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>> Tom Benthin: We are nearly all here. If you need to get water, anything else. We'll start shortly.

>> Tom Benthin: Why don't we go ahead and get started. Okay. I need to run through a few announcements. And logistics before we get a look at the agenda so everybody's ask on the same page. There is a parking validation medicine outside the door. It will remain there until after the meeting, is that right? So don't forget to validate your parking ticket. These yellow cards please if you can, before you come up to speak, grab one of these cards off the table, fill it out, and hand it to Sheila tucker. Sheila, can you raise your hand so everybody knows? If you can put the topic, the agenda topic that you want to address on that then Sheila can keep a queue on who's in line and we can track speakers that way. If you spontaneously decide I really have something to say about this that's fine, too. Please just stay in queue, if there are other people ahead of you. And what we would ask is that if you do come up extemporaneously at that public comment time during one of the agenda items please afterwards do get a yellow card and fill that out and give it to Sheila. Because that's how we maintain a record of who actually was speaking to save the transparency. We have a two-minute time limit but we will give time in each segment of the agenda and there is a public comment period at the end of the meeting as well that isn't related to a specific table. There are handouts on the back table. I think everybody has seen them. There is a packet, agenda minutes, City of San José answer, Judy's code of conduct model, the staff grouping categorization model, the new staff member. There is an information for Dan who hasn't arrived at yet and new referral from the city as well as couple of items of correspondence came in from the public between meetings. All that's on the back table for members of the public or task force members if you don't have that already. And there's a sign-in sheet. So if you haven't signed in please make sure that you do that before the end of the evening so at a we know you're here. Does of does anyone have any other handouts that need to be distributed? If not, now would be a great time to hand them out. None. Okay. Does city staff have any announcements you need to make? Sheila? [ off microphone ]

>> To make a report back on the 14 items that they referred to this committee, that they had already taken action on. But we have to go back and talk to them about the fact that we've implemented those. And we assume at the same meeting that the chair of this task force would want to make a status report on the task force where you are at this point. In setting up the council schedule for the fall we tentatively got a date for a study session with the council with the Sunshine Reform Task Force to bring them up to date on the progress. So that's August 29th and there's a date in November after the election to talk with the council about the work of the task force.

>> I will be out of the office the first three weeks of August. So I am not leaving this project, but during that time, a person from our office will be handling a lot of the correspondence I typically do. You're going to want to contact her at that time if you need something. You'll find our contact information in the binder, under the contact list and I will be back.

>> Tom Benthin: One thing I don't have in my notes but occurred to me with Dan's entry on the microphone is that we do have a note that some people didn't get picked up quite as well as they could have last time. I want to encourage you to lean forward when you speak, so you can be picked up by the audio as well as for video.

>> If I could model good behavior, lean forward and make sure the microphone is sort of you. Some of the -- toward you. Some of the microphones are pointed towards the ceiling. Be aware if you can't hear yourself really clearly over the speaker system, probably isn't picking you up as well as you'd like to be picked up.

>> You're assuming that, right?

>> Tom Benthin: We have a new task force member, David roberson. We need to do this quickly or it's going to eat into our other work. Introductions.

>> I'm Dave Roberson. I'm 42-year resident of City of San José. I'm a Real Estate attorney on the Alameda. I've been actively involved in civic activities and my school board for a number of years and I look forward to working on this task force.

>> Tom Benthin: Judy, can we continue with you.

>> Judy Nadler: Judy Nadler I'm from the Markkula center for applied ethics.

>> Susan Goldberg, San José Mercury News.

>> Dan Pulcrano: Dan Pulcrano representing the Silicon Valley leadership group. .,

>> Dan McFadden the City Manager's office. [ off microphone ]

>> Sheila Tucker with the City Manager's office as well.

>> The Clerk: Lee Price, City Clerk.

>> Ed Rast: Ed Rast, strong neighborhoods initiative.

>> Tom Benthin: The agenda is to elect the chair and vice chair, then to establish policy of task force absences, to review of that and question is, is that what you want to adopt or are there changes you want to adopt, and developing a work plan a couple of them were proposed, a protocol for accepting reform proposal. Identify common groupings. You made several, contributed several thoughts about possible groupings in the past so we can dig into that president at 7:45 we need to get into next agenda items so that we can construct the agenda for next time and then allow time for public comment at 7:50, adjourn at 8:00. Any questions for changes you need to make to the agenda? Okay, hearing none, because of the workload, and I know it may have felt to you a time flex we were slogging through some things I'm going to try to keep this to the times we have posted in the agenda. If at the end of the amount of time that was allotted for a particular activity you want to continue, that's fine. I'm happy to do that but it's going to change the balance of the rest of the work that we're trying to do here. I do need to bring this to a hard stop for agenda items at 7:45 for public comment so we do have time to get those into the meeting. Ready to go? Okay. Selecting a chair and a vice chair. The process that I think the we would use for this is, to begin with the chair. To ask for nominations. And you can either nominate someone or self-nominate. Once we got a list of everybody that wants to be considered for that role, then unless we've only got one person, probably want to hear a brief statement from each person and then have a -- yes.

>> I'd like to propose that we have a nominating committee to review them and come back to us at the next meeting. I'd like to propose a three-person nominating committee. Because we could easily take up half the meeting on the selection process and I think since you're here at this meeting and can continue chairing it through this meeting, if we select a chair my next meeting it might be a more organized process. Does anybody want to second that?

>> I would have actually preferred that we pick the person. Your reasoning is fine. Can we find out first who has shown an interest in serving and find out if anyone has nominated --

>> Tom Benthin: I have no idea. Since this comes under the Brown Act nobody has contacted me between meetings.

>> Not everyone is here but is there anyone who wants to serve?

>> I think it would be good to follow what Dan said, primarily because I'm not sure about anybody else, I don't know people that well who are here, and I would like to have some discussion from anyone who would like to run, as far as what they see as the requirements of the position, and what they would bring to that position, that we could -- so we could actually see that and understand what they think about that.

>> Tom Benthin: Okay, so you're seconding Dan's motion, is that right?

>> Could you say that,.

>> Councilmember Yeager:.

>> Tom Benthin: Okay. Any discussion?

>> I don't know, I'm really of split mind on this. Because a lot of things we need to move on with things and that we have had two meetings where we haven't perhaps accomplished as much as we might wish and that getting a chair in place would be a good thing to push forward progress. I do worry a little bit about having that vote, when it looks to me like half of our members are not here. That's actually my bigger concern. Not that we need a special committee, but I'm -- we're missing, what, half the people or --

>> Tom Benthin: No.

>> So we have a quorum.

>> Well, we do have a quorum, I guess. But my bigger worry is, are there -- do we feel comfortable picking somebody when there are not as many people as I think we would all wish. I don't know.

>> I for one, don't. I'd be much more comfortable for representation of the group. I think that it's important that we all build trust with each other, develop an ability to work together, and I think this election is part of that process. And should be held they deliberately. Not necessarily with a -- just a quorum.

>> One way we could solve that problem maybe is, move another item forward, and defer this for, say, a half an hour, or some other time certain, and then bring it back, and by that time we will know for sure if other later -- if there are some late arrivals to give us a full complement of the task force. I would move, if it's amenable to moving forward with the item number 2, establish a policy for task force absences.

>> Could I just announce that I do know that Blanca will not be here, Phaedra will not be here and Nanci is running a little bit late.

>> So there is only one more that will be able to be here tonight.

>> Correct.

>> I was hopeful that we would get a fuller complement of members.

>> If we know that Nanci is coming --

>> Share that information.

>> If you would like me to move that we defer this item until Nanci arrives and move forward with the second item on our agenda, I'll make that motion now.

>> Second.

>> Well, I think there's --

>> Tom Benthin: We've got a motion on the floor.

>> There's a motion on the floor that's been seconded. We should vote on that.

>> Tom Benthin: Take a vote on that.

>> Vote on this motion before you voted the original motion.

>> The motion is to create a three member nominating committee that would review the potential candidates and make a recommendation or recommendations, they could present a candidate or a number of candidates for a vote at the next meeting.

>> So but if we do it that way then three people are elected our chair instead of all of us voting, right?

>> No.

>> Just based on the pool that we're giving them?

>> I think it goes back to that concept we were talking about at the other meeting. There might be some need occasionally for a working group, so that we don't bog our meeting down in details, although picking a chair is not a detail, it's extremely important to, as -- and we should be able to come to some conclusion based on that. I'm -- personally I'm torn. I'm sort of with Susan on this one. I'd like to move this on and move this along. Because we -- this is a basic function to building a -- building a committee, is to being able to pick your own -- being able to do your leadership. The and if we can't -- we can't work that part out, we're going to have a problem working out the really complicated stuff as it comes out. This is a real basic function to creating a committee. On the other hand, I do have -- the chair of this committee is going to

have a certain amount of visibility. And -- related to it and I think it's important that the chair be well representative of -- the chair and the vice chair be somebody who can create a middle ground, that isn't going to be divisive and I think that's extremely important. And so with that, I think Dan's idea of maybe taking a little deeper look than we could possibly do in 20 minutes, does -- you know, does make some sense. But I want to go back to the first question that you had. And first question is, who is interested in doing it? Because one of the first things that comes along with selecting a chair is finding people who want to be that person.

>> Tom Benthin: It would help you to know who was willing.

>> If we could table the motion a bit to have that discussion and then go back to the motion, if the motion America and the second would be --

>> I'm not even sure what the motion on the floor is.

>> Tom Benthin: The motion on the floor was to have a three-person nominating committee that would consider candidates and bring a recommendation back to the next session of the task force.

>> That was the original motion on the floor?

>> Tom Benthin: Yes, it's what Dan was proposing.

>> I think it would be helpful, I would hope that a nominating committee would ask that person, have you chaired meetings before, what bodies have you run, what's your experience in doing this and then they would have the opportunity to maybe ask a person who served on that body, did they run a good meeting, did it function well, did they move the agenda forward? There is a number of people here who I believe could probably do the job quite well. But it would be helpful to do a little bit of research in between the meeting.

>> as the seconder of the motion, I'm going to say that I'm not necessarily now that I understand more about what was proposed. I'm not necessarily in agreement with having a committee bring -- do the screening process. I would be interested in having a committee or someone decide on a process for selecting, interviewing or something like that. I'm not necessarily interested in the committee doing the screening process. I think we're perfect capable as a body to have our own screening process, to have people come here and say, what they bring and would bring to the position. So I would only think about it because as far as the motion, I'm almost -- I would withdraw my second in that case. I'm not in agreement with having another subcommittee decide on who would actually be brought forward as names that would be brought forward for the position.

>> Tom, point of order. I just want to point out that Virginia and Bobbie's motion needs to be acted upon. Their motion is to defer the item until the next member arrives. This discussion needs to stop, you need to take the action on the motion that Virginia put on the floor.

>> Tom Benthin: Thank you.

>> Virginia Holtz: Do you want me to repeat my motion?

>> The Clerk: Did I accurately describe your motion?

>> Virginia Holtz: Yes.

>> It's a motion to table.

>> Tom Benthin: It's a motion to defer the item until later.

>> Virginia Holtz: Until Nanci arrives.

>> Call the question.

>> Virginia Holtz: The question's been called, that means we need to vote on the question.

>> All in favor, say aye.

>> Virginia Holtz: That means you are closing the discussion if you call the question.

>> We're not voting on the motion, we're calling the question.

>> All in favor of the question?  
>> Aye.  
>> Tom Benthin: All opposed.  
>> Now you need to vote on the motion.  
>> Tom Benthin: All in favor, of the motion?  
>> Aye.  
>> Tom Benthin: All opposed?  
>> We're going to need to raise your arms a little higher.  
>> The Clerk: all those in favor. One, two, three, --  
>> Tom Benthin: Is it four? Yes, okay. Any abstentions? So then we'll table that until Nanci arrives later.  
>> I just wanted to remind the committee, I don't know that this should affect your decision about whether to proceed tonight or not, but if I'm correct, you will not be here at the next meeting because you'll be on vacation.  
>> Tom Benthin: That's correct.  
>> We tabled this item for later so we can move on.  
>> Tom Benthin: Tom, let me mention one addition to that. I can arrange to have a substitute. The task force wasn't interested in that but that was an option. I could find another facilitator from our company. The request last time was to have Lee bring the city policy back which you have as a handout tonight. And to consider that.  
>> Virginia Holtz: I move adoption of the City Clerk's --  
>> Second that.  
>> No reason to reinvent the wheel.  
>> Virginia Holtz: Which is far more stringent than I recommended last time.  
>> Because we are taking the extraordinary effort to be televised and people might not know what that is, could we just have the staff give a thumbnail so that people know what it is that we're voting on?  
>> Tom Benthin: Lee could I ask you?  
>> The Clerk: Certainly. I'd be happy to do that, good suggestion. What I presented to the task force is an excerpt from the city's municipal code title 2 relating to boards and commissions appointed by the city council. As I mentioned during the last meeting we already have a process in place to -- that talks about absences, unexcused absences and excused absencees. So I have provided that for you. And I think that the policy to allow members to provide an opportunity to the staff of the reason that they're going to be absent, and the policy before you outlines those briefly, an absence due to the illness of the member or death of the member's spouse, parent, child, brother or sister, for instance, that one, you know, fit Blanca Alvarado's absence last week. Away on board or commission business, some you fall into that category. For any member who is a City Council member, city employee of course doesn't apply. And absence of a meeting of, that fourth one doesn't apply either. I think it's just the first two. If someone is absent for 20%, has unexcused absences for 20% of the time, it does provide guidance if a person has 20% or more unexcused absences then the task force could consider them deemed resigned. That's just briefly stated. I can answer questions.  
>> Lee, a clarification. Thank you, that is important to do those clarifications because it just dawned on me as I was just glancing at the very end of the -- of this, this refers to council appointments. This task force is at this point is not council -- is not council-directed. It's controlled somewhat by its own actions. To give that hands-off aspect. So if we were to adopt this, we have to adopt a process, we have to adopt a process to do replacement. Because this particular section refers it back to the council for reappointment.  
>> The Clerk: That's correct.

>> Am I correct?

>> The Clerk: You could adopt this policy as amended to reflect the action you took last meeting, at which time you said, if we have a vacancy in any of the seats of the task force, then we will go back to the same selection process. So those of you that are here because your group nominated you to serve on their behalf, we would go back to those organizations, and say please provide us with another name. If the -- those of you who were nominated by a councilmember, and your names were pulled out of a hat, we would go back to that same process which we did last week with Mr. Roberson.

>> If the motion maker would revise the motion with that in mind, I'd be happy to second it.

>> Tom Benthin: Is there any discussion? Excuse me, do we have anybody from the public that would like to give public comment? Any members of the public want to speak at this time? No, okay.

>> This would apply to absences from today forward, not anybody's absences in the past?

>> The Clerk: I would think you'd want to do that so that we have properly notified all the members of the task force about the action.

>> Thank you.

>> Tom Benthin: Well, hearing no further discussion, all those in favor? All those opposed, any abstentions? That motion and second passes, great. The next item is to establish a task force, let me see if I can get the words right, task force codes of conduct. We're actually on time. Kind of strange.

>> no, we're not. We deferred an item.

>> Tom Benthin: Depends what you mean by "on time" right? Judy. The intention was to propose the code of ethics.

>> Judy Nadler: My proofreader wasn't in so I apologize for that. What I have proposed is a code of ethics document that we have at the center for applied ethics. In an attempt not to reinvent the wheel, these are sound recommendations and I would ask you consider them. Again because those people who are watching may not have the item before them if I could just quickly run through it. There is a preamble. As members of the Sunshine Reform Task Force, we have the obligation and responsibility to ensure that all work done on behalf of the task force is fair and ethical and complies with both the letter and the spirit of the law. To encourage public confidence in our work and recommendations we agree to the following: All task force members will work for the common good of the City of San José, and its residents, not for any private, personal, or partisan or political interest. We will treat all persons in a fair, equitable and courteous manner, we will listen attentively to all public discussions and with each other with speakers and with staff. All task force members will study the background materials and shall inform ourselves of the facts and options before voting, and vote according to the merits and substance of the issues. All task force members will honor the public trust and keep confidential, any conflict of interest and will abstain from voting in case of such conflict. All task force members will refrain from accepting gifts or favors or promises of future benefits which might compromise or impair independent judgment regarding issues addressed by the task force. All task force members will conduct the public's business in an open and transparent manner, and all task force members will refrain from using their task force titles in identification of political candidate or cause. And the reason I had suggested this is that it is of paramount importance to the citizens of San José that they know that this task force, which was specially called because of issues of ethics, has in fact its own code of ethics and conduct, and I think it will provide a common ground for all of us, and will provide a reassurance to the public as far as our ideals as well as our commitment to the work.

>> Tom Benthin: Thank you.

>> Judy Nadler: You're welcome.

>> Tom Benthin: Questions or discussions?

>> Judy, I think you did a beautiful job in drafting this and it seems to be comprehensive, I'd like to second your proposal if it's in the form of a motion.

>> Judy Nadler: Yes, I am submitting this for your consideration.

>> I second it.

>> Is that a motion?

>> Tom Benthin: I believe you made a motion and you're seconding it, is that right? And is there any discussion? Okay.

>> Judy Nadler: Is there a speaker card?

>> Tom Benthin: And we've got someone from the public who wants to speak. Welcome.

>> I think Judy has done an outstanding job in putting together this set of standards -- begin again. Bob Brownstein. I think Judy has done an excellent job in putting together this list of very high standards. I want to comment on this list. One of the things that follows from adopting her standards is you have to then abide by those standards. And one of the standards is that the members of the task force will disclose any conflict of interest and abstain from voting in cases of conflict of interest. From my view even a cursory understanding of the conflict of interest regulations in the state of California indicate that perhaps two members of this task force will have substantial conflicts of interest on the matters you discuss. In managerial interest who have direct impact, Ms. Goldberg from the Mercury News and Mr. Pulcrano from Silicon Valley leadership group. These standards should be implemented and it is incumbent upon the task force to implement those standards.

>> Tom Benthin: Hearing no further discussions?

>> As I look on item 1, I agree great job, we have always said that everybody should always work for the common goal. But sometimes people have opinions based on what would be good. And I just wouldn't want anybody's personal opinions to be taken as you know, focusing on their own little partisan interests rather than you know thinking as the city as a whole. That might be a little subjective to try to figure out --

>> Well, I think that as I put this together, it's the reminder that we all work for the common good. We of course bring our thoughts and ideas and experiences to the discussion. As well as incorporating information that we get from the public, and input from the staff. So it's not precluding anyone from expressing how they feel. It's a reminder and it's a pledge to put the City's interests above all of our interests, and to make sure that that is our common goal.

>> I think that we need to address what Mr. Brownstein brought up before we go further, perhaps. I mean, this task force was created specifically with a media representative as a designated position. He talked about an economic conflict of interest. I guess I don't see how you -- for one, I don't really agree with that. But secondly, I don't really see how you could have a media representative who, under your definition, would not have that as a conflict of interest. Given the -- given that was a designation of the City Council, I think we do need to discuss whether others feel the same way or whether we need to go forward. And -- because I don't think that either Dan or I could probably speak for you there. I mean, I think we obviously both are very interested. I think we're transparent in why we're interested, because we think it's not just good for our newspapers but good for the public's need to know. And I guess I don't consider that a conflict of interest.

>> Yes, I spoke with council before I applied for the commission and asked whether this would be considered a conflict. And this attorney's opinion was that this was not a direct specific benefit to my company. I do own -- have an ownership, substantial ownership interest in a media company. And the opinion was that this was a general benefit to the citizens of San José. That openness is in the interest of everyone. So for that reason I'm happy to disclose my holdings, however I don't believe that it's a conflict either. And if it is a conflict I'd like to perhaps hear from Mr. Davis, and maybe get an opinion on that

before we go ahead with that specific portion of this motion. Because that could obviously affect my conduct on the commission.

>> I see the -- any conflict as being so remote and indirect that it certainly doesn't violate any provision of state or municipal law that I'm aware of. So I appreciate the concern. But I see no conflict at all.

>> Tom Benthin: Is your question also, though, whether the conflict would not be in reference only to state and local law, but also to Judy's document?

>> That's just, we can ask Judy what her intent was with respect to this specific document.

>> Judy Nadler: I thought what each of these were and crafted them very carefully. And knowing the makeup of this body that everyone here was selected because they did not have, because they had been screened and did not have a conflict. And I would agree with Ms. Goldberg in her and also Mr. Pulcrano in saying that the benefit, the public benefit of serving is what I saw in having especially the media representative, I wasn't actually thinking of Mr. Pulcrano and his financial interest. But I would also just -- I'm not an attorney but I have been around this subject for many years. And I would agree with Mr. Davis, in his assessment, that this is unlikely, although we can't say for sure, because we haven't decided what we're going to talk about yet. But I think it's very unlikely that it would have a substantial impact on the media.

>> Tom.

>> Tom Benthin: Yes.

>> The Clerk: If I might, lee Price, City Clerk. All of you might remember that part of the screening process for every nominee, including those that didn't get their name pulled out of a hat so to speak, all applications were screened 50 city attorney's office for potential conflict of interest. So before we even move to the next step, to making the selections and the appointments, that screening process had already taken place. No conflicts were suggested by the city attorney's office.

>> Tom Benthin: And we've got another request for public comment.

>> The City Attorney, I'm sure, reviewed the issue of conflict of interest before Ms. Nadler's proposal for conflict of interest was put forward. As an advisory body, this body doesn't have any automatic conflict of interest provisions. The City Attorney would recognize that and say what otherwise would be a conflict if this was a decision making body doesn't apply to this group as an advisory body. In this case, the group is considering applying a higher standard. I think that is a good idea to apply that standard. If you do apply that standard, even the most cursory view of FPPC regulations indicates that the two people that I mentioned are extremely likely to have conflicts in a wide variety of the issues that are being discussed here. All you have to do to run afoul of those regulations is to have a material benefit, and it's based on the size of firms, and material benefit is specifically defined as avoiding costs to a firm. If metro or the Mercury News avoids cost through litigation as they're most certainly going to do if the sunshine task force, put want to have conflict of interest mean what it means to everybody else in California, then it is extremely likely that there are real conflicts, if you adopt this standard.

>> I'm mindful of the time and I don't want this to be the sticking point. If in fact the -- since Mr. Brownstein has brought up the California fair political practices commission and their interpretation, then I would recommend that this particular one item off of the recommended code be referred to the FPPC, they have an advisory group that responds to requests for advice. And that that would make everyone feel better, I would be happy to recommend that we adopt the remainder of the items, if we can get that in a -- and the reason I say that is, I am concerned about, I -- and it's good to disagree, if you do it agreeably. And so I disagree with that. But since the fair political practices commission is the body that is responsible for making decisions regarding conflicts of interest, and if it's going to be a sticking point, I think it would be worth moving this ahead. I cannot imagine, within the next meeting between now and the next meeting

that there will be anything substantive or material that would impact either of the two individuals who've been indicated.

>> Tom Benthin: I think --

>> I think your suggestion a good one, although I'd like the adopt this because I don't buy this argument, mostly because I can't quite see how open up government for all people to view and as a result it saves everybody litigation costs and it saves people who don't have enough finances to do litigation cost is a bad thing or a conflict of interest. But in fairness we want to operate at the highest possible level. Judy, I'd like to make a suggestion. I don't -- I'm hooking at this here and I think that everybody here on this committee will conduct themselves in this manner whether this is adopted tonight or not. I think rather than adopting most of it but not all of it, waiting for an amended one, I think it might be better to table the motion, defer the item to the next meeting, get the clarification from the FPPC and then bring it back and it should be an a simple situation.

>> I would make the suggestion that we make an alternative suggestion, we can put it on the agenda and make whatever revisions if possible, if negatives that we need to make. But would I like to have this in place before we proceed with tonight's meeting. I think it's very, very important.

>> Virginia Holtz: I would second that motion.

>> Tom Benthin: Any other discussion?

>> You know from a procedural standpoint, you're amending your original motion, have you to go back to your original second and see if he agrees.

>> Judy Nadler: I'm going to withdraw my secondary motion, so I won't get the public confused. I'm going to ask that this be adopted, with the reception of the secondary motion.

>> Tom Benthin: sometimes I'm a stickler for details. You're adopting it, with the direction to refer the item --

>> Judy Nadler: Refer that item for an advisory decision by the FPPC.

>> The Clerk: Tom, chatting offline for Rosa. We think it will take at least 45 days to get a response from the FPPC. So this is probably a good action to take so it doesn't delay the adoption of the policy.

>> Judy Nadler: Thank you.

>> Tom Benthin: Any other discussion? Okay. Hearing none, all those in favor? All those opposed? Any abstentions? All right. Motion passes.

>> Can I just say that I'm going to take the position that I've disclosed -- I've disclosed my ownership interest in a media organization and that I don't believe it's a conflict and I'm relying on advice of my own counsel and Mr. Davis in the meantime until the FPPC renders a decision.

>> Susan Goldberg: I agree, same with me.

>> Tom Benthin: The proposal before was to table the absence, I'm sure if chair or vice chair item until Nanci had arrived. And so I wanted to check back and see if this is the time that you wanted to revisit that.

>> We are back to the --

>> Tom Benthin: We are. We are back to do you select a chair and vice chair tonight, do you set up a nominating committee? What's the way you would like to go about that? Any thoughts? About what you want to do?

>> Since Nanci came late, I think we should give her a summary about what the discussion was about before she came here regarding the nominating committee. And some of the others.

>> Please don't catch up on my part. I'll just jump in.

>> The Clerk: We could summarize for you the motion that was on the floor and then you could pick up the discussion. And the motion was made by Dan Pulcrano, to come back to the task force with a

recommendation for chair and vice chair,.

>> Brenda withdrew her motion.

>> The Clerk: Do you wish to restate your motion?

>> Dan Pulcrano: My motion is to select three individuals from the committee to assess the interested parties, review their qualifications and make recommendations which can be more than one candidate for each position to come back with those recommendations at the next meeting.

>> Second.

>> Tom Benthin: Any discussion?

>> Just as a nature of the motion, if we adopt this motion then we have to take the time to adopt a process to nominate to the nominating committee individuals, whether it be self-nominated or what. We would have to take the time this evening to develop that process. Because unless we're expecting the nominating committee to actually go out and initiate that process, which I am not comfortable with doing.

>> Tom Benthin: You need to select a nominating committee.

>> And then develop a process at which a slate of or an interested parties would be able to -- names would go forward.

>> I think that, I mean, I understand that every -- everything takes a process. But I guess I would really just urge that we move on with things, that we make a decision, and then move forward. I -- I think that all of the people here would be -- would be great to run this. I think everybody can run a meeting. I just think we need to make a decision and move on.

>> Tom Benthin: To ask for clarification, when you say we need to make a decision and move forward are you saying that it would be better to select someone --

>> I'm saying it would be better to vote tonight to select a chair.

>> I personally think that we can do that tonight, and if we do not accomplish that goal then I think that the motion that's on the floor would be the solution. But if -- but I think that would be -- if there's only 11 of us here, people. I think that between, you know, I think we're all good minds. I think we can probably come to a conclusion this evening. But if not --

>> I would love to see us move forward tonight, as long as the people who are interested in being a candidate have an opportunity to say something, as far as why they believe they would be the best person in the position. And I would rather that happen than to see it go into a committee to be -- for screening.

>> Tom Benthin: Any other discussion?

>> I think we should do it tonight.

>> Tom Benthin: I'm sorry, do we have any requests for comments from the public?

>> No.

>> Tom Benthin: If I forget that step at any point please feel free to give me kick in the seat of the pants. So hearing none, all those in favor of the motion?

>> We have to vote on Dan's motion that was on the floor.

>> Tom Benthin: Right. All those in favor of Dan's motion for a nominating committee. All those opposed? Okay. Any abstentions? So that hasn't passed. The process that I have proposed before Dan's motion was for -- to see who's interested, and either self-selected or nominated by someone else and create a list. And to hear from each of those people, a statement from them, and to do a simple vote for slate of candidates or for each candidate. That would be one way to move this forward.

>> Another possibility is that we can create some criteria, just to hear what are we looking for in a chair that will -- that will work for us as this task force. You know, just very quickly, if people have some thoughts about the direction of what, you know, what they think would be qualities that we would want to see, and the operational style. I'd like to know the operational style of the candidates.

>> Tom Benthin: So you're saying create a quick list of criteria? Or --

>> Virginia Holtz: Just quickly run, if people have some definite thoughts on that subject we could just jot them down quickly before we decide, before we go forward with the vote.

>> Many times, situations like this are really sort of self-selected. Anybody could be qualified but are they willing to put in the time and the extra effort that it's going to take to do the agendas, are they reliably going to be at every meeting? Most people would know whether they could do it. I don't have the extra time to contribute, I'm out. I think everybody would go through that process before they would even allow themselves to be nominated.

>> Tom Benthin: You're mentioning at least some of the criteria as you lay that out.

>> Uh-huh.

>> Why not perhaps take nominations off the floor and let that candidate say whether or not they're interested. And express their qualifications at the time. As Ken said, there's only 11 of us. We shouldn't have to do a full-scale citywide election to select the chair.

>> I'll nominate Susan Goldberg.

>> Tom Benthin: We're moving to that as essentially accepting a process that I've proposed I guess. Is there anybody who's -- really is opposed to that? So we can move this forward now? Okay.

>> We should probably formally open the floor for nominations. And then when we feel that we've -- everybody's expressed an opportunity to nominate then close the floor.

>> Tom Benthin: Yes. So let's open the floor to nominations. For chair.

>> I nominate Susan Goldberg.

>> Tom Benthin: Yeah, I appreciate you doing that.

>> Now, does Susan have an opportunity now to say whether she's interested?

>> Let's get the names out there.

>> Tom Benthin: If we can let's fill the list and I guess what I would request is if somebody nominates you and you don't want to do it, now would be a good time to tell us, okay?

>> I nominate Ed Rast.

>> I nominate Judy Nadler please.

>> I am a resident of the City of Santa Clara and am here representing the academic slot. And I think it's very important to the citizens of San José to have a San José resident chair this very, very important task force. So I appreciate your confidence, but I would decline on that -- for that reason.

>> You'd be the most neutral.

>> Tom Benthin: Any other nominations? Nanci or Bobbie, would you have any interest? Bobbie, would you have interest in it?

>> Bobbie Fischler: No.

>> How about Nanci?

>> Nanci Williams: I'd have a tough time.

>> Pardon?

>> Nanci Williams: I'd have a tough time doing it, too much on my plate.

>> Tom Benthin: You're reconsidering and you are willing?

>> You are willing? I'd like to nominate Bobbie.

>> Dan Pulcrano. I nominate Dan Pulcrano.

>> Tom Benthin: Any other nomination?

>> I would like to withdraw my name, because my concern is that my -- that it would be considered a political nomination. And I think what's more important is that we get this work done. And if -- if my being the chair of this committee would end up becoming controversial in and of itself then that absolutely

defeats why we're all here. And I think these other folks are very, very capable, and I would be very confident in somebody else going forward that way. I really do not want to impede a process.

>> Tom Benthin: Any other nominations? Okay. Well, let's close the floor to nominations and do correct me, you're better at parliamentary procedure than I am, not a feature of many of the meetings that I facilitate. So thank you for your help. I think it would be helpful to hear statements from each of the candidates, so you have a sense of who you're voting for and what their thoughts are about their role as chair, potential chair. Can we start with Ed? Work our way down the list.

>> Ed Rast: Mic is on. The neighborhood is interested in public participation in sunshine. A couple of years ago we put forth the outreach policy, we've put on public policy forums in that particular regard. We've built the support necessary to put the Sunshine Reform Task Force together and get it through. We know what works politically as well as procedurally, because we work on these types of issues all the time in the city. I think one of the issues we are going to have later on is if the task force recommendations come through and you cannot build the residents support to get it through the City Council you are not going to get some of the things that were basically recommended through the process. I've worked with all elements of the community, both on the public outreach committee, we work with the chamber, the city itself as well as the neighborhoods to craft that and get it through the process. I've had a lot of experience in sharing, currently chair the Willow Glen neighborhood association, I chair two neighborhoods of Santa Clara County, I was on the SNI, I was the chair of the project funding committee for that and I've got a couple dozen other professional organizations that I've been president or officers of those over the years. So I have a lot of experience in that. Also, I happen to have the time in the next three or four months to do this. And I've done a lot of research in these to compare what is workable in other communities, and what is -- would potentially could be workable and politically feasible here. One of the things we did in working with the Mercury News and the League of Women Voters was we were able to pull together all the neighborhood leaders from across the city to develop the support necessary to get these things through. And I think that's a key element that you need.

>> Tom Benthin: Thanks. Bobbie can we hear from you?

>> Bobbie Fischler: I'm going to withdraw my nomination.

>> Tom Benthin: Would you like to say why? Okay. Dan.

>> Dan Pulcrano: Well, speaking in favor of myself and then speak against myself. I do believe I'm qualified because I've run city commission before, I chaired the parking commission in San José and served on that for a number of years. I also served on the unreinforced masonry task force, chaired other nonprofit boards so I'm very familiar with the process of being a chair. I also understand the subject of sunshine very well. I was one of the first people to propose it eight years ago that the city has a sunshine ordinance and I've spent a lot of time studying the issues and are familiar with the issues. Now, to speak against myself, for a second, I am in the same frame of mind as Susan Goldberg that I would never want my participation to become a source of controversy. I would want to make sure this body does what's right for the citizens of San José. So you know, if the -- if the commission might be better off as someone not perceived from a specific point of view. I am an advocate for sunshine, I think we should get this to the City Council as soon as possible. I'd like to push it forward. So in whatever capacity I could serve, I'd be happy to do so. I also would be happy to be Ed's vice chair and help him prepare for the meetings and help him prepare the subject matters. I hope I lose and can help you in that role.

>> Tom Benthin: Okay. So can I see a show of hands for Ed Rast?

>> May I make a motion that we elect Ed Rast as chair and Dan Pulcrano as vice chair?

>> I'll second that.

>> Tom Benthin: I'm sorry -- okay. And it was seconded, is that right? Is there any discussion?

>> Do we have a role for a vice chair?

>> Tom Benthin: I'm sorry?

>> Do we have a role for a vice chair?

>> Tom Benthin: My understanding of the role of vice chair in the conversation with the city the vice chair would be serving in the absence of the chair.

>> The vice chair is also to serve with the chair in determining items for the upcoming meetings.

>> They closely work with the chair and the staff and are involved in all of the premeeting and postmeeting discussions that are necessary within our code of ethics, of course.

>> Tom Benthin: Any clarification or discussion? All those in favor? All those opposed? Any abstentions? Okay.

>> Congratulations. [applause]

>> Tom Benthin: Great. So we turn to developing a work plan. And the structure we've got here is to talk first about what process you want to use for accepting proposals. And then to turn to how you want to group of them, how you want to start to structure the work. Does that seem like a reasonable way to get started for folks? Yes, okay. Let me get a fresh sheet of paper because I have an idea we'll have a lot of ideas floating around.

>> Let me ask a question. I think it's very important to have our facilitator work with us but since we just elected the chair, does the chair take --

>> Tom Benthin: I'm sorry.

>> Take office upon election and if so, I would suggest that we have our new chair work with our facilitator as we proceed with the meeting.

>> Tom Benthin: Thank you for catching me on that. Thank you very much. I think I was getting pretty tasky here. Ed, I really wanted to turn to you and ask pretty much the same thing. What role would you like me to serve, do you want to assume chairmanship.

>> Ed Rast: Why don't we work on the work plan and continue the facilitation, if it's agreeable with the rest of the committee on trying to do that.

>> I would ask Ed that you're very soft-spoken, very gentle voice be amped up or move closer.

>> Ed Rast: I'll be a bit louder.

>> I would like to ask for I think Tom has done a great job so facilitating this, we need facilitation here but I would ask Ed take over any normal committee oriented functions including covering motions, votes, making sure that our members of the public have opportunities to speak.

>> Tom Benthin: Great. Does that work for you?

>> Ed Rast: Works for me fine. Do you want me to stand up and go from here?

>> Tom Benthin: Whatever works for you. Wherever you are works fine, we can map stuff out if we need to.

>> Ed Rast: I think the first item on there is establishing a plan for accepting reform proposals, you know, right now Sheila can -- say again? Okay, right. The question I have right now is, let's review quickly what proposals have been accepted, and then take a look at a procedure to basically get the public or other interested organizations to submit proposals then to include establishing a deadline for the initial proposal submissions. All right, let's --

>> The proposals have been referred to the task force at this point are actually on -- help me out Sheila -- is this in the packet? Let me ask the chair, were you asking the proposals that we have to be forwarded on or the proposals that were referred directly to you?

>> Ed Rast: Let's start off the first portion and that is, what proposals have been referred to us and what does that mean? For instance you had the proposal that came from the four councilmembers.

>> There were 22 reforms that the council originally referred and 14 of them we're moving forward on. Of those 14, those are actually in a table in your packet. Did you want me to read through each of them?

>> Ed Rast: No, I think unless everybody should have read through them. The only one I have a question on is, and will ask the rest of the committee is, are you counting in your 14 that has been referred to committee the one, the question on the master calendar? Because there was some questions about -- so that's partly of the 14?

>> It was -- we're trying to split the baby on that one. We knew staff was moving forward on the part of master calendaring that would address any official city meetings and city events. And we are referring to the task force, the issue of community events and community meetings. Because it does raise other issues. We understand there's a desire for those. It does raise some legal issues that public forum issues that we want to make sure get addressed. And we have some policy challenges that we would have to overcome that we would link to the city's Website on all of that.

>> Ed Rast: And have you or the City Attorney done the research so they could explain the ram figures on those community issues or events?

>> Excuse me. We do have an e-government policy, and I believe we included that in your binder. But it does put some limitations on the equal access to any kind of a site we set up. And some questions as to linking to other sites. And it's -- I think an item we should bring forward here and have a presentation, maybe, by our legal staff, by the city attorney's office on that and answer any question.

>> Ed Rast: From the rest of the task force is there questions on that or clarification? So we'll -- Ken.

>> Sort of on but I wanted to get it out of my brain. On the ones you're fast-forwarding, is that going to preclude us from commenting on the future? We're not at a point where we can comment on them. I think fast-forwarding is important because this is an important first step. But I'd like to think that we can still address them in our final report, if we should feel that maybe the way that they were moved forward was not adequate.

>> I think we'd welcome any comments you have on those. These were items that were born in the heat of political battle, and 22 of them came forward and we looked at them and said we can do 13 and a half. And I think they can use some refinement but the council wanted us to move forward quickly. So as I mentioned in the beginning we're taking a report back on August 29th to the council. I'm sure that we'll introduce that report, we'll speak to those 13 and a half that we have tried to implement, there is a pilot program, and then I would assume that your chair would speak generally on where we are with the task force and whatever role you people want to play in revising or commenting to the task force.

>> Ed Rast: Should we review the 13 or 14 referred to the council and start to pull the comments together when it's in the early implementation stage? Otherwise they're going to move forward and if the task force is not comfortable with that we'd have a difficult position potentially months in the future of making revisions, because the political process has told them to go ahead and implement? Comment? What I'm thinking about is if you start forward implementing something and if we're not comfortable with it it's going to be difficult to pull it back or to change it. In other words, it would be my thought, and I'd like comment, is procedurally would that be difficult? In other words, if they implemented in October, we say we're not happy with it, how is that putting us in the position? Susan?

>> Susan Goldberg: I guess what I need to figure out is if some of those things were implemented would they later come into conflict with ideas that we came up with. And so maybe looking at it in the whole is perhaps the best way to start. Looking at all of the virus proposals and buckets of categories as it was discussed.

>> Mr. Chair, could I comment on that?

>> Ed Rast: Yes.

>> We tried to put them into buckets so you could look at it in your packet. And we did a framework of what an overall proposal might look like on the item D-2 there, the common groupings and where existing policies would fit in and then try to segregate or put as I said in the bucket main categories where these would fit. This is all loose, to try to facilitate getting your hands around these.

>> Ed Rast: Ken.

>> Two points I think we need to concentrate on. Pilot programs by their nature are designed to be tested to see how they work, and be reviewed and amended, as it gets through. So I don't think that what they're putting forward now would be written in stone. It would be sort of written in sand. But we have to get in there before it gets into concrete. So I also think that if staff and the City Council believes that these 13 items could be implemented now, this is a great way for us to get into our work plan. These are easier items. These are items that aren't going to probably take a lot of time. But I do think that why they're in the beginning stage of this pilot program, if we have comments, if we see something maybe not going in a direction we might feel would be the best way to go based on our experiences in dealing with the city, that I think it's important that we get those comments in now, so that those comments can start influencing. I don't think that we're going to be in a position to where we're going to be giving final comments on these 13. We may come out later on, three, four months down the line with our final report saying, some of these plans done the original 13 and a half will conflict with these and they may need to be amended. But my point is, it is a pilot program. But I am a bit concerned and I have to agree with that. I'm a bit concerned that if we wait three or four months to attack these things that we are getting to now it may be too late for us to have any other input.

>> Ed Rast: Any other comments? And then I have a comment on that.

>> Virginia Holtz: I would like to comment on one of the things I think is not going to be effective to providing information to the public that they need in a timely manner. If you look under ethics and conduct, where it says to disclose the calendars of the mayor and councilmembers quarterly, redacted for personal information. It seems to me that if we -- if the public wants that information, and council is supplying these calendars, the calendars that are quarterly, after the fact, will be too late and will come after the decisions are made on issues that come before the council. And so if the councilmembers are in contact with people regarding a particular subject that's coming before the council, the public doesn't know that, know that there are these conversations, until three months later.

>> Ed Rast: It's too late.

>> Virginia Holtz: so it's too late. So in that particular case I would not want this to move forward. And I'm just pick out on one of these items. Because it just seems to me that it's a --

>> Ed Rast: You have a very good point, Nanci.

>> If it moved forward to the council and it was approved, and then we'd determined that we felt that maybe a more -- reporting period of monthly time line is more appropriate for public access in a timely manner then it seems to me that then -- and they've already made that decision, that's more difficult to overcome.

>> Ed Rast: Right. Nanci.

>> Nanci Williams: If you are looking at calendars every month you may not pick up on the appearance that you see in aa quarter. And I don't think it's realistic to know, how many times did they meet with the Norcal people? I think it's more expedient. I think somebody trying to look at these things on a monthly basis there is a point where you just stop looking at it.

>> If I just suggest that instead of us getting into detail on this we get back to Ed's original question about how we want to look at these. And I'm thinking that staff already probably has a good idea of the process they're in and what they're doing. If we just ask to periodically review that with them as a check so we can

see where they're going and then we can concentrate with the ones that the task force was actually charged with doing.

>> I also would like to, I think this is going back to the beginning, Ed was suggesting an agenda item for the next meeting, staff has already presented the report to the City Council at the time of our next meeting? No?

>> Maybe for clarification, these 13 and a half went through to council, they were approved by council for the pilot program, I think you've pointed that out, and just -- and you're right, as the nature of a pilot program we're going to modify these through the next six months. And your input is welcome. I think if we present these 13, 14 proposals at your next meeting we'll have time to, you know, pull together any concerns you might have for this meeting on the 29th. [ off microphone ]

>> Proposals and what staff's approach is to implementing those. And that's also posted online on the City's Website. And I'm sure the staff could walk through that at the next meeting if you would like to have a clear understanding on how we're implementing those items.

>> I for one would like that on the next agenda.

>> Ed Rast: What I'm trying to do is work through this to see where we're going to agendize, the moving train of these particular agenda items. So that -- 13 and a half items, the City Council's accepted, and the staff is in the process of putting -- doing draft limitation on than would give the task force the ability to start to express concerns or additional information or request additional information to see on these so that we don't end up having them implemented and we find out later that we're not particularly in agreement. Does that make sense, is the consensus of the committee? Okay. And then we're going to get clarification, the second agenda item is we get clarification from the legal counsel on the community events portion of the master calendar. That's another one that's still up in the air that we need to try to take a look at. And then we can -- then now the question on to the task force is at what point in time do you want to take a look at the other portion of what's been recommended over to us, the original was roughly 22. Do we want to take a look at it at next meeting or schedule it at the following depending on the time frame of the next meeting?

>> Clarification for the chair. What item are we on?

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

>> What item on the agenda are we on? The only reason I'm asking is we started this dealing on how to accept proposals. Now we're working on a work plan is what I'm asking.

>> Ed Rast: What I'm working on is the first proposed, the first proposal was the four from --

>> The light came on.

>> Ed Rast: Okay. And then we can stop here and move forward and talk about the other proposals that are on the table and the procedure to categorize those. The only one I had a concern was the ones in process here, that we wouldn't get too far along before we understood what was going on. That would put us in a position of going to council and trying to pull it back which is a difficult position once they implement. Yes.

>> Virginia Holtz: I would suggest that we take a little bit different approach. That we look at it more comprehensively. And my suggestion is that potionably we use the San Francisco ordinance, which in existence, we can easily find out its pros and cons and use that framework. Not the content necessarily, but the framework, to determine what we want in each category.

>> Ed Rast: Okay. Discussion? Let me see if I can clarify something and ask staff a question. I'll be back. My understanding is one of the accepted proposals by the council was that Chuck Reed proposal, am I correct? Or that's not one of the --

>> No, it was not.

>> Ed Rast: Okay, that's still out there along with the David Cortese and others.

>> And there's public proposals.

>> Ed Rast: And public proposes. -- proposals. The first item on the Chuck Reed proposal is to exactly what you said, he recommended that the Mercury News proposal based on the San Francisco ordinance be evaluated.

>> That was actually a joint proposal with the league's.

>> Ed Rast: That's correct.

>> I don't think it was based simply on the San Francisco ordinance.

>> It was looking at Oakland and a lot of the other sunshine laws in the state. It was sort of a conglomeration. It was not a reinvention of the wheel by any means.

>> Ed Rast: Dan?

>> Dan Pulcrano: Player? I believe the San Francisco ordinance and the versions that have been modified by the league are a good starting point for categorizing the issues. I wanted to, one, help us figure out whether the call for a proposal also applies to members of the committee. If we are -- or the task force, if we're asking the public or third parties to submit proposals, does that preclude us in the course of our deliberations from, you know, modifying them, or coming up with ideas internally? Are we going to subject ourselves to a deadline, that's the first thing. And then secondly there are two aspects of the model ordinance that we need to look at that are not included in it. One is enforceability, a big thing that's come up in San Francisco and reviewed and drafted the model ordinance as well as the enforcement issues is one bullet point we're going to have to look at. And another matter that came up in my discussions this week, Silicon Valley good leadership group, task force who I met with earlier this week, and we discussed the idea that the companies of Silicon Valley may play a role in assisting the city on areas of technology, that there's a technology component, that technology has moved ahead tremendously since these early ordinances were drafted and there maybe some technology solutions in the area of calendaring, Internet posting, disclosure, database, maintenance, archiving, e-mail and other issues. And there are in the private sector a number of solutions that might be quite helpful. So I -- on the -- in the meeting there were representatives of various companies, including eBay and apple and others. And I asked them if they were willing to participate, and the Silicon Valley leadership group felt it could poll its member, and that might be another group, technology I'm suggesting.

>> Could I make a comment from a staff perspective, Mr. Chair?

>> Ed Rast: Go ahead.

>> We see a big difference between an ordinance that's enacted and working in the city that's been tried and reviewed and put in place. We can call those people and we can get how does it work, what works, what does it cost? A proposal is very different from an ordinance. And so we're concerned, I think, that we have some track record here. Because when we come down to the end we're going to have to evaluate, how much does it cost, can we do it, is it working at another city. No problem with going from existing ordinances and try to work from those. If you look at the framework we put down here, a lot of those headings are the same as the ordinance headings that are found in Milpitas or San Francisco or whatever. We can work with an existing ordinance with their wording, into city policies that are existing or we can try to work with city policies in under the framework of an existing ordinance, whichever one you pick. But it seems to me a lot easier to deal with what the city has in place. Because it has a lot in place. It just doesn't have it organized very well. And it's all in bits and pieces. And part of what this task force can do is help make this things more rational. We don't say we have a model ordinance. We don't. We don't have anything close to that. We don't even have a model program. But it seems to me if we take someone else's program and we basically throw out the policies here and there are many of them, we could have

afternoon unmanageable situation from a staff perspective. We could manage but it would be very difficult.

>> Ed Rast: Ken.

>> Ken Podgorssek: I'm becoming a bit concerned. One of the challenges, we need to be open to all ideas, and all concepts. But from a working standpoint, we need to have a base to work with. I'm all for not reinventing the wheel. I think that you know, San Francisco's proposals in place, it does work, it doesn't work perfectly like most things. But it might be a place to start. And taking some of the other proposals that are coming before us, Councilmember Reed, Councilmember Cortese, the San José mercury and League of Women Voters proposal, see how they work relative to the base. Any good ordinance in any city can always be improved. One of the things and Dan makes a comment and some members of the committee know because it's one of my favorite subjects. If we put together a proposal, a great ordinance, it has absolutely no enforceability. Nothing to make people do it. We will have wasted our time. The best example of that is it's the reason why we have police and citation books because if people just obeyed the speeding laws, they would -- you know, they would -- we wouldn't -- you know, we wouldn't need this proposal in the first place. But I just -- I'm just concerned that we don't get bogged down in trying to -- you know, we don't get bogged down trying to make this really complicated.

>> Susan Goldberg: Well, I just want to support the observation staff made regarding the ability to accurately reflect how doable, how affordable, you know, a program is, if you can check it against one that is existing. I think that we have to be very practical, as well as are idealistic in our pursuit of this sunshine ordinance. We really have to use what is available. And I think we have many -- now, many options to select from. And I'm not saying that there isn't something that hasn't been thought of yet because I'm sure there are many things that we haven't heard yet. But it is very difficult to try to then analyze and evaluate something that you can't cross-check. And you'd only be projecting what it might -- how it might work or how much it might cost or if it could be implemented.

>> Tom Benthin: Have I a question for clarification. Since you were the one who said to use the San Francisco ordinance as a framework, I believe was your word, and so I'm not sure if I'm hearing the assumptions the same. Because I don't know what level of detail you're taking that to as the framework. I want to hear Dan's comments. Sounds like you're asking structurally, are we going to have structure A and structure B and essentially have a real problem when we try to put them together. Sounds to me like you were using that as some kind of starting structure to be able to evaluate. So that was the piece I was trying to understand a little bit.

>> I think Dan was speaking of a city ordinance versus a model ordinance, is that correct?

>> [ off microphone ] in some places we are much further along than San Francisco in the proposals we've had. In checking with them some things they don't do that are in their ordinance, but there is no follow-through on, we know where we're going, okay? We have no trouble with you taking that framework from a staff point of view, that's what we tried to offer here. But if you say we're going to take all the verbiage in that ordinance and go line by line --

>> Tom Benthin: That's what I wanted to check. That sounds like it is the assumption.

>> That is not something would I say.

>> Ed Rast: Let me clarify something, just to be sure. My understanding is that the City Council policies which are approximately eight pages, of single be-line topics. Those policies in many cases are out of date, some of which have not been implemented or else there's questions as to their current applicability. At least that's my understanding of the City Council policies. Would sum of those policies conflict with what we're proposing to do?

>> The Clerk: No. The policies, [ off microphone ] are there outdated policies in the council policy

manual? Yes. And staff is already underway doing a comprehensive review to find out which ones, you know, are so out of date they just need to be repealed. And there aren't that many. There are some. But not a lot. And the policies that we listed for you which are in existence now, which include other municipal resolutions, et cetera, all of these are current and in some cases they've recently been revised or recently written and adopted.

>> Ed Rast: We won't have a conflict when -- okay. That was my concern, for those of you who are not familiar, I don't any of you see the City Council process book, it's about four inches thick, five inches thick. Which most people have not seen or looked through. I thought we would get into a situation where we would conflict with it.

>> I was going to follow up on a comment that Ken made, I'm not sure because I can't see people down there. I'm not sure until I get to recognizing your voice. I believe he was the one that was speaking to an enforcement section. And would I propose that we add another section, calling enforcement, under these other sections and categories we have existing here. Because well, as Bobbie pointed out, these categories pretty closely follow San Francisco's anyway. And I wouldn't be supportive of, that sunshine proposal was a compilation of many. I think that has value and it is consistent with this kind of category. And so I would propose to add another category called enforcement.

>> Ed Rast: That could make sense because that follows with the task force member who spoke publicly at our first meeting, who said that enforcement was one of the problems that San Francisco was having with their particular ordinance. So that makes sense.

>> The Clerk: If I could point out, that includes enforcement. We gave it a little different label. It is under the administration and accountability.

>> We may want to spell it out and use the term enforcement, I think.

>> It has a different feel.

>> Ed Rast: So let's see if I can summarize what I'm hearing from everybody. Especially I want to go back at Dan and ask him. If we take a look at the League and the Mercury News, existing ordinances, does that make your job in evaluating the implementation and the cost of implementation a lot easier?

>> It is not the Mercury ordinance, it is an ordinance. It takes things that are in other ordinances and it carries out to almost ad absurdum. I wouldn't know how to implement those. That will be part of our discussion and we'll do our best to try to respond, you know, careful to those, but they are out there. They're not tried, implemented anywhere. That does put us at a disadvantage to try to assert whether they're doable or not. And I think there are issues around those that are not tried in other municipalities of municipalities.

>> Ed Rast: Has the staff compared the Mercury News and the League of Women Voters proposal to the San Francisco ordinance, correct me if I'm wrong but that was the base document. Have they done a comparison to see how many of those are -- I think your wording was that they carry them out further?

>> I can just speak off the cuff because I read through those.

>> Ed Rast: Okay.

>> We could give you that analysis but things like ancillary meetings, almostfully type of meeting that involves any type of policy. I don't know what that means or how that goes, but those would be staff, you have to do a number of things. So we'd have to visit it and talk about it. I'm just asserting that. The use of the City Attorney. The City Attorney would no longer play a role to protect the City's interest in terms of litigation. They would be neutral iced out of the picture. That is --

>> Unworkable.

>> Undoable with us.

>> Ed Rast: Isn't that in conflict with the city charter now?

>> I don't know. These are moving beyond the pail for us from an administrative point of view.

>> Susan Goldberg: The vast majority of that proposal is based either in San Francisco or Oakland or Milpitas. Using existing practices underway there are some areas we thought and the League of Women Voters thought gosh, maybe we ought to improve on what other people were doing. Because one of the things I think we have the opportunity here, not just to mimic what's going on everywhere else, but to be a follower, rather than a leader, in the matter of sunshine in government. While I understand that it is harder to evaluate some of those proposals, I do think it's important that we take this opportunity to put forward the very best that we think we can do, not just the tried and true.

>> Ed Rast: Dan.

>> Dan Pulcrano: I read through the lead Mercury News proposal pointing out the differences between the two. My feeling on it is it was certainly not a radical proposal. There were some attempts to address widely acknowledged weaknesses in the San Francisco ordinance, and I think there was some good legal thinking that went into it. We have not had the benefit of hearing staff's specific issues with it, which I think that's an opportunity to get that kind of input. Before it's passed in law. It's only a proposal. And I think these things need to be talked about, issue by issue. So it's going to be a very constructive exercise to look at these issues. So I don't think staff should be overly concerned yet, it's not a law yet, I think we're all reasonable people. Having something called the sunshine ordinance is a good thing. Particularly since this is now in the public's mind, the name of our commission, to simply take the existing ordinances and public records act, state laws, city laws, in different places, I any most citizens want a general user guide, that everybody knows what the rules are. Staff knows what the rules are, the bill knows what the rules are, the media, business and all of them, the various open meeting and public disclosure requirements will be cataloged in one place. That references these other policies and procedures that have been developed by the standpoint for years. It can incorporate them, I tried to -- I put in a request this week for the responses, because there was -- I was able to find that there was some sunshine proposals that actually had to go to council so I asked staff to bring them. I think we need to pull it all together, put it in a nice package, of a very clear users guide to good government, and that should be called the index. That's the work we're going to have to do is sort through those issues.

>> I just want to make a statement on staff's behalf here. We're going to work with you to come up with a comprehensive program that's user friendly. That's why we're here. And we want to do that. That's what City Manager wants. We are here to do that. What I do say though is when we go back to council with it they are going to say to me, will it implement, how much sunshine can we afford? And I'm expected to have some answers on that and I've had to thrash that out here. Clearly, the mercury proposal overreaches significantly in areas that -- it's just not feasible. I wouldn't tell somebody how to run a newspaper. When we get into this, there is several-serving snuff there particularly on the role of the attorney. We're going to have to thrash it through and go on the agenda.

>> Okay, makes sense. One of the concerns I've personally had, we're the 10th largest city and we're staffed at the 34th level primarily because we have the lowest level of taxes in any major city in California. That becomes a constraint if we're not careful. If we're not careful as a task force, we come back with the idea of a proposal, they say we can't afford it, they then start chopping away with stuff. So one of the concerns or one of the staff that I see is to help us sort through what the implementation costs and what's realistic. And then we can make some decisions on which issues we want to push forward and which ones we may not want to.

>> We all want a workable realistic good law that will help our city.

>> Ed Rast: I'm sorry Brenda, Nanci.

>> I think what I've heard is we could use the San Francisco ordinance as an outline. That doesn't

preclude us from analyzing any other people whether they're in there or not, comparing them with that, but it would give us a framework to start from or to use. And I think it would be good to actually start off with looking at the 13 and a half items that have been referred to implementation. And then moving forward to whether it's the next ones or in that process, deciding which other ordinance was the one to look-at, comparing and saying which other item did we want to take, using San Francisco as an outline to start from.

>> Ed Rast: I was watching.

>> Tom Benthin: You needed to allow for public comment.

>> We still needed to go back to this. We had a long discussion about the San José mercury proposal. I agree with whatever has been set forth in the proposal. It's a very good document. If we're going to do that in fairness of our, for other people to bring their proposals forward. If we're not open to ideas, you know, then you know, our final work is not going to be viewed as comprehensive as it could have been.

>> And I agree. The comment at the last meeting is we are going to be open and start to accept the public proposals and maybe put them on the Website. I suggest somebody make a proposal for that and when we want to start doing that process.

>> What's today's date?

>> The 20th.

>> I move that all proposals to be considered by this task be submitted by April.

>> Any other public proposals that come in. Any proposal, I'm sorry.

>> And we put it out on the Website and make it absolutely certain, and I'm sure the Mercury News or the radio would be happy to give us a couple of inches.

>> Ed Rast: How are you going to accept the ones that have been advanced but not accepted? Are we going to make a motion and accept the ones that are already in between now and the 30th? Clarification question. I wouldn't have the problem of making the second motion after this. Of the ones that have already been submitted then we can seven those as submitted.

>> Virginia Holtz: I would amend his motion just to include that in the motion, that previously submitted documents from City Council meeting.

>> Ed Rast: So the maker of the motion is comfortable with -- you accept it?

>> I would accept it, as long as staff returned it.

>> Ed Rast: Bobbie, do you accept the amendment?

>> Bobbie Fischler: I do.

>> Ed Rast: we have a proposal who we would like to restate. Please.

>> I move that the motion is -- task force will accept all proposals submitted by councilmembers and third parties, regarding this proposed sunshine ordinance up to August 31st. And tonight we are accepting -- we are formally accepting the proposals that have been currently submitted, previously staffed that, and at a staff will forward all copies of that proposal which they have done.

>> Okay.

>> We got four of those.

>> Ed Rast: Okay so call for discussion?

>> Could I ask for some clarification on the motion?

>> Yes.

>> Is the motion to accept the promotion that were voted were considered by the council and were not included in their motion to forward to you. Are you specifically including those?

>> Yes.

>> Ken?

>> I would say yes, we're not accepting the content per se, we're accepting the submission.

>> Ed Rast: To include the rules committee forwarding of those. If this passes it would be accepted for consideration?

>> They've been accepted as submitted for would be in there too.

>> Ed Rast: Because that's the number one issue on Councilmember Reed's so that would by definition be included. So is the task force clear on what we're voting on?

>> It's a complicated motion.

>> Ed Rast: discussion? Call for the --

>> request we get a restatement of that?

>> The Clerk: Okay. The motion was, the task force will accept all proposals submitted by the council, and third parties, up to August the 31st, and that tonight, the task force will formally accept all previously submitted proposals.

>> One revision to that that was in there. When it's council and third parties, you should say council, task force members and third parties.

>> The Clerk: Yeah yeah yeah, thank you. All right.

>> Ed Rast: We have a public comment.

>> Bob Brownstein. I have a friendly amendment, after all 31st, amendments to a proposal that comes in before August 31st. There really is no way for a member of this group or an outside party to be able to come forward with the kind of ideas that they think are relevant that are reactions to the proposals that are going to be considered, until they see what the proposals are that are going to be considered and how the task force is going to react to them. I don't want to come in with a whole list of proposals that are exemptions to kinds of sunshine activity which I think are detrimental to grass roots politics unless somebody is moving forward to something that is detrimental to grass roots politics. Give me the window to come in, to amend or change something that's come forward before August 31st.

>> Bob, you said we. Which organizations are you representing?

>> Any self, based on 30 years of grass roots politics in San José.

>> If I may just ask. I may not be understanding the speaker. But it's my feeling that when we are having this discussion after everything has arrived, post-August 31, when we're having public discussion, that people will be reacting to those items that are on the agenda that we choose to discuss. So while I have sympathy and I feel that it is important to be able to react to our discussion, I think that the public meeting process allows for that. And I'm concerned about having an open-ended date for -- like writing your term paper. You know, at some point you got to stop the research and start the writing. And I think that this process and the agenda public notice about the agenda, and the open discussion, will allow for the type of reactions that Mr. Brownstein is concerned about. So I would suggest that the motion remain as previously stated.

>> Ed Rast: Call for the question. All in favor? All opposed? Abstentions? It passes. Okay. So --

>> Was that unanimous?

>> Ed Rast: Yes, it was unanimous.

>> I would like to ask for next meeting's agenda consideration or reconsideration of breaking into subcommittees.

>> Ed Rast: Okay. Any other --

>> Virginia Holtz: There is a monumental task in front of us.

>> Ed Rast: Everybody is getting the idea of how large it is.

>> Tom Benthin: It looks like you started to map out elements that you want in your work plan. And one component is thinking about subcommittees and how you're going to deal with those but you have

probably a meeting's worth, of trying to flesh out how you're going to do the work plan, trying to capture the key questions you've been discussing here, which is how do we structure our work, what are the groupings of proposals, what are the proposals we are considering, what are some of the considerations that we want to use.

>> Ed Rast: Virginia.

>> Virginia Holtz: Can, for instance, getting it on the Website, announcing it, doing outreach. And so I'm just pointing that out, that we are redirecting staff then to proceed with doing that. And confirm that that's what we're going to do.

>> Ed Rast: We're running very short on time. Go ahead.

>> I was just going to ask that we on the code of ethics and conduct, that the adopted code be part of everyone's materials, and of course made available to the public and on the Website. But I would also ask that it be put on a chart or blown up, if you will, and that it be posted at every one of our meetings. I think it's really, really important for us to keep track of that to our pledge to the citizens, and I think that's one way of doing that, and assuring anyone who comes into the meeting room that this is way that we have elected to operate.

>> Ed Rast: Do you administratively do it.

>> Tom Benthin: Any other agenda items?

>> Approval of minutes.

>> Tom Benthin: And approval of minutes?

>> Ed Rast: Right. Any other comments?

>> Since it involves a legal matter, the presentation by legal council clarifying the community calendar, is that to be done by the city attorney's office or is that something that you want me to do?

>> Ed Rast: Since you ask the question are you comfortable doing that or do you want to do it in conjunction with the City Attorney? I'm sorry?

>> The only reason I would be uncomfortable to do that, is I am not sure I'd be able to be at the next meeting. I'd certainly be comfortable in addressing that particular issue and I think it would be comfortable in conjunction with the city attorney's office.

>> I think the paper we have goes through a lot of items. And I think maybe if Mr. Davis could review that and comment on it that might get you to where we need to be. Because it is structured and goes through a whole array of issues that came up. And Tom worked on it, too, and he's very knowledgeable of it. We could have a discussion but I think if we just submitted that paper to council he could comment on it.

>> That's fine.

>> Ed Rast: Any other agenda items?

>> I think that's more than enough.

>> Tom Benthin: The way that I captured the subgroup comment is that work plan development, can be put under --

>> Are we going to start looking at the ordinances, or the committee issues next time?

>> Ed Rast: Right.

>> The actual categories?

>> Ed Rast: We're going to take a look at the ordinance, we start to get to the work of -- Nanci's cheering on the other side. One of the things we have is discuss the reform proposals and identify the common groupings. Right now we've asked to have enforcement be added to the groupings we have, and that's fine, so we now have a series of groupings. Is there any additional groups that we need to add in? Because that will start people thinking. Ken?

>> Sorry, I missed the question.

>> Ed Rast: We already had on the previous meeting public records, public records, government accountability. Putting enforcement as another category. So do we want to formally accept that one as the category? Is there any additional categories? Because that would start us thinking about how we start to break down the various proposals we're going to look at.

>> Technology.

>> Ed Rast: Technology, all right we'll add that one in. Any other ones at this point? Doesn't mean in the future we can't add it in but at least that will get us thinking in that direction.

>> I'll move we accept the five categories, I'll let you restate them. I remember them but not quite the way you stated them.

>> Ed Rast: Public information, public records, public participation, government accountability, enforcement and technology as the five categories that have been accepted. We had three.

>> Can we write them on the board?

>> Ed Rast: Read them again. So you've got public information which includes public records. You've got neighborhood or what we would typically is called public participation. Meetings right.

>> Virginia Holtz: Are you following item 2D that was in our packets on the categories? That's what I was following.

>> Ed Rast: Yeah, public information and outreach. Public meetings, public information outreach, okay, you've got ethics and conduct.

>> Closed sessions.

>> Ed Rast: Public records, technology and -- instead of administration, I'd prefer it to be enforcement.

>> Ed Rast: Administration would be changed to enforcement. We've got seven.

>> So I'll withdraw the motion and restate it.

>> Ed Rast: Right.

>> I move that we -- that we adopt as our initial work plan the seven sub-- the seven areas as previously stated. Can you keep track of that Lee?

>> The Clerk: Uh-huh.

>> Okay.

>> Ed Rast: We have a second?

>> Second.

>> Ed Rast: Discussion? No discussion. All in favor, anybody opposed? Abstentions? Passes passes unanimously.

>> I want to remind the chair because this is going to be difficult.

>> Ed Rast: Talk.

>> That we took that motion and that vote. We didn't give the public an opportunity to speak.

>> Ed Rast: I'm sorry. You're absolutely right. Does the public want to speak on the categories?

>> Tom Benthin: I don't think there were cards. There is one general closing public comment from the general public.

>> Ed Rast: Right now we'll take public comment on any of the open items that we have. Public comment? Sheila you had a -- you had a general comment.

>> Bob Brownstein. I'd like to make a comment regarding the point that Dan McFadden raised on the performance of other owners and other jurisdictions. You can find out things from other jurisdictions when in fact you're dealing with events that have happened. Like costs. It's hard to find out about events that haven't happened. If people haven't met with a councilmember about police practices, because they knew that meeting would be publicized, there will be no record of it. If tenants haven't met with a councilmember upset about landlords' behavior because that meeting will be publicized, there will be no record of it. If

employees haven't, affirmed contracts with the city, there won't be records of it. We need to do more than look at actual empirical consequences, in temps grass roots politics that won't happen because of reaction to this issue. Thank you.

>> Ed Rast: Any additional public comment? Task force, any additional comments?

>> I move we adjourn.

>> Ed Rast: All in favor, we're now adjourned. Thank you very much.