recommendation --
>> Virginia Holtz: By the group now, you're saying that the unbolded groups are the ones that you're recommending to going to the ancillary?
>> Lisa Herrick: Correct. But I'll repeat that each time I mention the group. So -- and I'm -- in terms of groups, sorry I'm in section C, that's where I think we left off. Airport noise advisory

committee. Recommendation is that be moved to an ancillary body. Appeals hearing board as you voted on, that would be a policy body, that's what we recommended. Arts commission, and it's two standing committees, staff recommends would be an ancillary committee. Bicycle and pedestrian advisory committee, staff recommends that it be an ancillary body. Convention and visitors bureau, we don't know how it got there, but we don't think it fits ancillary body or nongovernmental body either. Flag that, to talk about later, if someone wants to make a list. Coyote Valley task force, staff recommends that that be an ancillary body. Deferred compensation advisory committee, staff recommends that that be a policy body. I'm informed that that committee, the deferred comp advisory committee, is going through some process to change its name so it doesn't sound like it's an advisory committee, because it hasn't been done yet. Because they do in fact make policy decisions. Disability advisory committee. Staff recommendation that that be an ancillary body. Domestic violence advisory board, staff recommends that that be an ancillary body.
>> Ed Rast: Brenda.
>> Brenda Otey: I have a question. We recognize that for most part the ones that aren't bolded are the ones you are suggesting be ancillary bodies. The question in my mind is, why would they be excluded under the language Woo that we have or why should they be something different?
>> Lisa Herrick: All I can say is that we recommend that they be ancillary bodies because they are not make final policy decisions or they are not making final decisions in administrative matters. But the only reason why I'm going through each one, and I know it's really painful, but there are some, as I explained to Mr. Robinson, we've learned some things since last Friday to tonight, and so I want to flag some groups that are either in different sections, that we've analyzed differently or simply are not on this list. We're getting to one of them. The downtown working group, we think that should be an ancillary body, that's not listed.
>> Not at all?
>> Lisa Herrick: Correct. The next thing, downtown parking board, that should remain where it is. Or remain where it is, meaning that the recommendation of the staff is that that be an ancillary body. Same with early care and education committee. Elections commission, and federated retirement board should be policy bodies. Standing committees of the federated employees retirement board should be ancillary bodies. Healthy Neighborhood Venture Fund, we recommend being an ancillary body. But we are informed that that group does in fact, as Mr. Robinson pointed out, make decisions about grants, and so where we had an evaluation panel listed, on page 4, under section F, that really is redundant, and there is no evaluation panel that is separate and apart from HNVF. So we -- it eliminated that entity because it's not really separate from Healthy Neighborhood Venture Fund.
>> Margie Matthews: So does that mean the Healthy Neighborhood Venture Fund is or is not a policy body for your recommendation?
>> Lisa Herrick: It would, based on this definition here, it would be a policy body under both section C and section F here. But our recommendation here is that it be an ancillary body. Because it's make recommendations about grants, not the final decision.
>> Margie Matthews: Who makes the final decision?
>> Lisa Herrick: The council makes decision about that.
>> You put it out of your mind, Margie.
>> Margie Matthews: Hmm?
>> You've put it out of your minds.
>> Ken Podgorsek: That's tobacco money.
>> Margie Matthews: You raised an interesting-d there's an evaluation committee, a subcommittee of --

>> Lisa Herrick: There was an error, that's why I essentially, from this list, when I revised this, I deleted that on page 4.
>> Margie Matthews: Okay.
>> Lisa Herrick: Housing and community development advisory committee. I skipped over historic landmarks commission because we've talked about that one. I'm on 24 in section C, housing and community development advisory committee, we've recommended that be ancillary, library commission, ancillary, mobile home advisory commission, ancillary. Parks and rec, ancillary. We talked about the police and fire retirement board. We've talked about the mess and fire retirement board standing committees, we think those should be ancillary. Moving on to page 3 of 6. Public safety bond, citizen oversight committee. Was that on our original list? I think it was. So this is a group that should be an ancillary body. It oversees the Public Safety bonds. As the name implies. San José beautiful. San José beautiful really is like HNVF. Its purpose is to make recommendations about grants. So it really fits in section F of policy body. But that is the recommendation we would make, is that that be considered an ancillary body. Because of the recommendation -- the recommending nature of that group. I skipped a group here. We did not -- let me go back, because we did this in alphabetical order. Number -- I'm sorry, go back to page 2. Number 28 is mobile home advisory commission. Right underneath that before parks and rec, we also found the parking and traffic committee that is technically a group that's create by some formal action of the council and so would be a policy body under your definition. But we're recommending that that be an ancillary body. So add parking and traffic committee. Okay. The next thing is, senior citizen advisory commission. Let me back up for San José beautiful. If you were to go to section F, you could delete that, the San José beautiful evaluation panel. What I said a minute ago was the reverse, that I put it in section F and I'm sorry. Does that make sense?
>> Ken Podgorsek: Yes.
>> Lisa Herrick: It should not be. There is no separate evaluation panel. I know this is excruciating. Housing authority, we actually learned that it's just the San José housing authority, it's not the San José-Santa Clara housing authorized, which I'm sure Ms. Nadler would agree with.
>> Margie Matthews: Excuse me, that's the San José Santa Clara County.
>> Lisa Herrick: What I understand from housing is there is a San José housing authority which contracts with Santa Clara County housing authority. But it actually is a group that has some formal existence. So there is a separate entity from the Santa Clara County.
>> Margie Matthews: I believe it's one board that serves both authorities.
>> Lisa Herrick: You know, I thought that was the case. But from the information I learned from Leslye Krutko, it seemed that they were separate and they really fit into section A of the definition of policy body. But we do not dispute that they're a policy body. So in any event, they're policy body. Wherever we put them, they're policy body. Treatment committee, is a policy body. The strong neighborhoods initiative advisory committee, we recommend to be an ancillary body. This task force is of a recommending nature, we recommend, should be an ancillary body, as well as these commissions. I'm sorry, I skipped over traffic appeals, that's in bold and we recommend that that be a policy body.
>> Ed Rast: I'm sorry, I thought you stopped.
>> Lisa Herrick: Do you want to talk about things by group?
>> Ken Podgorsek: Let's stick with C.
>> Lisa Herrick: I'm finished with C.
>> D.
>> Lisa Herrick: Do you want to talk about D?
>> Virginia Holtz: Yes, or should we move on to D?

>> Bob Brownstein: I'd like to try to get through C. I think three different approaches to C have been articulated thus far. One is the staff recommendation, which essentially says if it isn't making a final decision, or making administrative or quasijudicial decisions, it's not a policy body, it's an ancillary body. A second approach is one that was articulated by me, which is, if it's a body that initiatives the policy-making process, even if it doesn't make the final decision, it should be a policy body. So that would cover everything here, except the standing committees. A third approach is one that says, we should use as the foundation of the list, the staff recommendation, but for a variety of reasons that may be more or less systematical, or more or less arbitrary, it's not clear to me, but there are some additions to the staff recommendation that we would also say are policy bodies, short of the entire list. And I think everybody's comments have been either for or against one of those three approaches. So to make progress here, I think we should vote on these approaches. And then we'll know where we are. Is that something --
>> Sounds like a good idea.
>> Bob Brownstein: Okay. So why don't we start with -- it's not something I agree with. I don't want to make the motion. But why doesn't somebody make the motion who believes in it to move the staff recommendation.
>> Ed Rast: Didn't we already do that?
>> Margie Matthews: I'm suggesting C but I'm going to make the motion for A so we can get on with this. I'm making a motion to approve the staff recommendation with the additions that they just articulated verbally and the change of historic landmarks from an ancillary body to a policy body.
>> And I would second.
>> Ken Podgorsek: Go ahead and go with it.
>> Ed Rast: Ed Davis.
>> Ed Davis: I just had a question from a legal direction, what do we do with the definition?
>> Margie Matthews: We're punting those back to the rules committee.
>> Ed Davis: So we look at the categories staff is recommending and create a definition to fit them?
>> Margie Matthews: I think we're off the ordinance at this point and I think they just want to know how we would sort the list.
>> Ed Davis: Again, I'm being legalistic, which I try to avoid doing, we've voted several times. These are now going to be our definitions. So now we're voting not to have definitions but have categories instead, is that what we're doing?
>> Margie Matthews: We're trying to follow the rules of the staff.
>> We're trying to -- never mind.
>> The Clerk: I totally understand what Ed has been saying, and I've been telling my partners on either side of me, as probably the council will be held accountable how we define that, I clearly want good definitions, because trust me, there will be new bodies established. They happen frequently. So I want definitions, to be clear to staff, whether we're talking about afternoon ancillary or, help the committee understand, you know, what your intent was some and then if we need to tweak the definitions, then the rules committee will give us that direction. Because I think we all want to have clear definitions.
>> Ed Rast: We've got a whole bunch of hands. Let's start off, let's go down, Ed Davis, Bob, Ken --
>> Ed Davis: I just want to make it clear, I assume it's as clear to you as it is to me, is that staff doesn't like our definitions. And so now, we are being asked to change them. And to undo all the work that we've previously done. If that's what you want to do, that's fine. I'm not saying not do it. And I'm not saying that their objections are well taken. They may very well be. But just understand that we are now undoing a lot of the work that we had previously done and we agreed on these definitions. So we're going back to square 1.

>> Ed Rast: Bob Brownstein.
>> Bob Brownstein: I think this is what, in fact, is the implications of what's being proposed for the definitions as far as A, B and C. The definition of A is standing, the definition of B is standing, based on our previous definitions this evening. Margie Matthews' proposal was to be adopted, the definition of C would be modified to include only of the groups that meet the criteria currently under C, only those that make administrative decisions or quasijudicial decisions, that would be the new decision. Although Margie hasn't said it, I think that's actually what the consequence of Margie's motion would be, that there would be a revision of the definition in line with the criteria that staff used to designate the groups that would be ancillary or policy bodies.
>> Margie Matthews: I think that's exactly what may happen because that's the way the rules committee wants to approach this.
>> Ken Podgorsek: Ken Podgorsek.
>> Ed Rast: then Karl.
>> Ken Podgorsek: Possibly we're going to change definitions. But what we're doing now is reverse engineering. We have taken a definition that we felt we're all comfortable with. And now have to deal with the consequences of that definition. We're looking at the consequences, and I don't believe we are all in agreement here. Are we asking, are these consequences exactly what we wanted out of this ordinance. What we're not in agreement now, we have three ways that we're looking at it and we need to go through it. I think if we move through the motions an look at the list and then ask ourselves once we figure out where we're at off of that, off of those three areas that Bob suggested I think what will happen is if definition will reverse engineer itself and very easily, all we're going to see especially in the area of C, is the inclusion of a few words that fit the group that we actually will be, that we'll decide as a group and we believe should be policy bodies under this definition.
>> Ed Rast: Karl and then Lisa and then Tom. Karl.
>> Karl Hoffower: Thank you. Karl Hoffower. When I read through this, we've discussed this multiple times. I don't see that the staff quote doesn't like our definitions. I see that staff took our definitions and rang them through the meat grinder. Do you want the consequences of this? I certainly don't want to, I'm comfortable with creating definitions and keeping them as definitions. Because we want to create a system that we can use here on out to a hundred years from now unless we change our form of government. I'm not of the opinion to pick and choose this commission, that commission. I'd rather work on the definitions closer. If you do in the pick and choose manner, you're going to, to me, that besmirches anything we're trying to do with sunshine. I'd say, we're on this for the duration of this committee plus another six months and roll up our sleeves and come up with a better definition. I'd like to welcome the other gentleman who joined the facial hair club. I think that's excellent.
>> Lisa Herrick: Lisa Herrick. I appreciate your comments, Karl. That's what staff did, there was nothing malicious about it. There was disagreement about what groups would be included and as we tried to explain at rules, we looked at the written word and tried to apply it evenly and nondiscriminatorily. There is value going through the groups one by one to really identify what your intent is, because I think there may be some patterns that emerge. In section C for example, Bob has really filled some different approaches that I think are consistent and nondiscriminate that industry. However you choose it, I think there is value of going through each group as excruciating as the motion is.
>> What is the motion?
>> Margie Matthews: To make verbal discussions --
>> Ed Rast: Tom and Don and-d.
>> Tom Manheim: Lisa covered my racks, thank you very much.

>> Dan McFadden: We're in the implementation phase now. Drafting is very broad, implementation deals with the word. Bob, I understand what the final decision is because that's a decision that doesn't have to go to council. If I have to implement initiating policy, how do I define that. What do you mean by initiating? If I have to implement that, I'm not sure where it begins. I know what the intent is, but I don't know how to administer it.
>> Ed Rast: We're discussing the motion on the floor. Actually, I think the language under C is very clear in terms of the kinds of groups that would be included. But when I talk about the initiation of policy, I'm providing a rational for that definition. But the definition itself is not one that stay, what is a board commission or committee created by ordinance. That list is not an administrative challenge in terms of putting it toying medicine I'm going to oppose Margie's motion because I think these groups do, in fact, deal with the initiation of policy, and many of the ones I'm familiar with, I'm not familiar with all of them, are initiating policy that for some groups of people are the most important thing that the City of San José does. I mean, if you're a disabled person, the disability advisory committee may do the most important things that the City of San José does. If you live in a mobile home park, it's a virtual certainty that that mobile home commission will be make decisions that literally determine whether you have a stable life or or destitute. Because many people who live in mobile home parks, I'm not familiar with all of them and I am reluctant to give the people who have so much at stake in the final outcome of those decision make processes, I'm very reluctant to give them anything except the maximum chance to be involved in that process at the get-go. I realize this is a balancing test and against their opportunity to be participants in the process from the beginning. Making it more difficult for those people who are on those committees and try to do that work. I do that work, I don't think these are reasonable parts of this conversation, but I extent too much time as a community organizers recognizing how hard it is to try and be part of the process, when you're uh not inside, and how difficult it is to go chasing after policy trains that have already left the station. So I would urge you to.
>> Ed Rast: All in favor in closing the discussion? All opposed to closing the discussion?
>> Margie Matthews: I want to give Joan a chance. She doesn't talk very often.
>> The Clerk: People neat to vote.
>> There is no basis for an abstention. There is no conflict.
>> Ed Rast: You're right. I missed the count on that.
>> The Clerk: Let's do it again.
>> Ed Rast: We have basically called the question, which means we're going to vote. All in favor of closing the discussion on this? Owned to closing the discussion, which means you want more discussion? I know, all right, so that means that we willing now vote on this issue. Margie's motion is to accept the staff recommendation as-is, which is the items basically in bold, with the exception -- with the addition of the historic landmarks commission.
>> The Clerk: As amended. If you can just say as amended.
>> Ed Rast: Correct, right. All in favor of Margie's proposal to accept the staff recommendation. All those opposed? All right. So we have that motion fails. Bob Brownstein.
>> Bob Brownstein: I would leek to offer a motion that we include the list, with the exception of the standing committees. And implicit with that is the revision of the definition under C. To delete the reference to standing committees. So all of the groups on C with the exception of standing committees would continue to be policy committees. I'd like to make that motion.
>> Ed Rast: So the policy committees would go to ancillary.
>> Bob Brownstein: The standing committees would go to ancillary. All others would stay on policy.
>> question on the motion. Does that include the changes that were made by staff to put into the policy

body those areas that --
>> Bob Brownstein: That includes the amended list.
>> Ed Rast: So we have a second.
>> Second.
>> Ed Rast: Bert seconds it. Discussion? Marjorie.
>> Margie Matthews: I'll be opposing the motion. I want to remind the committee that there is a third one we can vote on if this one fails. Inging.
>> Ken Podgorsek: My opposition is that more is going to create an undesired result that will actually work against the interest of the public. .
>> Karl has a comment.
>> Karl Hoffower: Would you mind expanding on this?
>> Ken Podgorsek: I'll give you a brief example. Many of these bodies only meet once a month. I was at Rules recently, referred an item to the parks commission that happens to meet, if I remember correctly, you meet next week?
>> We met last night. And in two weeks.
>> Ken Podgorsek: What happens is when you start adding into these days and you start putting into these bodies that only meet on an infrequent basis, they are not meeting biweekly, like the council does, you ask find referrals to many of these bodies, policy bodies making referrals, you could find the final decisions being made in two, three, four, five, six months later. And is that really to the benefit of the work into the benefit of the citizens of San José. That's my objection.
>> Ed Rast: I'll make a comment. I agree with that, because practically what it comes down to is last night's meeting of the parks, if the council had made a recommendation, what, last Tuesday, I don't believe they'd be able to vote on it. The past Tuesday and even, let's see, the one before that, could they? It would be tight. No, it wouldn't because it would be nine -- so basically they'd have to make a recommendation three Tuesdays before the parks commission meeting to make it on the agenda of the parks if you stay with ten days.
>> Ken Podgorsek: So my objection is totally based on practical application of the rung of the city.
>> Ed Rast: Margie Matthews.
>> Margie Matthews: I would agree if we take our own body, everything has to be ten days ahead of time. It's going to be harder and harder to get good people to be on committees like this. You're going to go there, there is a lot of formalities, and bureaucratic and nothing will get done. It just turns into kind of a sham in a way. That's the worst case scenario. But it draws the real decision-making into the shadows, because the real decision are done at the top.
>> Ed Rast: Sheila.
>> Sheila Tucker: I want to make a brief comment. I think this task force is an excellent example. We operate on a five-day rule. They're out by Friday, we meet next Thursday. The impact to this group would be significant. We'd hoped to discuss this later on the agenda tonight? But the challenge we face in getting items and materials turned around in a two-week time frame for groups that meet like us, is a perfect example. Karl.
>> Karl Hoffower: I'll pass.
>> Ed Rast: Brenda.
>> Brenda Otey: Is there a category that those entities could be put into so as a group we've be addressing a exclusion of people based on a certain criteria rather than each individual organization?
>> Ken Podgorsek: In my opinion, there is a category. If the organization is strictly advisory, it's not a policy body. It's an ancillary.

>> Ed Rast: It's ancillary. Karl, you had your hand up.
>> Karl Hoffower: I had my hand up. Can we go over Mr. Brownstein's motion again?
>> Ed Rast: Bob.
>> Bob Brownstein: Yes, the motion would be that all of the organizations listed under C with the exception of standing committees should continue to be in the policy body category, and that the -- as amended, and that the definition of policy body under C should be revised to include the deletion of standing committees.
>> Karl Hoffower: If I could ask one more question then.
>> Ed Rast: Yeah, Karl.
>> Karl Hoffower: When we delete, "and their standing medicates," is there a guesstimate of how many would suddenly be leaving category C?
>> They wouldn't be leaving. They would be going to ancillary.
>> Karl Hoffower: They would be leaving, so there's eight --
>> Ken Podgorsek: Remind everyone, if you are not a policy body, you're ancillary body.
>> Bob Brownstein: We would lose 8, take 8 off.
>> Ed Rast: Bob Brownstein.
>> Bob Brownstein: Mary Ann.
>> Ed Rast: I'm sorry, Mary Ann.
>> Mary Ann Ruiz: I agree, from a commission point of view, parks point of view, we need to refer them to council, we have input from neighborhoods that we need to give staffer time and give us time to drop the letter and analyze the issue. Because if we're working towards an agenda, it squeezes our time frame to get things done effectively. So I really think that given that ancillary bodies is still more than Brown Act requirements, I really think if it's there, and I think that secondly, I understand Bob's definition of policy body in terms of that it's not only those who are make decisions, but I don't necessarily agree that when you're making recommendations, that you're defined as a policy body. And then in my mind that goes back to the definitions. Because we haven't yet agreed on the definitions. I think that's why we struggle. So I'm not going to agree, I think that the definitions should be changed. And I don't agree that these are all policy bodies.
>> Ed Rast: Brenda.
>> Brenda Otey: My concern is that quite often, when given an opportunity to make a decision, people will go with a recommendation of bodies. And so then the decision really has been made at a lower level.
>> Margie Matthews: That's right, but if the issue is public review and access, it's just all the more points there are to interact.
>> Brenda Otey: But if the group that meets at the lowest level makes that decision, and then the recommendation is taken to council, my best chance of getting some real input is at that lower level, not -- because the council can I talk until I'm blue in the face, but they'll say, we understand what you said but we're going to go with the recommendation of the committee.
>> Margie Matthews: You're still noticed on the ancillary bodies.
>> Ed Rast: Bob Brownstein.
>> Bob Brownstein: I'd just like to make the point that I think the groups that meet irregularly are the least likely to be significantly impacted by this. Because if you are only meeting, say, every other month, you have 60 days between meetings. So a ten-day notice requirement is not a burden. The only time that there would be a difficulty is those rare circumstances where the City Council meets right before your meeting and wants to give you a referral. But in most cases the groups that meet monthly or bimonthly are not going to have time problems because of this, because their gap between meetings is so much

more than ten days. Now, I think Sheila is right. There is a handful of groups, request that are on the expedited meeting schedule, where you meet very, very frequently and these kinds of are requirements would be a challenge. On the other hand, this group is make decisions that have high import, and it is, in fact, extremely difficult for somebody who is not on this group, or able to devote enormous energy to monitoring this group, to be able to play any kind of serious role in terms of impacting the work that we do. And part of it is because we are, in fact, moving so fast. So we have to recognize that there is a tradeoff. When you have multiple meetings and move quickly, that is not a process that's conducive to serious public input. That's a process that makes it very difficult for people who don't have an occupational or special capacity to be present and involved to play any kind of serious role.
>> Ken Podgorsek: Call the question Mr. Chair.
>> Ed Rast: Call the question.
>> Mary Ann Ruiz: Just I really appreciate the categorization of us moving at lightning speed. That's refreshing.
>> Ed Rast: All in favor of close of the discussion? Opposed? The motion passes to close the discussion.
>> What else is there to talk about?
>> Ed Rast: Shall we read the motion again and then we'll read on the motion.
>> The Clerk: I can do it.
>> Ed Rast: Thank you, sure, go ahead.
>> The Clerk: Bob made a motion, Bert seconded, to include all the bodies on the list, as amended. With the exception of standing committees. Which is implicit with the revision of the definition. And all standing committees will move to the ancillary category.
>> Ed Rast: Does everyone understand what was said? Okay. Vote all in favor? All opposed. And I believe the motion passes. Right, the motion passes. So that eliminates the standing committee from this list. So they move over to ancillary. Sheila.
>> Sheila Tucker: Can I just make an observation?
>> Ed Rast: Yes.
>> Ken Podgorsek: Sure.
>> Sheila Tucker: You know, I just want to say one more time that we're here today because the Rules Committee understood that there may be some concurrence between the task force and staff that policy bodies should be only those bodies that make policy. That was a statement that was made at the committee meeting. And after having reviewed three sections now, it's very clear to staff that that is not a view that's shared by this committee. So I would question the value of continuing this. Now, staff has got to report back on a list. And I just -- I'm not quite sure what to do with revised definitions on a final list that's out for review. When the committee said tell us what you agree with and what you don't agree with. And I just would question the value of moving forward with not having that basic tenet shared by the commission or the task force.
>> Ed Rast: Margie Matthews.
>> Margie Matthews: Well, we're not done with this list, and there may be changes further down. But I think it's been clear to me from -- for a long time that this is not about policy making, this is about spending money. Getting controls over that, because I thought I had a clear understanding about what policy making was. The mayor can talk to his wife at dinner, and policy can be initiated. It gets tweaked and moved. You can't define when policy is initiated. A lot of what this committee has done, I have to say it, especially in the closed session, is going to concentrate power in the mayor's office. It really is. You start recording closed sessions and conversation will stop. A lot of this takes a lot of power away from the council and the committees, and the advisory committees. And I'm afraid that's how I believe, and I think

this is, you know, we're going to have some consequences of this that we didn't know were going to happen.
>> Ed Rast: Let me make a comment as to what Margie said. I'm not sure that by going to recording closed meetings you're going to have the mayor who's already --
>> What are you talking about?
>> Ed Rast: Right, we're off, very much off. You're right, thank you. D, council assistant meetings, this is where the council assistants meet and discuss what's coming up on the agenda items. We have a motion on this?
>> Dan McFadden: Excuse me, can I just ask a question? I thought there were two options on the floor. We voted on one, the other one, by 7-3 vote, if you adopt the last one by 8-2, where are we? I don't know.
>> Margie Matthews: The third one was to -- I think it's too time-consuming.
>> Ed Rast: In effect what we did is, third one at least the way I wrote it down was addition to the policy body list. What we did was essentially accept the one position. We didn't add any more. We kept the ones that were there and eliminated 7 or 8.
>> Dan McFadden: Fine with me but I think it was a change in direction. That's all I was calling.
>> Margie Matthews: Does anybody want to go to C?
>> I don't remember C.
>> Ed Rast: Consensus not to go to C?
>> I want to hear it. We had this third option that --
>> I move that we not consider the third option and move on to B.
>> Ed Rast: Do we have a second?
>> Second.
>> Ed Rast: Do we have a discussion? All right, let's call for the vote which is all in favor? Opposed? We move to -- I'm sorry. [laughter]
>> Ed Rast: Tom you -- I missed your hand up.
>> Tom Manheim: As your lapsed timekeeper, it is now 20 to 9:00. We don't believe we can have a meeting on the 21st, we need to have an alternative to that. I'm not sure what the task force, how it wants to proceed. But I --
>> Ed Rast: I suggest we move through this as quickly as we can and hopefully --
>> Margie Matthews: I would make a motion that we adopt staff recommendation for D to remove those from policy to ancillary.
>> Ken Podgorsek: second.
>> Ed Rast: Second? Yes, there was a second. What these are is where the councilmembers staff meet and discuss upcoming agenda items. So what we're doing is moving those over to ancillary. So that's four-day notice.
>> Ken Podgorsek: That would mean that we're basically, the effect would be that we're deleting this section, this definition. That's what I'm saying. That would be the ultimate -- reverse engineering, that would be the effect.
>> Ed Rast: Karl.
>> Karl Hoffower: I disagree, let's say on D we move over these two things, move them to ancillary bodies. The next thing there is a council committee, boom, they're back in here. So do we just remove D as language as something we've already promulgated in a final task force report, we're saying oops, sorry, we're going to change this, the next time there goes, boom, you didn't exert enough influence over to sunshine to get yourself bumped over to ancillary. It doesn't make sense to do that.

>> Ken Podgorsek: I'll make a comment. It is wise to look at your work. When you start getting the practical application of the work and not to disagree, you may agree that this needs to stay in here. I don't. What I'm saying is I'm looking at it and now that we're being looking at it from a practical aspect, we're actually applying the language in the decisions we make, I'm will willing to reconsider.
>> Ed Rast: Lisa.
>> Lisa Herrick: Your report and recommendations are out there. It's a final report and recommendation. This is reared back to you to discuss it and make some decisions as I said earlier, get a sense of what your intent is. I think you're right. The practical effect of implementation, if your intent is to have these groups be ancillary bodies, that is something that staff will do in an implementation stage.
>> Then that begs the question if by virtue of, so in this point forward, anything that met this definition would for here after be always considered ancillary?
>> I think it's fair to ask that question if that's the intent that all committees comprised of council staff that constitute a quorum of that council staff, would be an ancillary body, then -- and you say yes, then we'll run with it.
>> Okay, so you just say it's fair to ask the question and then made the statement. Okay, so that's my question, is that what staff's intention is -- I'm sorry let me restate. Is that will by our act roof and put it in the ancillary category definition.
>> Lisa Herrick: To be perfectly clear, why don't you ask the question of your colleagues and get the answer and then we can move it on.
>> I have a motion on the floor, not making any mention of the policy versus ancillary.
>> Ken Podgorsek: They're here now, because we have a rule that if you are defined in two areas, you go to the area with the higher requirement. If you read the area, I believe the current definition of ancillary body, if this definition wasn't in our policy bodies, these would be defined as ancillary bodies.
>> Right, my point is this. Why are we moving them over? Why don't we at least eliminate the direction of B, it's not the method we've chosen to get to that point.
>> Where is that published? What method -- I missed that.
>> Ken Podgorsek: Nobody won the war with definitions. We went through why don't we go with what the intent was.
>> Bob Brownstein placed a motion, we didn't go line by line. I don't understand.
>> Margie Matthews: My motion would be to move section D down to ancillary body.
>> Ed Rast: Further discussion?  Let me make a comment. In my view, if we don't move that to ancillary, it will create a problem, typically, they meet a day or two ahead of time. And so what will happen is, they will be leap-frogging over agenda items which will make it quite impractical on what we do.
>> I forget now what all the requirements are. If it's like us, if it's not open our agenda we can't talk about it. If the council systems are going to sort through it before the council, so if it's not on their agenda ten days before now, they can't talk about it.
>> Ken Podgorsek: In this case, it's four days. It would be ten days, it's not practical.
>> The Clerk: If I could provide a little background on these two groups. They meet on the day of the meeting, right?
>> The Clerk: Council staff, from mayor's office, council's office, and my office, meet with whoever comes to the meeting, there is no agenda. They show up and we just walk through the agenda, sit agenda rue. Does anybody have any questions, council memo came out approximate about this. It happens at 1:00 before the 2:00, the preview of the rules Committee meeting. We go over the Rules Committee agenda, anybody have any questions? That last ten to 15 minutes at the most. So that's what these meetings are so there are no posted agendas. So there really wouldn't be -- they are administrative --

>> This means their agenda is open to the milk.
>> It is posted. There is no supplemental --
>> Margie Matthews: There has to be an agenda, nothing can be discussed unless dash and the public is invited. Bob these are --
>> The Clerk: Really it shouldn't even be an ancillary body. There is no decision make. There is no agenda. It's a review. So --
>> Ed Rast: Okay, first discussion.
>> The Clerk: It might be more like a standing committee.
>> Ed Rast: Judy Nadler.
>> Judy Nadler: I appreciate the textbook definition and that's the current practice. However, I know that those things change, depending on who's involved and they certainly, the culture may create a change in practice. And so that's the part that I'm worried about, is that I would rather have, while we have this opportunity, the means to just ensure that there is that openness. And if it's more than just a review, then I would like people to be able to know that. So I know that what you've described as -- because I know what those kinds of meetings are like myself. And as I say, they are -- they are largely the content and the tone of those meetings are determined by the individuals. And I don't think that we with should be making policy based on what we think the good government folks will do. Look, this is what everyone will know is the right thick to do, not just like those inclined to be more open. So I'd prefer to keep those in.
>> Ed Rast: Additional comments? Staff comments? Let's see, we'll move forward and vote on it. All right, so why don't we read the motion again.
>> Margie Matthews: I make a motion to -- move number 1 and number 2 under category D to ancillary bodies and move the definition under number D down to ancillary bodies.
>> Ed Rast: All right. All in favor, opposed? It passes unanimously.
>> Ken Podgorsek: We haven't had one of those tonight.
>> Ed Rast: E-1 is staff --
>> Councilmember Liccardo: Excuse me. We've believe that the arena authority should be a policy body.
>> Ken Podgorsek: I move staff's recommendation.
>> Second.
>> Ed Rast: Staff discussion, public discussion? Let's vote. All in favor? [ ayes ]
>> Ed Rast: All opposed, it passes, moves forward.
>> Ken Podgorsek: We're on a roll.
>> Ed Rast: E-2. There's no highlighted, so it's 1 through 15.
>> Lisa Herrick: Mr. Chair, would you mind if I go through and give you staff's recommendations? Although they're not bolded, I think it would be wise if we should discuss whether they're nongovernmental, governmental ancillary.
>> Ed Rast: Go ahead.
>> Arena management authority, nongovernmental, children's discovery museum, nongovernment. Friends of the Guadalupe, I really don't think that belongs anywhere. Put them on your list along with CON-VIS. I'm sorry, Virginia.
>> Virginia Holtz: I agree it shouldn't be a policy body or an ancillary body. It's a nonprofit organization who happens to get grants from the city to carry out a work of enhancing and improving the Guadalupe river park and gardens. That's their mission. So to me, they could even be completely off the list.
>> Lisa Herrick: That's what I suggested.
>> Does it fit into the definition?
>> Lisa Herrick: Definition nongovernmental bodies.

>> Ed Rast: Joan.
>> Joan Rivas-Cosby: Let's go ahead and go through all of the recommendation and that might move us along faster.
>> Ed Rast: Lisa. RF friends of the Guadalupe, doesn't fit the list.
>> Was that on the list to --
>> Lisa Herrick: greenteam San José, nongolf body. Happeny hollow park and zoo corporation, same as the friends of the Guadalupe. Mexican heritage corporation, nongovernmental body, Norcal waste systems of San José, which that contract will expire at the end of this month, nongovernmental body, I wanted to add two -- while we're talking about the garbage haulers, green team of San José will be -- now, you know, I'm sorry, you know, it's in another section. Let's just talk about the ones that are on this list, I apologize. Greenteam I thought was on that list but it's not.
>> We already did that, previous page, number 4.
>> Lisa Herrick: I apologize. Our city forest, we don't think that belongs on the list. San José downtown association, was identified on your -- no. Listed as a nongovernmental body on attachment 1. It really is more like a policy body. But we recommend that that be -- no, we don't know what to do with that, and that's on that list.
>> Ken Podgorsek: That's fair.
>> Lisa Herrick: Correct.
>> You're making no recommendation on that one?
>> Lisa Herrick: Right, it doesn't fit the definition of ancillary or government body either. San José sports authority, ancillary body. Taxi San José doesn't fit within any of the definitions. So you might want to figure out what you want to do with that. Team San José, nongovernmental body. Tech museum, nongovernmental body.
>> Ed Rast: Discussion.
>> Dan McFadden: Done what you want to do with this, then you go to the arena management corporation, they're covered by a contract that's very specific on this, until with 2023.
>> Ken Podgorsek: Hopefully this will last until after 2023.
>> Ed Rast: Lisa, I had a question, San José downtown association and San José, at least in my mind, those two, 10 and 12, more fit E-1 than the E-2 category.
>> Downtown association does not exist primarily to exercise authority granted to it by the city. It is a group of business owners who form and get money from the city but they do not exercise authority designated to them and they don't --
>> What about this BID district?
>> Lisa Herrick: That's a group of you may want to include. But if we're just talking about the downtown association, they don't feed like into the category of E-1 or 2.
>> Dan McFadden: There's a BID which is based on employees which is a tax if you will and the money goes to the downtown association and there's a proposal that I'll go back to the downtown association. They do exercise significant decision making, base if you will.
>> Ed Rast: Karl and Bert.
>> I just wanted to mention, focus the discussion here. It sounds like the problem here is, there are a number of people that staff put -- number of entities that staff put on the list that don't meet the definition. So there's no problem. And they meet the definition of an NGB or they don't meet any definition at all and so they're gone.
>> Ken Podgorsek: That was my point.
>> I was confused by this also, I don't get that, I'm sorry.

>> Lisa Herrick: Sure. It's specifically, it's a few groups that got captured and it's a hand physical of groups out of hundreds, right? The San José downtown association was on attachment 1 of the task force's report, was identified as a nongovernmental body. Someone intended it to be a policy body but we don't believe it is a policy body.
>> Ed Rast:.
>> Can I had a declare phi anything?
>> Sure. The question I have is, some of these were on a list that the task force was pointing out. Because it couldn't, you put it -- it was put, it was put in this policy thing and then goes back to what Ed just said, what Bert just said, which is why was it on here? If it doesn't fit at all, why would we want -- I wanted everybody that was on attachment 1 to show up on this list so we could talk about it, and no one ever said what the report related to. What was ancillary body and nongovernmental body. In March the downtown association was originally identified as a nongovernmental body. I think someone really maintenance that it was a policy body but on further reflection it's neither. So that's what happened with our 70 he forest, taxi San José, happy hollow and friends.
>> Lisa, are some of the bodies that are currently listing there fit the definition that you're recommend that we close? I think --
>> I did that, but I'll do it again.
>> Most are nongovernmental bodies with the exception of the San José sports authority.
>> Actually I'm not finished.
>> Ed Rast: Go ahead.
>> It is a question I made about intent a couple of weeks ago when we were looking about putting phase A forward. If you don't miss the, type it in at a subcommittee meeting and put San José there. But if you look at what the entity is, then I don't even think that we should worry when it, now, definition, if I was the director of taxi San José, and I went through what the rule was and I saw my name was on here I'd be going hey, where do I stand of stand in line to, basically what I'm saying is if it doesn't fit when it moves forward, it couldn't get off did less. Another good litigator or what?
>> Ken Podgorsek: They represent a lot of tax money that is collected in Downtown San Jose. If they don't fall under this section, I really believe they need to be a policy body. Where would you put them to make them feel they were --
>> Lisa Herrick: The parking?
>> No, I first commented that you said the sports authority fit under C but you still weren't sure about downtown. No.
>> Sports authority would be an ancillary situation. My knowledge of what they do and what they administer I do believe they are a policy body.
>> Well, and I may ask Dan to comment on that further.
>> Ken Podgorsek: There still should be openness and transparency on that.
>> Ed Rast: We've got a time issue so we try to --
>> Lisa Herrick: I don't think it's the downtown association specifically, it's the BID. Which they administrator.
>> It could be the B.
>> Lisa Herrick: They're on a list of what do you do with these?
>> Ed Rast: Bob Brownstein.
>> Bob Brownstein: If we followed the staff analysis the set under E-2 is an zero policy bodies, I thought E-2 was the worst definition that we have. So if it's an eliminate the poorly conceived definition then we'll I'll make this as part of a motion. Then in all the cases where staff designated a new home for a body,

would I move those. That is, anyplace where they say it would be a, thirst component to the motion would be that we refer to stat for review, the San José downtown association for a proposal for an appropriate designation for that body, to allow a reasonable level of public oversight to be referred back at the next meeting.
>> Ken Podgorsek: Second.
>> Ed Rast: Second?
>> We're all going tired, so I'll go down in flames very quickly here. As I read E-1 and E-2, it seems to me the purpose of E-2 is to capture what might otherwise be a loophole in E-1, E-1 suggests that, a group that is created by a policy body in order to exercise authority delegated by the policy body ought to be a policy body. Rather than creating a group to run the arena, they took some group that was already existing and said, you're going to run the arena. I like E-2. I think it has wrapped in some groups here that shouldn't have been wrapped in. I don't think green team of San José, we should let that out but I don't think that was the intent. Behind E-2 is a good idea. And I would not want to throw it out.
>> Ed Rast: Margie.
>> Margie Matthews: I don't agree with that, because this is a definition of a public-private partnership. And you know, if you single out just the nonprofits for scrutiny but not the private businesses, it's not fair. Nonprofits are businesses. They're offering a service for a fee. And I've argued this a lot through the many days we've been here, and the whole notion of public private, so the tradeoff is that you go to the private sector and so that's why all these nonprofits showed up, they could do it cheaper and without government bureaucracy, and nontax money to the table. I'm just against it.
>> Ken Podgorsek: Ken Podgorsek. This is the difference between when an RFP goes out and several groups bid on a process, or be part of that processing is asks to come forward, so in the case of Greenteam, Greenteam was a bid id process, there were multiple groups that wanted to do that, and Greenteam was selected. In the case of the arena management corporation, there was no bidding process in that process. So not knowing -- I understand, that's the difference, there's your loophole difference. You know, if someone can suggest language to keep it in, that would make it that defined, I could support what you're saying. Otherwise, I think there's -- the unintended consequences here far outweigh the intended consequences.
>> Ed Rast: I have a question, Bert. Bert, let me see if I can clarify something, exercise authority that has been delegated to the policy body, that would pull in the BIDs that were handling taxes.
>> What you just suggested makes it even broader. I think we all agree, we want to narrow it. Even I agree we want to narrow it.
>> Ed Rast: Who's next?
>> Karl Hoffower: I had a question.
>> Ed Rast: Karl, then Bob.
>> Karl Hoffower: I'm a little confused on E-2. I thought I heard a comment, E-2 didn't have anything, it was a null set, that's what you set right Bob? So why was it put in here? Why --
>> Lisa Herrick: If you agree with staff's recommendation to move those groups into other categories, then nothing remains in it. I think that's what Bob's saying.
>> Karl Hoffower: Okay, so but the reason you put it here was because upon looking at what it did it fit this definition of E-2.
>> Lisa Herrick: These groups definitely fit the definition of E-2, but your current recommendation is if they multiple definition then the highest definition applies.
>> Bob Brownstein: My fundamental objection to E-2 which I described in my minority report, is that E-2 doesn't do what Bert Robinson thought it did. Organizations that performed the exact same function that

organizations that captured under E-2 but don't do it primarily but do it on a broader scale, i.e., some group that runs 50 art museums, it would not be captured by E-2. What E-2 does in my mind is do a very perverse selection. It takes local groups and says they will be subject to the greatest regulatory scrutiny and it takes Godzilla organizations and gives them no scrutiny. We need to worry about the least.
>> Ed Rast: Further discussion, staff, public? We have a motion? Bob's motion.
>> The Clerk: I can summarize if you like.
>> Bob Brownstein: You going to do it Lee?
>> The Clerk: I'd be happy to. And if I didn't summarize, please correct me. The first part of your three part motion was to eliminate the definition E-2. Number 2, in all carses, approve the staff recommendation. Number 3, refer to staff for review the same as the downtown association for proposal for an appropriate designation to ensure reasonable oversight.
>> Bob Brownstein: For downtown association. That's the motion.
>> Ed Rast: That's the motion. All in favor? Okay, wait. Bobbie, you had a question? Okay. All in favor. Hold them up. All opposed. And the motion passes.
>> Now he's age himself.
>> Ed Rast: 3 has no categories right now. F has basically the staff has made a recommendation these be moved over to ancillary. And also, let's see. They eliminated number 4. San José beautiful.
>> Lisa Herrick: As well as number 3 because they are duplicative of --
>> Ed Rast: Did you eliminate them here or up above?
>> Lisa Herrick: I eliminated them here because the evaluation panel is really redundant to the group itself. There is no separate evaluation panel.
>> Ed Rast: It is going to stay in the other category we talked about earlier?
>> Lisa Herrick: Right. The B.E.S.T. panel and the cap grant panel do exist and we recommend they be ancillary bodies.
>> Ken Podgorsek: Mr. Chair, I move that we can accept staff's recommendation.
>> Virginia Holtz: Second.
>> Ed Rast: Discussion? Staff, public? All in favor?
>> The Clerk: We need clarification of the second part of the motion, I'm sorry, Ken, if you wouldn't mind. Accept staff recommendation and the second part of your motion?
>> Ken Podgorsek: And to move the definition, if it's not already defined in our definition, which I believe it is, to the ancillary body section.
>> The Clerk: Got it. Thank you.
>> Ed Rast: all in favor? Opposed? Abstentions? It passes. We're still quorum. Okay. Does that -- I know.
>> Ken Podgorsek: We're done.
>> Do your famous motion Ken.
>> Ed Rast: Any discussion on 5, ancillary body A?
>> Lisa Herrick: A couple of comments from staff, if you would please.
>> Ed Rast: Yes.
>> Ken Podgorsek: We're not done.
>> Lisa Herrick: Just wanted to make a point that on attachment 1, citizens core council there, number 5, was listed as a policy body. We think it's more appropriately an ancillary body. So I just want to point that out. And there are some other groups that we just want you to know would fall -- would be categorized as ancillary body. The hundreds of groups of action committees, a lot of capital programs that solicit community involvements and those fall into the C-PACs and there are a lot of capital programs so there

are a lot of C-PACs so they really do advise department heads. You'd be including a whole -- we really think there are hundreds of C-PACs, that's an FYI. Also, the five-year housing planning committee was a group that was formed to get some -- essentially advise the head of housing, and that would be an ancillary body as well, and so we're just trying to give you a sense of what your definition captures.
>> Ed Rast: Karl, then Ken.
>> Karl Hoffower: I'm here to request reveal my ignorance, what is a C-PAC?
>> A community political action committee. It relates to capital projects.
>> Tom Manheim: Tom Manheim for every capital projects it works for the department that oversees it generally will work with a group of -- an advisory committee. So we have -- and we have so many capital projects. They're small groups, they form related to that project, and then disband.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: Ken Podgorsek. There are neighborhood committees that would fall under this. Before anybody gets concerned about the extra burden, I helped facilitate the formation of a district 3 advisory group for Councilmember Liccardo in my role as executive director of the UNFCC, and from day 1 since I worked on this, I knew what it was, I asked Councilmember Liccardo to follow the policies and procedures and it's hardly been burdensome. Those meetings are noticed, they're pursuant to the Brown Act. The only extra thing will be the minutes or the recording aspect. But in terms of everything else it has been a very simple process for those groups. And I think most of the PACs would be there too.
>> Ed Rast: Tom Manheim.
>> Tom Manheim: One way to do that would be to eliminate the, "or a department head," that's what captures it, simply advising the Public Works department. Am I correct?
>> Lisa Herrick: Yes.
>> Ken Podgorsek: That would gut ancillary bodies. That was a key issue for neighborhoods. So I would not support that.
>> Ed Rast: Okay. Further discussion? Staff? Discussion? Public discussion?
>> Is there a motion?
>> Ken Podgorsek: Do we even need one?
>> Ed Rast: Yeah, we need one.
>> Ken Podgorsek: On which?
>> I move we keep A the way it is.
>> Ken Podgorsek: Second.
>> Ed Rast: Okay, now we go back.
>> Lisa Herrick: Staff's recommendation as well.
>> Ed Rast: C-PACs, add the C-PACs.
>> Lisa Herrick: With the understanding that these are not exhaustive lists.
>> Ed Rast: So go to the maker of the motion. Does the America of the motion agree to adds can C-PACs to this?
>> Sure, I agree.
>> Ed Rast: all right, staff discussion, public discussion, group discussion? All in favor? Opposed, abstentions, the motion passes. Nongovernment bodies, A. List 1 through 12.
>> Virginia Holtz: I move approval recognize there are some designations of other categories moved to the ancillary bodies and those would be included.
>> Lisa Herrick: Excuse me, I wanted to let you know about some other additions. Late-breaking news.
>> Lisa you're in rare form tonight.
>> Lisa Herrick: Oh, I've been better. [laughter]

>> Lisa Herrick: I wanted to let you know that we thought we should add the police activities league, because they -- they operate a stadium. We think that property exceeds the value of $5 million, we think so but we're not sure, and we also want to adds San José giants for the stadium.
>> Margie Matthews: I want to reiterate my concern about the requirements for these nongovernmental bodies. I've voted against that and continue to be against that. But I'm happy that many of the organizations have moved into this category.
>> Ed Rast: All right, call for the vote. All in favor? Oppose? Abstentions? The motion passes.
>> Ken Podgorsek: We should have gone these first.
>> Ed Rast: On page 6.
>> Lisa Herrick: There are some additions here. If you would let me. In addition to these two haulers, we have California waste solutions coming on, Garden City sanitation. We also wanted to add some street maintenance vendors and that would be universal maintenance, bond black top, I think Graham construction. There may be some others, you're getting the gist, they're street maintenance. Goodwill, just reused and recycling for city, so they could fall under garbage collection or street maintenance. It's a little rough but we were trying to gives some examples. And then San José conservation core which was listed@as a policy body on attachment 1 to the phase 1 report, really should be considered a nongovernmental body, they do perform some park maintenance and street maintenance as well as recycling.
>> Bob Brownstein: Move approval.
>> Second.
>> Ed Rast: Staff discussion, public discussion? Vote? All in favor? All opposed? Abstentions? The motion passes. We got through that one, finally.
>> Ken Podgorsek: Let's talk about meetings.
>> Ed Rast: Let's talk about meetings. So Ken Podgorsek is correct, we'd never get to enforcement. Phase 1 work plan, Sheila, comments?
>> Sheila Tucker: Sorry, where are we?
>> Ed Rast: It's 9:30 and we're an hour behind where we should be.
>> Sheila Tucker: So what would you like to discuss? just reflection meeting?
>> Ken Podgorsek: we should just go to the next meeting, meeting schedule, right.
>> Ed Rast: We have a meeting scheduled on the section Thursday of the month. I'm sorry, third. I understand from the staff there's a conflict, and also, we have a special meeting scheduled for the 27th. My recommendation is, we don't do the third Thursday, we do the 27th.
>> Lisa Herrick: Would you like to know what the conflict is? The council has set a special meeting to discuss the independent police auditor.
>> It's a resource challenge.
>> You're suggesting the 27th, then, which is our joint meeting for the rules committee, and then we're on break for July?
>> Ed Rast: Yes.
>> My whole point is, if we don't launch subcommittees, we're in trouble. I don't see how we can do that with our joint meeting with the resumes committee.
>> Ed Rast: Judy Nadler.
>> Judy Nadler: The definition of the joint meeting, is that similar to the previous rules and ethics committee meetings, they sit up and talk to each other and occasionally asking whether someone wants to speak? Not exactly a meeting of this group.
>> Let me make a suggestion which may work. Given that we have a break in that full-day meeting for

lunch because the mayor has to go speak at Judy's affair, maybe we could have a working lunch and launch the subcommittees.
>> Ken Podgorsek: I do need to inform, since I sense what I've been calling the enforcement committee is really the administration and accountability committee, and I'll change my thought process, the -- I will be out of town that day.
>> And I'm supposed to be on the ethics committee and I'm not going to miss the ethics and leadership camp.
>> Margie Matthews: I think they're going to go over the definition of these groups.
>> I don't think they're going to get -- I do believe they're going to get much farther than they did before based on our recommendations. But I'm not sure how instructive that meeting will be as a Sunshine Reform Task Force meeting. That's what I'm trying to figure out, when is this group going to meet next when we actually sit around like this and talk about what we're going do? I mean, that's my question.
>> Bob Brownstein: Let me make a suggestion. Since staff is going to be busy, we can't have a full meeting on June 21st but maybe we could just have a short, half-hour meeting on the 21st, since it's on everybody's calendar anyway, just to deal with organizing the subcommittees?
>> Tom Manheim: The challenge with that is that, the City Council is meeting, it's a televised meeting. We don't have the ability to televise both meetings.
>> Ed Rast: Sheila Tucker.
>> Sheila Tucker: There's one other line of thinking here. The next section is public records. If we could establish who's on that subcommittee now, all the resource materials have been prepared for that. We've looked at what the various sections should be included in there. We've said what if public record act says, what the key questions are. That subcommittee could actually convene and formulate their approach. It's just a thought.
>> Ed Rast: Do you want to do it now?
>> Ken Podgorsek: Let's do it now.
>> Ed Rast: Let's do it now. Who has an interest in being on the public records?
>> Sheila Tucker: If you look at the last attachment on your handsout, we had Susan Goldberg and Dan Pulcrano was originally lined up for public records.
>> Ed Rast: We have six people, that's too many for a subcommittee because it runs into quorum problems. Tom, had you a comment?
>> Ken Podgorsek: Four is safe.
>> Ed Rast: And five --
>> Tom Manheim: 5 is -- a quorum for this body is 8. So 5 gives you --
>> Ed Rast: 5 would be okay. I counted six. Put the hands up, one, two, three, four, five, Dan wanted to be on it, it's six.
>> We probably won't get all six regularly anyway.
>> Dan McFadden: This is my last meeting, I just want to say, I sort of enjoyed most of this.
>> Ken Podgorsek: You're not going to watch this on the TV.
>> Dan McFadden: In the funeral industry, they talk about forming a pleasant memory picture. This has formed a pleasant memory picture which I'll take away. [applause]
>> Ed Rast: Is the task force comfortable with six people on the committee? We're just going to have to be careful.
>> So how do we set our first meeting? Do we know each other?
>> Ed Rast: Susan was going to be chair. We have a volunteer for chair.
>> Lisa Herrick: And it really helps if you involve staff, because we help you prepare your reports. If you'd

like us to.
>> We'd love to have yah.
>> Lisa Herrick: I'd love to do it.
>> Ed Rast: So that starts off that committee. Any comments from the task force about direction of the committee? Any comments, are there any task force comments as direction to the committee? All right.
>> Did Dan McFadden just walk out, that's it, he was done? No photo op?
>> Sheila Tucker: From a scheduling standpoint, we're not having a second meeting in June, we're not meeting in July, we're going to proceed in August with the first and third Thursday.
>> Ken Podgorsek: Do we need a motion for that?
>> Sheila Tucker: I think I can do it.
>> Ed Rast: Next group after that is going to be what, either technology or administration and accountability?
>> Sheila Tucker: We have technology slated next.
>> Ed Rast: Let's quickly go down through this. Who's interested in technology?
>> Can I tell you now Dan Pulcrano is very --
>> Ed Rast: He's going to be chairing it, I would say. Any others interested in technology?
>> Sheila Tucker: We should have more than one.
>> Ed Rast: We should at least have two or three people on it. Is anybody interested in being on technology? Not any volunteers? I will be on it.
>> You're an easy vote.
>> Ed Rast: Anybody else? We're missing a couple of people. Would you raise your hand?
>> I'll volunteer for it.
>> Ed Rast: Karl's on it. We'll work that out. Administration accountability. We've got three, anybody else interested? Four? I'm sorry it was Virginia, Bob, Ken and myself. No, I'm sorry, Bobbie. It's late. Bobbie. Administration accountant. What's the last one, ethics or whatever? Judy and Dave. Anyone else interested on ethics, Mary Ann on ethics. Budget, under accountability?
>> Ken Podgorsek: I just added more work onto my plate.
>> Ed Rast: We'll put budget under administration and accountability. It's money, whatever. Does that get through work plan? Any additional comments? Margary.
>> Margie Matthews: I don't think Judy Nadler got her question answered unless it was done in the beginning and I can't remember. What is the nature of the all-day meeting with the City Council? Is it with the rules? it like a retreat or what?
>> It's a study session. The concept here is that it would be a joint special meeting of the two bodies, here in this room. Where there would be interaction between the two. We did meet briefly this morning to kind of start planning this but our thinking was that the chairs of the subcommittees that developed the recommendations that you ultimately approved and pushed up to the rules committee, could then respond to the questions that come forward on the 15th from the councilmembers themselves. We felt it should be better from the task force members who developed these recommends then there could be dialogue.
>> Then we'll go over phase 1 for six hours?
>> Tom Manheim: If I could clarify, it's a joint meeting really to accommodate the task force, so we don't have to worry about more than a quorum showing up if you choose. But I think as we look at the work of that meeting it will really be -- the vision is that the subcommittee chairs, who are most familiar with those areas, public information, closed sessions, public meetings, would be there and be available to sort of answer questions and convey the sense of the task force. It may not be an all-day meeting but the rules

committee wanted it in a faster block. So we've blocked the day. Fit goes faster than we expect, it may only go the morning.
>> Ed Rast: Lisa.
>> Lisa Herrick: I wanted to clarify, it's public meetings, not beyond the definitions.
>> Ken Podgorsek: As I mentioned I'd be out of town so I'd definitely defer to either of my colleagues.
>> Ed Rast: Bob?
>> Bob Brownstein: I'll be there.
>> Ed Rast: I've got a conflict. Sheila.
>> Sheila Tucker: it just occurred to me, our closed session lead is not here. Who will handle --
>> Ed Rast: what's -- Karl, Mary Ann or Brenda, who wants to work on it? Of course you are all welcome but -- Karl, wait a minute, I can't see. Cannot hear. What did you say?
>> Sheila Tucker: I'll need to work with the lead person in the coming weeks to who should I work with, Karl?
>> Ed Rast: That's what we're trying to find out. Karl, you volunteer?
>> I'll volunteer.
>> Sheila Tucker: You can send the comments back to me.
>> Ed Rast: Would you send it to the chair and vice chair? And Bert is going to participate with the other four members. All right, the next question is who on public information --
>> On public information what I plant to do is talk to Dave in the next couple of days. He's not aware of any of this. We don't know his status. If he was unavailable, it would be either Bobbie or Virginia.
>> Ed Rast: You talking about Dave Zenker.
>> Yes, Dave Zenker.
>> Ed Rast: His e-mail said he had personal family business. If he's not available, Bobbie or Virginia will handle it. Is there anything else we need to clarify on that?
>> What date is?
>> Ed Rast: It's a Wednesday.
>> The Clerk: Start at 8:30 in the morning, break for lunch at 11:30 and reconvene at 1:00 if necessary. It might have to be a little bit flute.
>> Move for adjournment.
>> Ed Rast: All in favor? Aye, thank you very much.