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>> Ed Rast: This is the Sunshine Reform Task Force and today is August 17, 2006. We'll call it to order at 6:07 and the first item on if agenda is the approval of the August 3rd minutes. On the agenda we sent out to you it was the wrong date on that agenda. It is the August 3rd minutes, for the meeting two weeks ago.

>> Move approval.

>> With the change of the date.

>> Ed Rast: The date was on the agenda, not on the minutes itself. Discussion? Call for the question. All in favor,, all opposed, abstentions. Anyone who wasn't here last time should be abstaining, am I correct? We have two abstentions. All right. So comments from the chair. First thing I'm going to do is welcome Margie Matthews to the task force. Margie is a former Councilmember from district 4. She is joining us because of the vacancy left because of the resignation of supervisor Blanca Alvarado. Few words?

>> This sounds like the first task force I was on the charter committee, about 15 years ago. So I'm just as nervous. Thank you for having me.

>> Let's see, tonight's seat just a couple of requirements, seating arrangement will be determined for the rest of the year. Additional reminders, if members will please sign in and if you're parked in the city parking garage, validate your tickets or else you'll have to pay to get out. Members of the public, fill out speakers cards, and speak directly into the microphone and state their name before they make comments. Task force agendas have been distributed -- well, I've got a question, I guess, to the task force. We have a chair and vice chair's meeting on the Tuesday after this meeting, to take a look at the agenda items. And one of the questions I guess is, do the task force members want to receive a copy of the preagenda to take a look at what the items are and the time frames, or if they want to make any comments that could be brought up at that Tuesday morning meeting? Bobbie.

>> Bobbie Fischler: Bobbie Fischler, league of women voters. Are you the only members attending that meeting?

>> Ed Rast: My thought is, I would rather have the knowledge of the committee, or the task force, and especially any indication from task force members as to what item might take an especially long time. Initially, as an example, we only had 45 minutes for the main item itself. We reduced, in order to get through it in a timely manner, to spend an hour on the main topic. I don't know what people are interested in so we may say it's going to be 30 minutes and somebody knows it's going to be a lot longer because they have a lot to say about that particular issue. So that's one of the questions I have, does the task force want to see those preagendas?

>> Bobbie Fischler: By e-mail?

>> Ed Rast: By e-mail. I would suggest we have a time to bring it up in the agenda meeting. If you have an agenda item you could think about it over the weekend and what information you need to be able to discuss that in the meeting coming up and post it over so we could prepare for it. Yes, no, maybe?

>> Make a comment. More -- considering what we're doing again, I'll make this point, more disclosure is always better than less. Considering what we're doing, I don't see any harm in sending it out. I would be very careful though that instructions for comment should only go to the chair or vice chair so we don't trip ourselves up on the Brown Act.

>> Ed Rast: I would suggest, go right back to staff and they will distribute it to the chair or vice chair, and if any of the comments need to be sent out to the committee, if somebody might request it.

>> The chair may not get any comments but again, there's no harm in extra disclosure, I could take an extra e-mail on the few thousand I get.

>> Ed Rast: Another thing, talk to Dan also, if a task force member is very interested in a particular topic, I don't have a problem their attending that meeting.

>> As long as you're within the --

>> Ed Rast: As long as we're within the Brown Act requirement. One or two people should not be a problem. We'll go ahead and do that.

>> Bobbie Fischler: May I clarify that?

>> Ed Rast: Yes, go ahead.

>> Bobbie Fischler: When you are saying somebody would want to attend, with the chair and the vice chair, they would notify staff indicating they would want to be there.

>> Ed Rast: That's correct.

>> Bobbie Fischler: Then staff would know if there is any problem too many attending.

>> Ed Rast: That's correct. We could resolve it before the meeting rather than have people show up.

>> And be forced to leave the room. Anybody is welcome to attend. It is not a terribly interesting meeting.

>> Bobbie Fischler: I'm going to assume that's by Monday?

>> Ed Rast: By Monday noon we send it out and ask everybody to do it. We've got copies of the -- staff has prepared a comments to the City Council on the update, which is everybody received a copy of those in their handouts? Okay. So if you have comments to those, either see me and Dan afterwards, because we've got on the 28th of -- 29th, we're going to do an update to City Council, or if you would e-mail Eva. Communications to Ed Davis. I would like to be copied on those as well as having Dan Pulcrano copied, that way we're not having issues with task force members, directing our council to do something without knowledge of the rest of the task force itself. The last one is, the task force has adopted the San Francisco sunshine format. The San Francisco ordinance as all of you know has been used many times as a base document for discussion about appropriate items to be included, to be changed or excluded from other Northern California city task force ordinances. So as task force members review the sunshine -- other city sunshine laws for ideas or discussion points we'll still fall back on the San Francisco ordinance, as part of our work plan. So we'll use that as the base document. That doesn't mean that Milpitas or Oakland or something else doesn't have good things in it. But most of those were based on the San Francisco ordinance so we'll use that as the base document. And what we'll do now is move on to the next agenda item. Okay. Reconsideration of the task force referral to the FPPC regarding the conflict of interest discussion and vote. And I think Ed Davis is going to have some comments on that.

>> Thank you Mr. Chair. First of all I guess I learned my lesson for skipping a meeting last time because one time I might have been able to be of some help I was gone. What I'd like to do is give you my thoughts about the conflict issue beyond the memo that I sent out to everyone that I thought would take the place of me actually being here. There are a few occasions where the law and common sense actually intersect. I'm happy to say in my opinion this is one of them. This task force could not do its work, and indeed the City Council recognized the need to have a variety of perspectives in order to accomplish the task that the task force has. And if the conflict law was interpreted in the way that it's been raised, the meeting last week, or last month, and before, the task force couldn't do its job. You need to have a variety of perspectives, whether it's from the media, or whether it's from labor, whether it's from the chamber of commerce, in order to evaluate an interest that is indeed very important, a significant public interest. So when I say that there's an intersection between the law and common sense, my reading of the conflict law, as it applies to public officials, which by the way, the members of the task force probably are not, so the law I don't think even applies to you. But if it were to apply, there's a very good reception to the conflict provision, even when somebody does have a material financial or other interest in the business at hand. And that is, where the public's interest and the individual official's interest are the same. And I've taken a very close look at the law. I've evaluated the various factors that are articulated in the law. The way the attorney general himself says is that there is no conflict where there is a harmony or confluence

of interest, with a significant segment of the members of the jurisdiction. And I think that exception applies exactly to this situation. The task force could not do its job, that the interest of the public is identical to the interest of the media folks here, of labor, of chamber of commerce, of the neighborhoods. They can't be segregated. You couldn't have a task force, my recommendation is, let's not waste any more time on this interest. Common sense indicates that we should put the issue behind us and move forward. As a result I don't think it's necessary to refer this to the FPPC. I'm not sure what the FPPC would do in terms of even rendering an opinion. Because the first thing they'd probably conclude is the conflict law doesn't apply to the members of the task force. But I'm confident in my opinion. And as your attorney, for the task force, it is my job to give you independent advice based on my reading of the law. And I don't think we have to turn to the city attorney's office. I don't think we have to turn to the FPPC. I think what we should do is turn to the business of the task force and get moving.

>> Ed Rast: Additional comments?

>> I'd give two perspectives, one is just being a member of the task force I guess I would say that I don't think there's anybody on this task force that doesn't have some level of a conflict of interest. And whether it be as a neighborhood representative as I am or just if you were to look at who my employer is, being an employer in the City of San José. I wonder where this would stop. From that perspective I'm concerned about the fact that we have I think to some extent picked out two of the higher profile members of this task force and I worry that if -- where it would begin, where it would stop. My other perspective I would share is especially being a neighborhood representative, I think the media representatives that we're specifically focusing on here play a critical role here because when I get up in the morning, and I think about what happened at the council meeting the night before, I certainly don't get up, put on my slippers, and go to the -- go to the computer to watch the webcast of the council meeting the night before. I pick up the newspaper. And I read it. And I find out away the details of it were the night before. And I can tell you that everybody on my block does that. So my focus as a neighborhood representative on this task force is going to be supporting the people in the media. And while neighborhood representatives I think can do a lot more through this task force, I can tell you that when I was appointed to this task force, first and foremost, in speaking to my neighbors, it was about better media access to what the City's doing. Because that's really where we get our information. So when I heard this first come up I was angry to some extent I guess. Because the media is playing a critical role in getting us information about what the City's doing and the flow of free information.

>> Ed Rast: additional comments? Brenda.

>>

>> Brenda Otey: I believe if you look at the code of conduct, if there is a conflict of interest, abstaining on a particular issue that reflects a conflict of interest would be the action that would be required. So in that case, if, indeed, anybody and everybody may have a conflict of interest, then that would be what's required, in that case. Whatever that is. Whether we have to take each item, or each instance, and as an individual you review it for yourself, and make that disclosure, that's what's required of the code of conduct. Just one thing, as far as a previous speaker, as far as supporting the media, the media is not necessarily impartial. They take positions on candidates and other issues, and can control the flow of information. So it's not just to support one -- it's not enough to support one media entity over another, to say that that's -- that is a reasonable thing to do. If you support -- the issues that are before us are to make it clear, and -- that the people, the public, has access to information. The media may be a tool in that case. But it's not necessarily the -- it's not necessarily a -- the whole, the focus that it can go through. And sometimes, the media can act as a valve, and information doesn't -- may not get through. So when it comes to our task, it should be -- we are here to represent the and ensure the interest

of the public and not necessarily supporting the media. Because the media, in itself, has the ability to put out information that most individuals don't have the ability to reach that far.

>> Ed Rast: Okay, thank you. Joan.

>> Joan Rivas-Cosby: Joan Rivas-Cosby. I would be willing to keep this amongst myself and not have it go further with the FPPC.

>> Ed Rast: Ken.

>> Brief comment and I'll put a motion on the floor, that was similar to the motion I basically took back after the last meeting, after explained to me I was not -- not following the rules entirely. But I want to make a comment. This whole issue came up because we've decided to take the high road. And we took the high road by passing the code of ethics. I don't think, and conduct. And it came up as a result of passing the code of ethics and conduct. I don't think at any time any member of this task force were concerned about Dan or Susan's role on this committee or any possible conflict of interest. But we were taking the high road. Since that original motion we have received -- we have received counsel from our legal counsel that I think in my mind demonstrates that there really is no real conflict of interest here. When I think when in motion was, you know, originally passed there was not any real consideration, you know, we thought it was going to be a simple deal. You send them to the FPPC, they're going to rule based on it. Then it came back Dan and Susan would have to provide information that one could consider private that wasn't necessarily being applied to all the committee members and inherently that wasn't fair. I'm satisfied with Mr. Davis's explanation and counsel on this. And I don't honestly feel there is any violation here.

>> Is your motion to accept the recommendation of council?

>> My motion is to accept the recommendation of council.

>> Ed Rast: Do we have a second?

>> I will second.

>> Ed Rast: Virginia seconds.

>> We have as Ken indicated taken an extraordinary step, unanimously and with full support of everyone on the task force to establish for ourselves rules that we would abide by. And I've not been on any other task forces, committees, blue ribbon or otherwise that have taken that step. But we did it because we consider this to be extremely important task force and the work we are doing important. We wanted to assure the public of our impartiality, to look for the common good and to be the best representative we can and make the best recommendations as possible. So within that framework, I think that there is trust, not only among members of the task force, but I think with the community, as to our intentions, and as Brenda said, we know what we have agreed to abide by. And I believe that we will do that. And I -- the earlier request for information from the FPPC was really -- and I made that motion, was to get a sense from the FPPC. And they often do that, I think it's unfortunately gone well beyond a sense. And I would agree with counsel that I would be very surprised if they would, frankly, even feel qualified to rule on a task force that was -- whose membership was mandated by the council. So I'm going to support the motion, and I appreciate that everyone here was in unanimous support of this. I think that we have much to be proud of and if we get to work we'll have even more to be proud of.

>> Ed Rast: Let me get -- do a clarification, first to Judy and then to Ed Davis. My understanding of a conflict of interest is it is defined as a legal conflict of interest. What do you do with a conflict of interest that is potentially perceived not as a conflict of interest but maybe by the public as a conflict of interest. Is it incumbent upon a personal responsibility of task force members to discuss that, so there is no question about that particular area? Because sometimes -- in other words, you can argue the case with Susan or Dan that it's not potentially a legal conflict because we're an advisory group, so on so forth. But that one

would be potentially something the public may or may not or individuals in the public may view as potential conflict. Do we set a standard that it is the personal responsibility of individuals on the task force to disclose any ones that may be perceived as a potential?

>> Ed, I think the problem with that type of standard is it's difficult to say what the public might perceive as a conflict of interest.

>> Ed Rast: Right.

>> We've already seen an example here of something, a perception by someone that I'm assuming was brought in good faith that could essentially tear the task force apart. I disagree both from a legal perspective and a practical perspective, if you will, that that represents either type of conflict. So I think that would be too vague a standard, and it would be trying to guess what somebody in the public might perceive as a conflict, would be pretty treacherous.

>> May I just say that everything that we are doing is an open book. So people are watching us, they're reading all about it, they're listening. They have the ability to come and participate. I don't think, you know, if anyone has a perception, it's something that they're thinking, that you know, beyond what we're doing.

>> Ed Rast: I just want to clarify. We're running out of time. Before we vote on this I'd like to take public comment. Is there any public comment on this? And Bob Brownstein.

>> First, let me point out, that when the City Attorney's office contacted the FPPC, what the FPPC did not say is, oh, it's members of the media, therefore, there clearly is not a conflict of interest. What they said was, unless specific questions are answered, it's impossible to make that judgment. They were correct. Unless specific questions are answered, it's impossible to make that judgment. And the question of whether a conflict exists or does not exist has not been resolved. Because any attorney simply says, a conflict doesn't exist. In terms of how to move forward, if members of this task force really want the opinions of the media, and that's not an unreasonable perspective, all you have to do is say, we are going to exempt Ms. Goldberg and Mr. Pulcrano from the conflict of interest respects of the task force. That would be a reasonable and honorable way to move forward. But it is not appropriate to say we are going to have a code that includes conflict of interest and we are not going to apply it. Thank you.

>> Ed Rast: Dan.

>> Dan Pulcrano: Mr. Chair, I think this code of conduct was passed by our group. I'm satisfied that we can abide by it. That if there is a specific conflict, for example, if let's say we're directing that advertising be purchased in the largest daily newspaper for agendas, and it was a direct conflict, I would suspect that Susan Goldberg would abstain on that part, or if there was a proposal for a software contract to my company, there should clearly be an abstention. But as I interpret our counsel's advice and the advice of the council, that my company has retained, as well as our own inquiries with trade associations with did in fact consult with the FPPC and the attorney general's office on this issue and while there wasn't an official opinion issued, we didn't feel it should be a matter that should come before them anymore or raise any particular alarms. What I'm interpreting counsel's advice is that general matters that are in the interest of the whole community of which we are a part is not a conflict. But if there is a specific conflict, we would abide by the code. Is that -- is that a reasonable interpretation?

>> That's a very fair interpretation.

>> Call the question.

>> Ed Rast: Call for the question. All in favor,? I'm sorry, let's -- before we do it. Repeat the motion.

>> Motion is that we accept counsel's advice.

>> Ed Rast: Recommendation?

>> Recommendation, thank you.

>> Ed Rast: All in favor? Opposed? Abstentions?

>> I'll abstain.

>> I'll abstain.

>> Ed Rast: Three abstentions. Did I count them right? All right, next agenda item. Agenda item 4, staff presentation on proposal to coordinate and post the online calendars of the mayor and the councils, public information reform number 10. You were given a handout. Hopefully everyone has that. I'm sorry, Dan McFadden.

>> The matrix that accompanies the staff report of August 29, it's form number 2. [off microphone]

>> Frannie Murphy is the chief information officer who is sitting and she'll answer any questions you have about the calendar and what is online.

>> Ed Rast: One minute, Susan you had a question.

>> Susan Goldberg: I did have a question. The agenda said we were going to discuss reform number 10.

>> You're correct. We're discussing reform number 10. Sometimes confusing. There are two calendaring items, and the master calendaring item, last week, this is about disclosure of council calendar.

>> Ed Rast: Susan, does that answer your point of clarification?

>> Susan Goldberg: Yes, it does.

>> Ed Rast: Go ahead and proceed.

>> I'm Randy Murphy, the chief information officer for the city. And the topic of putting calendars on the Internet for City Council members and the mayor has been a topic that we've been assigned to work with the task force on. In that regard, I've got two staff here to follow up on technical questions if you need it but sometimes in working with the task force, you take the high road, and sometimes you deal with the details. We are in a position of trying to respond. What he wo have done is prepared a handout and that handout hopefully gives you a reference that shows you each councilmember's web location. Which we propose putting -- adding to it a calendar location, so that anyone coming into that Website can click on the calendar and pop from there to a, you'll notice, an outlook looking calendar, which would be the calendar of each councilmember, or the mayor. We've also shown you the procedure by which council staff will bring forward from their private calendars to this calendar. So it's a process that will be managed by councilmember staff. We scheduled a briefing for councilmember staff for the 30th, and the 7th of next month, because you're seeing it before they've seen it. So what we have is something that's ready to go. We're ready to activate this. We're ready to put it into effect. We need to have the discussion with council staff as to how it will work. Here you see how it looks, so you can see we're bringing forward all the items at least we're aware of that you need to do. We have a provision to allow Councilmember staff to deal with the question of those items that might be construed as private. Doctor's appointments or items like that are things that maybe shouldn't be out on the web and that's the decision that they've got the ability to designate those things so it doesn't go forward to the public domain. Tom.

>> If I could just add a little bit of context to what Randy was talking about. The calendar system that we've set up potentially by default, from technology standpoint, calendar would be completely up. So they will have to mark things privately that fit -- that meet the standard, what should appropriately be kept private. In form number 10 that's in the matrix we have, we talk about the recommendation that we're bringing to them which really looks at the San Francisco ordinance there in terms of the type, I'll just read it to you. In San Francisco, public calendar may include, this is a quote, purely social or personal events in which no city business was discussed, did not take place at city offices, or at residence, or otherwise substantially affected actions of the city. And then we give examples of that.

>> Ed Rast: Susan Goldberg.

>> Susan Goldberg: I have a couple of questions. I'm glad that you did define that personal information in that way, that's the way San Francisco does it and that pretty much covers it. I was noticing in the

summary of reform number 10 it talks about that this is only disclosed quarterly. Is that actually the case?
>> The direction from council, the original direction, directed that they be disclosed quarterly. That's not a limitation in the technology so much as following the council's direction. There would be nothing to prevent them from doing it more often should they choose.

>> Susan Goldberg: Okay. I really think that we need to take a look at that, and a couple of -- couple of other things. A quarterly disclosure is not nearly enough to do -- to give people the kind of information. People need contemporaneous disclosure. If there's a council vote, say, about a development, people need to know, who has the mayor been seeing? Has he been meeting with the developer? Have council been talking to people involved in the issue that they're voting on. I think we need that in real time. In the San Francisco ordinance, the Milpitas ordinance, as well as the joint proposed ordinance, there is a three-day disclosure that is part of the law. In other words, the three days after a meeting or an activity, that's when it is -- has to be publicly disclosed. And that does in fact give people enough time. The other thing I wanted to mention was, this just applies to the mayor and the City Council members. I would note that under the San Francisco sunshine law, it includes the mayor, the City Attorney, and every department head. The joint proposal suggested the mayor, the City Council, the City Manager, the City Attorney, the City Auditor, and department heads. So those -- you know, I mean those are the people who really run the city. And I think that their calendars should be public as well. The other thing I would add is that I think there should be specific language that these officials need to keep a calendar. I can recall on one occasion asking for the mayor's calendar and being told he did not keep a calendar. First, whatever the group of officials that are included here, I hope it is broader than what's here, that they keep a calendar. I think the definition of personal information is a good one, that it should be three days, as is in the other -- in the other laws, and that we really do look at broadening the number of people who are involved here.

>> Ed Rast: Additional comments?

>> I think you should made this a motion. This was one of the original reforms that didn't get referred to this committee. And I was one of the persons that insisted that it come to us, that the word quarterly really bothered me, the calendars would be made public on a quarterly basis and that's far too late. You're doing a lot of retrospective research by that point to see who your elected officials have met with. I think the way you just summarized it is great. And if we can kind of bring it into some kind of motion, certainly we can have more discussion about it. But I would like to refer that to council in some form as our recommendation.

>> Ed Rast: Okay.

>> As I understand it, there is no technical limitation against more frequent disclosure?

>> Correct.

>> There's no technical reason or no cost reason for sitting on the information for a couple months or however, an average of 45 days? There's no technical or cost -- is there a cost reason Mr. McFadden?

>> We're prepared to answer that. There is no cost reason that I know of.

>> Not in the software, not in the hardware, anything else like that. But as in keeping the process current in an accurate fashion, no, there is no out of pocket cost for additional software, just the human resource part. And that is something that we need to have clarification as to what guidelines we should pursue that with.

>> Presumably if people are keeping their calendars updated, the release could be automatic and keeping it simple.

>> My own calendar is actively change every day with all kinds of things and it is very dynamic. So the times are an interesting issue for that. And you need to be thinking about what you're trying to

accomplish. Today I had three meetings cancel, my calendar is boring compared to what you're talking about. It is a labor issue not a technology issue.

>> Is this the same software that would be used to track events, commission meetings, community events?

>> No.

>> This is a different calendaring system?

>> That's different.

>> Are we talking about that today as well?

>> The master calendar.

>> Master calendar.

>> It's a different set of software. That wasn't on your agenda. I could speak to it if you'd like as to where we're at with that but that wasn't on your agenda.

>> No.

>> I can't speak to that.

>> We're going to do that in September.

>> Ed Rast: When recognized please speak directly into the mike and state your name. Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. I don't keep a calendar and I -- I can keep my calendar in real time. You know, I don't go back a week later and put things into my calendar. I usually actually look at my calendar to figure out what I'm doing today. So I would think that the requirement of, you know, three days after, is probably a, from a practical standpoint, not a major challenge, because people aren't probably having to go back and having to fill in the calendar or correct the calendar much, three days later. Since it's not a money issue, it's not a technology issue, and it doesn't sound like a personnel issue, I would -- if a motion was put on the floor, I would be -- I personally would support that motion.

>> Ed Rast: Ed Davis or -- can we get a clarification on something? A piece of legislation is passed by the City Council, my understanding it goes into effect roughly 30 days after, unless it's challenged?

>> Or otherwise specified in the law. To its effective date.

>> Ed Rast: So therefore, if this is not disclosed for 90 days, you're considerably beyond the 30-day potential implementation date.

>> That's correct.

>> Ed Rast: So if there was concerns or conflicts that people would see on the calendar, follow up on them, you would be way beyond the point where they could go do anything about them.

>> Quarterly, would not be able to address that particular concern.

>> Ed Rast: All right.

>> I want to support Susan's comments because not only sit way after the fact, but in fact that you're just digging up archival information that you really can't use is that if something did happen, you would be beyond the framework for asking for a reconsideration. Because you can only do that within a very short period of time generally, and until next meeting after the action's taken. So you're really cutting out the possibility of any thoughtful commentary if need be or citizen action after the fact, if you don't keep it up to date.

>> Ed Rast: Lee Price, can we get a clarification on what reconsideration of the motion, what is the time frame and how is that done?

>> The Clerk: At the City Council level, member of the prevailing site of the motion, can request a reconsideration at the next meeting.

>> Ed Rast: Which is basically seven days later.

>> The Clerk: Generally a week later.

>> Ed Rast: Normally. Margie.

>> There is a ten-day agenda calendar as well.

>> The Clerk: If they ask for a reconsideration it would be placed on the agenda for the following week and the council would discuss whether or not to reconsider the item. Similar to what you did last week, or no, I guess that was this week, with reconsidering your action on the FPPC.

>> Ed Rast: Margie.

>> My question is not about the mechanics of it. Assume this is outlook, that is what you're saying?

>> Yes.

>> Councilmembers and their staff keep a calendar in outlook, in real time. Would it be a separate set of calendars that's active?

>> I believe it is a separate set of calendars.

>> Two or one?

>> One.

>> There's some sort of release mechanism after three days?

>> Right.

>> First I thought everything a councilmember touched was public information. But I'm glad it's on the side of Public Safety, personal safety, I'm glad we're talking about doing this after the calendar is over.

>> I'm one of those people as a CIO who's very, very concerned about privacy, and the Internet is a very public domain. So my -- I tend to err on the side of protecting individual's privacy.

>> Ed Rast: It's not that we're trying stop conversation. We're running tight on time. If we could keep the comments concise. Susan.

>> Susan Goldberg: I was going to make a motion here.

>> Ed Rast: Great.

>> Susan Goldberg: That quarterly become the standard in the other city, three days, so it go from quarterly to three days in terms ever disclosure. That the personal information stay what it is, because that's very consistent with what's done elsewhere. We have not talked about this, but that this be broadened to include the mayor, the department heads, and the City Attorney, the City Manager, and the City Auditor. And that this be clear that they are required to keep a calendar.

>> Second.

>> Ed Rast: Discussion? Margie.

>> Margie Matthews. Has this committee talked about how you enforce these? I mean, what if a councilmember doesn't or leaves off meetings or --

>> Ed Rast: Later agenda item.

>> We're not there yet.

>> Okay, all right.

>> Ed Rast: Giving talk to other cities, that's the biggest unresolved issue in all the areas. Is there additional discussion?

>> Mr. Chair if I could make one comment from a legal perspective, the only potential problem I could see with expanding the people involved, involves the City Attorney. And surprised you didn't mention this Sandy. That is, there may be meetings or items on the calendar that would implicate attorney-client privileged materials. So what I would suggest that the definition of what private -- what can be kept private include legitimate attorney-client kinds of -- or work product, just for the City Attorney, obviously.

>> Susan Goldberg: I would accept that as a great amendment.

>> Ed Rast: Who seconded the -- do you --

>> I'm fine with that.

>> Ed Rast: You're fine, you accept the amendment. Any other conversation? Brenda.

>> Brenda Otey: My only concern, I guess, is it clear that it can be done in three days? There's a long way between three days and quarterly. And is three days too short of a period of time?

>> Technically, it can be done in three days.

>> Brenda Otey: It can, okay.

>> If it could be done in three days, it could be done in one day, next day, wouldn't it?

>> Ed Rast: What you're saying it wouldn't prevent them from posting every day, the requirement is a three-day.

>> The only question I have is if there's a 72-hour notice requirement before a meeting, that's what, three days? That's three days. And if there's a three-day requirement, and there's one week for a consideration, you've got three days on one side, you've got three days on the other side, which basically means that any person would need to look -- request the calendar, get the calendar, review the calendar, and request reconsideration within a 24-hour period.

>> I would -- I would just say that, you know, the 72-hour notice of the meetings is one of the things that we're going to be discussing, you know, coming right up. And I wouldn't be surprised if a whole bunch of people didn't want to extend that so it's much more in line with what's done in other cities here in Northern California.

>> But then we'd have to extend the reconsideration period, too.

>> I don't -- oh, I don't know about that. But I mean to me, if other cities can make this work with you know a three-day disclosure of calendar, I don't see any reason why that couldn't be the outside standard in San José and if people want to do better than that they're always able to.

>> Additionally, who does this apply to? We're saying that it applies to the elected officials, does it apply to senior staff or the budget and policy director? Does it apply to, you know, the council chiefs of staff?

>> What I had -- what I had proposed was that it applied to the department heads, to the City Manager, the City Attorney, and the City Auditor, in addition to the elected officials.

>> How about the chief of staff to a councilmember, or the -- or budget and policy director or other city officials?

>> I didn't go there but it's an interesting idea. I mean, you know, at some point you got to draw where is, really, that line.

>> Ed Rast: Dan, have you a question or you wanted to make an amendment to the motion or where are we going with this, I guess?

>> Dan Pulcrano: Would you consider that as a --

>> Ed Rast: An amendment.

>> Susan Goldberg: I would be more comfortable leaving it at the slightly lower level. If you go so far that thing could tank. I think there's a lot of precedent for going to the department head level in other cities. And that you can argue it on that basis.

>> Ed Rast: Dan, go ahead.

>> Other cities, I think it would be important to cite those cities. I think this is quite a bit further than most of the other cities are going. And certainly we will have staff call those cities and see what's working. I think it's helpful. If you have a source, if you throw it out that we can check it, thank you.

>> What are the charter positions? Is budget and policy a charter positions? No, thank you.

>> Susan Goldberg: Dan, I can clarify who it includes. San Francisco's ordinance includes the mayor, the City Attorney, and every department head.

>> I know San Francisco has it. But we were saying Northern California cities, and you generalize, make it sound like San José is the only one not doing this and I think that's extremely misleading. I think if you

cite it would help us very much in our effort here.

>> Susan Goldberg: I thought I did to start with but let me repeat. In terms of three days, San Francisco and Milpitas both go to the three days. I think Contra Costa might, as well, but I'm not sure of that. San Francisco defines the personal information in the same way, and I believe that San Francisco also says that they are required to keep a calendar. So we've got basically a San Francisco-Milpitas thing going here.

>>

>> You've got San Francisco from what I read. That's fine. I thought that just implied something much more than what was actually going on there.

>> Ed Rast: Yes.

>> Sandra Lee, city attorney's office. I did actually contact the San Francisco mayor's office. And it's my understanding that the information is available with respect to the calendar, but they're not posted on the Internet three days after. So it's available, but it isn't posted.

>> Ed Rast: Sandra, can you clarify what you mean by available?

>> You make a request.

>> Ed Rast: You can make a request to go and pick it up?

>> Yes.

>> Ed Rast: Not on the Internet?

>> Yes, that's correct. There's an events calendar on the Internet but the mayor's calendar is not actually on the Internet, in terms of the -- with the three-day lag.

>> Ed Rast: So did we have -- did Susan, did you accept Dan's motion?

>> Susan Goldberg: No.

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

>> Brenda Otey: Brenda Otey. Do we have an answer from other cities as to how it's working?

>> We will certainly follow up on all this because at some point we have to take it to council and the first question is going to be, how does this work in comparable cities. So we will have to research that.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. San José labels it self as the capital of Silicon Valley. We should take ourselves to that level. I want to point out to the committee that the head of the I.T. department has said this is something that could be done. Let's set the standard rather than look at other people's lower standards and adopt their lower standards. I think if we have all the expertise in front of us that says it can be done, let's start setting some standards with our -- with what we're doing here.

>> Ed Rast: We're really running short. Go ahead Judy.

>> Judy Nadler: I think some people are thinking this is an onerous task. You would be sending out a press release every day. There are plenty of mayors and councilmembers across the country who send out a daily listing, everything that's on their calendar so they hope to gather some media interest and everyone knows what they're doing. I think it's a matter of your perspective. I hope the council will look at this and say, oh, that's a great idea. I hope that we're sending that forward with that positive look as opposed to, we have an onerous task for to you take on. I think it's really important for them and I think it would do everyone on the council a lot of good to make sure the public knows what they're up to.

>> Ed Rast: Jim Joan.

>> Joan Rivas-Cosby: Joan Rivas-Cosby. Just a quick thing. I think this is a mouse-click away from posting a daily calendar. I work for somebody whose calendar is probably as bad as anybody else's. This would be a daily task, I don't see any problem with it at all so I think we should just go ahead and move forward and decide on Susan's motion.

>> Ed Rast: Ask for public comment. Is there any public comment? Bob Brownstein.

>> There are severe problems with this proposal. Absent any other view of the charter, it dramatically increases the power of the mayor. The mayor, who is the most powerful in City Hall, to know in real time who councilmembers are meeting with instantly and responding. If this kind of power had been available to Mayor Gonzales, we would never have a children's health initiative in San José. The councilmembers who were trying to meet with us on that would have been pressured to backing on within 24 hours. One of them was even without this kind of advance notice. For small groups, for groups that are trying to raise an issue that's unpopular for people who are trying to inform the council about wrongdoing, that may not be illegal wrongdoing but something that councilmembers should know about and are vulnerable to retaliation, all of them are made extremely vulnerable and have City Hall closed off to them by having this kind of measure go forward without any kind of exemptions. When I was working for previous mayor, would I have had two minds if I saw a proposal like this. Since I viewed myself as a defender of the underdog I would have hated it. Since I was working for a mayor, I would have loved it. We could have kept everybody in line. Is that what we want to do?

>> Ed Rast: Question, Bob. I understand, I think I understand your objection. Is there any proposal to how you address that type of problem? In other words, your indication is essentially, this is going to give the mayor, which is essentially the strong mayor form of government because of measure J, the ability to direct councilmembers because he controls the budget and says what they can and cannot do. Because otherwise what you're saying is we shouldn't have sunshine because it allows the mayor to basically, I think your term was intimidate the other councilmembers?

>> That is precisely the term. I would have to think about what would be a balanced approach to this issue. Certainly I would include exemptions for certain kinds of meetings where people are vulnerable to retaliation. Also, if this task force does anything remotely what I think it can do, in terms of the timing of decision making, we aren't going to see the City Council making decisions on an instantaneous basis without public notice and due process. There are going to be weeks before an issue surfaces, and the council actually makes a decision. Which means there is very little that is lost in terms of the public's right to know by giving organizations that are not powerful a little political space in time to be able to meet with councilmembers and not be in the public eye. All you really need to be sure of is that you don't have meetings taking place before decisions, that you don't find out about meetings that take place before the final decision is made.

>> Mr. Brownstein, I have a question. Since you were a budget and policy director, do you feel the tables can be balanced by including the mayor's chief of staff and his budget director?

>> I have whatever kind -- if the goal is to try to find out what decisions are being -- what meetings are taking place by powerful people within the City Hall building, you got to be nuts not to include the mayor's chief of staff and the mayor's budget director. They exert tremendous power, certainly more power than the City Auditor in terms of what's going on. I would include them, I would just change the timing so that it doesn't have negative effects on grass roots politics and the ability of councilmembers to work with people who are not powerful in the system.

>> Thank you.

>> Ed Rast: Thank you. Any additional comments? Call for the question. I'm sorry, Nanci.

>> If I'm I'm to understand that correctly, we shouldn't public the calendars in a timely way, so the mayor can discourage indemnify from holding private meetings with the same person because he wants to dictate who those private meetings are held with. This sound exactly what we're trying to get away from.

>> Ed Rast: When I hear that it says we need to look at all the other issues that this affects. So the negative unintended consequences of this action which opposite up more sunshine is not effectively done

by people who want to I think intimidate, I forget Bob's term, manipulate the process.

>> Let's take a vote.

>> Before we vote just real quick. I was wondering, you know, if the motion maker might be willing to make that amendment, to add the mayor's chief of staff and the mayor's budget and policy director to that list.

>> Ed Rast: Will the second agree?

>> Sure.

>> Sure.

>> Ed Rast: Okay. So let's see -- can we read the motion again, Lee? Thank you.

>> I call for the question.

>> Ed Rast: Call for the question.

>> The Clerk: Let me see if I can paraphrase Susan's motion. So the disclosure of the calendars be changed from quarterly to three days, setting standard at three days, that personal information be defined as proposed by staff. Which we later amended and I'll get to that in a moment. That the disclosure be broadened to include the mayor, department heads, City Manager, City Auditor, and City Attorney, and that these individuals be required to keep a calendar, motion was then amended to expand the definition of personal private information as it relates to City Attorney, to include attorney-client privileged appointments and then later amended once again to add the mayor's chief of staff and budget and policy director. We clarify, work product, goes in along with the attorney-client privilege.

>> Ed Rast: Okay so we've had a call for the question. All in favor,. Okay. All right. Okay. All opposed. And any abstentions? Okay. All right. Is there any further discussion on this particular issue?

>> The only -- the only question I had, and this can be taken offline, but could this in any way affect the -- any confidentiality of City Auditor investigations?

>> I'm not sure what the role or --

>> I'm not real sure. I'm not sure exactly why you're including the auditor. But we should ask him and find out. I really don't know that.

>> Ed Rast: Let me ask for clarification. Susan made the motion. I think my understanding was, you included it because it was a city charter provision? Is that right? I believe that was why it was included. Do we want -- Dan, do you want to come back and take a look at that, and maybe we'll discuss it further?

>> I think I'll just ask the auditor to respond to you in writing rather than take up time on the agenda.

>> Ed Rast: Thank you, appreciate that. All right. So Brenda.

>> Brenda Otey: My concern was, this is for people who may be considered whistle blowers who may go to their City Council person to give information, that they would then show up on the calendar, and they could be targeted. And that's why I voted no on that, not because of anything else. Bought I do understand that within that, if everything is happening within three days, then it could leave some people very vulnerable.

>> Ed Rast: Okay, thank you Brenda. Any additional comments? All right, we'll move on to the next agenda item. Discussion regarding the task force facilitator. I think the question -- Dan, you want to -- McFadden.

>> I met with the facilitator, he missed that last meeting and this meeting. I indicated we would probably hold him in reserve unless the task force wanted him to continue. So it's really your call. And his expectation is that he's pretty much done here, unless you have some role you want to continue him in.

>> Ed Rast: Judy.

>> Judy Nadler: I think we're functioning quite well but I do like the item of having him on hold, in case we tried to map something out, and we need someone who's not involved in the discussion to actually put it

up for us. So I would move that we hold the facilitator in reserve until -- if, and when, we need to use him.

>> Second.

>> Call the question.

>> Ed Rast: Call the question.

>> It's a five-minute item.

>> Ed Rast: Any discussion? Okay, call the question then. All in favor, all opposed, abstentions, passes unanimously. Okay, discussion on the next -- item number 6 discussion in the public meeting category. Dan McFadden.

>> I'd like to emphasize my cover memo. I went into the various owners and tried using the San Francisco ordinance as the framework, to make sure that we had all the substance that was in that, to see how we could piece things together. It was very difficult to try to do it because each of these is written in a different style. What I ended up with is the Milpitas open government ordinance as the basic document. And it's a re-write of the San Francisco ordinance, that was rewritten by the City Attorneys at Milpitas. It seems to be the most reasonable and clear of the ordinances. That's basically the reason I put that forward as a discussion item, so that we could try to see the organization of it, and the consistency of it as one document. And included in there, under regular City Council and council committee meetings, the resolution number 73321 which was the City Council resolution that they update that governs how they operate, the outline of the council staff reports which is quite detailed, and it was just adopted here in June as part of the recommendations on sunshine, and then to give you a sense of the noticed meetings, I think there's 50-some of them. I'm not sure we got them all. But to give you some sense of what we're noticing now. Thank you, that's just my response.

>> Ed Rast: Dan, clarification question. On page 1, item number C, the second major sentence of that, it starts off, a new gathering of a policy body before, during or after a business meeting of the body is part of that meeting and shall be conducted only under circumstances that permit public access. In looking at this one, the Milpitas one, and then you look at the Benicia one and some other ones, there seems to be that paragraph is under things that should not be considered a meeting, where in the Milpitas and some of the other ones it's considered a meeting. Is there --

>> The most divergent difference among these ordinances is in that passive meeting or ancillary meeting or nonregular meeting category. And I'm not sure where you want to take that discussion. I just -- unless I -- unless you're saying -- I think that's exactly the way it appears in their ordinance, Milpitas.

>> Ed Rast: It definitely does, I looked it up online. When I looked at Benicia and some other ones, as you go down through this, the first items, 1, 2 and 3 define a meeting and then number 4, the meeting shall not include any of the following and the second sentence in C takes that one section which, in some of the other ordinances, it's defined as a meeting, defines it as not a meeting.

>> I'm sure you can clean this up, move it around, do whatever you want with it. I'm not sure I can offer any more on this. I don't profess to have any expertise on this. Sandra Lee perhaps can comment on it. I just try to pull it together for a discussion.

>> Ed Rast: Sandra.

>> I mean, is the confusion because basically subsection C says what is a meeting, that the meal gathering is a meeting.

>> Ed Rast: I'm sorry please?

>> That the meal gathering before during or after a business meeting is part of the meeting.

>> Where is it?

>> It's the section that Ed was citing to. Subsection C. So even though it's in the section that says what is not, the meeting shall not include, it actually says, what is that it is a meeting.

>> Ed Rast: It makes for confusion though, some of the other ordinances, where it's up above in the meeting area. I had to read it a couple of times to understand --

>> Basically it is in the wrong spot.

>> Ed Rast: It's in the wrong spot. Susan.

>> Susan Goldberg: I guess I have a little bit of concern about the reliance on the Milpitas ordinance. Dan is absolutely right that it is clearly the basis of -- that Milpitas was drawn on San Francisco. In fact, in many areas, it is word for word. And Milpitas does do some good things. They clean up, although this is not a good example, but in other places they clean up some confusing language, they make things simpler, there is a lot of things to recommend in the Milpitas ordinance. But I will say in a couple of areas it is significantly weaker than the San Francisco ordinance, particularly with regard to disclosure of employee information, and about enforcement, and some other areas. So I guess I think we need to perhaps talk about what we really want to use as a base. And my other concern about Milpitas is, it's a very -- it's a new ordinance. It's only a year or two old. And you know, San Francisco's ordinance has been around, it's been tested, it's been, you know, these things have been tried up there. And so I just would raise that as an issue. You know, I think it's easier, as a body making a recommendation about sunshine, to start with an ordinance that provides more sunshine. And then if you don't want to provide quite that much, you know, close those blinds a little bit, rather than one that provides less and try to work up to more. It's easier to edit it down.

>> Ed Rast: Dan.

>> Yeah, I've been look not only at the San Francisco ordinance, an set of ordinance that was just proposed to San Francisco on July 10th which is attempting to resolve a hole other set of issues. I notice one of the missing items from the staff draft is advisory bodies that are appointed by the mayor, which essentially can create a loophole there. It specifically states that advisory bodies are policy bodies and cannot meet in secret, either. Additionally, it would then require those meetings to be recorded, and additionally, the revisions to the San Francisco ordinance requires the city administrator to monitor the public officials who leave office, to make sure when the mayor leaves, he doesn't take all his boxes home with him because the public business is there. These issues point to a number of things. We're being presented with a staff recommendation for discussion, because some these procedural items, and other things, cause us to run over. We're almost out of time now to discuss something which requires a deep amount of thought. I don't know if the commission's counsel has had a chance to review the staff draft, you know, might be helpful for us to have some kind of Concordance on this, saying what was omitted, and what was -- we should be seeing what the differences between the two are I think or maybe have a staff opinion. And then the other thing is, we may consider -- I mean, I think to get through these items, these are tremendously complex items we are being asked to go through a lot of pages here in 45 minutes. And we all have a lot of opinions about this. Unless it's been properly vetted, we're going to either have to consider meetings that go longer or we're going to have to meet weekly, or we're going to have to have subcommittees come and review these matters. Because I just don't see any way we're going to be able to tackle the whole subject of meetings in an hour.

>> Brenda Otey: What I'd like to do -- Brenda Otey. What I'd like to do is decide on the documents we're going to be looking at for the particular piece. And then have -- so we can go through those and compare them, and you know, we've just got this tonight. I haven't had a chance to look it over. So I don't feel comfortable with necessarily working with this versus another piece of some other documents. But I'd like for us to at least be able to decide on which documents we're going to be moving forward with and looking at, and so we can all become versed in those before we get here.

>> Ed Rast: Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. I don't think -- this is probably a multiple meeting issue in itself. It leads to the point when we get into some of these especially meety issues, we may have to consider the concept of a supermeeting or longer meeting to get any substantial A work done. I still think we can do this together as a committee. I think there is some advantage to your suggestion to asking council to chew this up a bit for us and break it out so that we can start taking it in smaller pieces. I think -- the other thing I do want to point out. I think that it is, from a standpoint, we've got to figure out our time line better. Because getting this information, in fairness, you did e-mail the information to us I remember correctly two or three days ago.

>> Ed Rast: It came out on Friday.

>> Ken Podgorsek: I got it on Monday because I wasn't in the office on Friday. Getting the information a less than a few amount of hours, less than a week before this meeting doesn't really give the committee members a time to get to it. This is not a reflection. It is very difficult to put this together, and it's not a reflection on you got it out there as fast as you could get it out. But I think we do need to get to a point to where the forecast -- we have enough time on this information. So I think the best we are able to do tonight is maybe a cursory discussion on did subject. But probably lead ourselves into how we're going to do the rest of this discussion over the next meeting or two.

>> Can I comment.

>> Ed Rast: Yes, Dan.

>> Again, you have all these ordinances in your binder. So you have had these for quite a while. What I thought I was supposed to do was pull things together for a discussion. I started to pull things together from the ordinances, this was a nightmare. This was a clear statement, it was all done as one piece and I thought it would add clarity. I'm not invested, this is not a staff report. Clearly not a staff report. It was a way to get the discussion, frame the discussion and get it going. And I do think it's going to take more time to get into this. I'm not sure what is -- these are fairly common headings and can you go through those -- those ordinances pretty quickly and look at them and see whether you've got the same substance or not. I'm not sure what you get, because we did do a matrix on key points. We broke that out. I'm not sure what you did by redoing that again Dan. I don't know what you get. You get bits and pieces of this and that and you try to put it together and it's a mess. And you guys have to decide how you want to proceed.

>> Ed Rast: I think Dan you've done a great job of pulling together what is a very complex and potentially confusing area and I think the committee or the task force rather, needs to discuss how, if we should be using a base document, or how we proceed. So we're not trying to juggle four or five different things at one time, using something to start with and that potentially, we could then add or subtract or bring other ideas in. Susan.

>> Susan Goldberg: You know, it is very complex. Even if you look at something that is easy to understand which is the noticing of regular meetings. So in Oakland it's ten days, in Milpitas it's eight days, in Benicia it's six days and in San Francisco it's six days. It is a range of time we're talking about and it's very complicated. I'm not sure having everything in separate ordinances will help people understand what all is going on in these other cities.

>> Ed Rast: Judy.

>> Judy Nadler: Two thoughts. One, I agree with Dan that just about the time you get rolling we have to look at the clock and say, it's time to leave. So for what it's worth, several supermeetings where you dedicate yourself three or four hours is probably the way to go because then you can actually then really get a lot of discussion going. And I think having an analysis which would say the range is maybe kind of a narrative that goes along with the framework that says, you know, on these areas it ranges from here to

here, or just some sort of a narrative that goes along with the base document. And it is impossible with any clarity to try to do that comparison or redact, or you know, highlight, and do the rest of it. But I think some analysis would help us before we actually get into the discussion.

>> Ed Rast: Dan.

>> One other point I want to make is I think you have to decide whether you're going to start with, may it be the San Francisco ordinance, and you're going to say, we adopt this, and now you try to lay that on all the city policies that are going on. Our notice requirements are stronger, more strict. Longer notice requirements than any other city. We have a lot more noticing. We have a lot more community outreach. All that stuff that you're going to look at as you go through. So if you start with San Francisco, and you come back in, I'm not sure how we fit this together at the end. And if you're saying to the City Council, we want you to throw out all your existing policies and start from scratch, based on San Francisco, I'm not sure where this goes. And that's something you have to sort out as a task force. What's practical.

>> Dan, those are absolutely in agreement with you and by the way, I didn't want my remarks to be misinterpreted as any criticism. I'm just trying to -- we're like you struggling with how we compare these things. And then make the decision. So I think we're all in agreement on these.

>> Ed Rast: To give some of the task force the public some perspective, most of the other cities when they've done this have taken somewhere between 18 months and three years to pull these things together. Benicia as an example, they did either once or twice a month meetings for 18 months. Some of the other cities, I've talked to taken a long period of time. So we're trying to compress this. I know some of our task force members would like to do it as quick as possible. But I think it's a very large task. So you know, do we have any suggestions or comments about how we start to accomplish this? Yes, Martha.

>> Dan McFadden telling us you're advising us San José's ordinance is more noticing than other California cities?

>> What we have is a number of practices in outreach far exceed what is going on in other cities. We don't have it in a coherent document or ordinance. Trying to compile it and putting it together so it's clearly understood is a big part of the problem here here.

>> What I'm looking at, this is a San José resolution but this is a draft you've put together, is that right? What's in the binder is resolution 73321.

>> That's what the council updates --

>> This is our existing. Why wouldn't we start with this, and then have comments to change this, as we go?

>> That basically deals with council meetings. Specifically with council meetings. And what you're dealing here, is so much broader and I don't know how you marry these up but that's part of the question.

>> Ed Rast: Dan, a clarification question and I'll get to Nanci. How difficult would it be to take the existing San José ordinances and try to put them in one draft document and break it out into the categories that the task force has adopted as part of the its work plan? So that would give us one document so we could see where everything is, broken in sections.

>> I think that's doable. It should take us a little bit to pull together. We're working on the outreach, notification process now, and there are half a dozen different policies and protocols that different departments follow. The planning 6-30 was a fairly elaborate one. D.O.T. follows another one, we're trying to pull that all together for neighborhood outreach. We could do that, I'm sure. I don't know if we get into the mechanics of it. I tried to do this in radio modified way, take the three major items and stick them into the Milpitas ordinance.

>> Ed Rast: Let me say, if we did that and then we had another base document, for example San

Francisco or another base one that we're comfortable with then we would be only looking essentially for most things, two documents, San José combined document that is policy and what the San Francisco one, and then we could -- it would be easier to deal with than to try to deal with five or six, is that --

>> I think we can -- we can try that, we can try to put that together and bring it back. The one thing I'd caution you again on is, trying to reach San Francisco's document, it's convoluted. It's very hard and there's qualified -- it was done by a committee, obviously. And it's got like legislative language in it that's conflicted in many places. I don't think you -- you might want did ideas but I don't think you'd want the language. It's just going to lead to a lot of confusion.

>> Ed Rast: Nanci, you had a comment.

>> Nanci Williams: I believe we voted two or three meetings ago, Mr. McFadden wasn't at that meeting, is that correct?

>> This framework, the subject matter of a skeleton and the substance, the wording, the actually wording of each paragraph is a big difference. Athat's what I was trying to point out. .

>> Nanci Williams: Maybe we should modify that earlier agreement, section by section, perhaps look at it against what we're already doing in San José. Use that as a framework and not necessarily the entire ordinance.

>> Ed Rast: Susan.

>> Susan Goldberg: My concern is we don't have a sunshine law in San José. That's why we're all here. Because you know obviously things have been going on in the city that there is a lot of public dissatisfaction with. So if these San José rules or policies or ordinances were working, we wouldn't be here today. So -- and I think that everybody shares the concern about how long this is going to take, and nobody wants to reinvent the wheel. That is why I really suggest that we do start from a working sunshine ordinance, going on in some other place, and go from there. You know, I would propose San Francisco. It is not perfect. And I think many of Dan McFadden's thoughts about some of its language issues are absolutely correct. It is a little convoluted in places. But it is a strong, working sunshine ordinance and I would suggest we just start from there.

>> Mr. Chair, may I offer a legal view?

>> Ed Rast: Yes please.

>> My experience in looking at various access legislation, that one of the things that generates a lot of confusion in the public is having to go to several different places to figure out what their rights are. And I would suggest that if there are different locations, in the San José various pieces of legislation, that one of the recommendations that this task force could make is that it be consolidated, into one sunshine ordinance, for example. I think that's a great benefit to the public, in a service that this task force could do. Again I look at this from the perspective of a lawyer trying to interpret the law. And I think it's even more beneficial to the public. I know you have fewer disputes, you have less litigation, have you a better understanding if you can look in one place, that hopefully is written in a way that people can understand it. That is a problem with San Francisco, that it sounds like it's translated from the Ukranian in some places.

>> I believe I was the maker of the motion to adopt the San Francisco ordinance as a framework. The motion absolutely did not incorporate content. It was more or less as an outline.

>> Ed Rast: framework. Ken Podgorsek.

>> Ken Podgorsek: Ken Podgorsek. Susan, let me make a slight disagreement on your statement. I actually 30 we have a form of sunshine in San José. It just doesn't shine the way we want it to shine. What we're here to do is change the way it shines so it shines brighter, using that analogy. I do think I want to comment on Ed's comment. I think this task force has the great task and the great

possibility of one of the ways to make it shine better is to take these various sources that are all over the place and all these little hidden nooks and crannies inside the city and create one unified document that the city can reference to and the citizens can reference to. I think there is a distinct advantage, starting where the city is, even though we don't like the way it's shining, starting with the base and improving from the base. Taking ideas from other cities, and improving on the city's language the way the things shine here in the city rather than taking another foreign document and try an insert it. I think what we'll find in general is if we do take that approach it will be easier for the city staff to then take the recommendations and make the recommendations work, so that we have a doable, workable document that can be passed by the City Council, that finally in the final outlook of this whole thing is actually a better document than any of the documents we're referencing. Because we have the ability to learn from their mistakes. We have to have a place to start. I agree with using the San Francisco document as a framework.

>> As an outline.

>> Ken Podgorsek: As an outline. Not necessarily in the language. But I think that we do need to ask the staff to find all of these various documents that are throughout the city, that are all these different nooks and crannies. Put them all into one document so that we can start this concept of creating a unified document that really shines brightly.

>> Ed Rast: Susan.

>> Susan Goldberg: I don't on at all to it all being in one place. My objection is we don't start from nowhere. Perhaps there are wonderful things about San José's ordinances that have just been lost in time or that nobody knew about or the lawyers couldn't even find. Because you know, as the media representative and as somebody who has to regularly ask for public information, I will tell you that the laws in San José have not worked to the public's advantage in terms of getting access to real information.

>> And I'll comment on that. And that's why we need to take a look at those ordinances, and improve those ordinances by using other languages. We need to start with a foundation that is already working, maybe not well, but working in the city. I think it will be a lot easier place to start than it is -- we can have this discussion on other cities' ordinances over and over and over and I think we will end up with a lot of extra work. I think we need to look at the City's documents, know where they're not working and start on the real improvement inside.

>> Ed Rast: Dan McFadden if we took the San Francisco ordinance, the outline of it and we took by section take the San José documents we have and plug those in, is that a doable staff -- something for the staff to do?

>> Yes, I don't know how much time it will take us to do it but we'll certainly try and do it. Because I think we have to get past this.

>> Ed Rast: I 30 we have common agreement on that one.

>> Should we consider perhaps having a draftsperson -- I understand there may possibly be some budget for someone who could, rather than spending money on a facilitator, maybe have someone who prepares these things who's not part of the city staff, or --

>> Well, I think I've asked the City Clerk to try to find us soap to come in as an analyst to try to do some of this work now that we're getting into it. And I think we'll have somebody on board here.

>> Monday.

>> Monday. So this would be -- and I think we could start with the meeting section and go through and pull whatever else might be out there.

>> Who usually drafts laws, who drafts the legislation?

>> Usually the City Attorney's office pulls that together. They have an ethics group over there with three

or four people who have been pulling some of this material together from other cities. I think -- why don't you give us a shot at coming back at the next meeting, take a look at the product and see what you want. I don't know how else to do except to show and tell.

>> It's a place to start.

>> Ed Rast: Do we need a motion to direct the staff, or not?

>> I think staff understands.

>> He volunteered.

>> Ed Rast: He volunteered, okay.

>> I see some head shaking over there.

>> Ed Rast: Lee, clarification please.

>> The Clerk: I don't know if you -- you all have your binders. I don't know if you can go back to materials that we presented to you on the 20th of July. Dan had brought back a common groupings that we discussed as you recall, and you did take action on how you wanted to group the ordinance, and how you wanted to discuss the categories. But on the document, we outlined for you existing city policies already in place that related to those categories that we brought forward. And some of them are resolutions, some are embedded in the municipal code, some are policies adopted by the council, and some of them are city policies. The authors are all different. However, council policies oftentimes are written by councilmembers themselves, and/or staffer members who are directed to write the policy at their direction. And then maybe council will fiddle with it. So I think maybe to get all of this into a structure of some sort may take longer than a week, essentially because you're asking to see the materials a week in advance.

>> Ed Rast: Correct me if I'm wrong, we don't have a meeting the fifth Thursday of this month, so we have three weeks between this meeting and the next meeting, if I count -- if I counted right.

>> Who is counting that? We'll get it back here with as much notice as possible so can you look at our best effort.

>> Can I ask a question of Dan McFadden? Do you know if advisory bodies were included in -- advisory bodies appointed by the mayor? Are those considered policybodies and is there a definition of policy bodies?

>> In our material?

>> Yeah, in your draft.

>> I've not seen it. The problem again, we have a lot of stuff, it's not all pulled together. My sense is and what was in Milpitas is that a policy body is appointed by the council or advises the council. Unless it is all city employees. That would not mean if there is a council employee in with city employees then it's a policy body. If it's only city staff, it's not a policy body. That's the dividing line in the ordinance.

>> Ed Rast: Virginia.

>> Virginia Holtz: As a follow-up, Virginia Holtz. There's another issue that I'm aware of, as an elected official of the Santa Clara County open space authority, we are directed to have full disclosure and a noticing of agendas of subcommittee meetings of our board of directors. And so the question to this body here, today, is when commissions and boards have subcommittees, are they going to be part of this noticing process? And I don't expect an answer tonight. But this is something that we need -- we need to know if the city does this, and to what extent.

>> Ed Rast: Let me get a clarification from Lee Price.

>> The Clerk: The report that Dan presented in the packet that has two or three pages, although it's very, very small. We were trying to get it into a document, into the size that you could read.

>> Ed Rast: Which tab is that on?

>> The Clerk: Let me see, it was released with Dan's report.

>> The last page of my report, the last three pages on it.

>> This is the thick document you have in front of you for today's meeting. And it's the matrix on the back three pages attachment C.

>> The Clerk: Yes, I'm sorry, taken out of my binder, that's the reason I couldn't find it. It's Dan's cover memo and then the Milpitas framework, and the City's resolution 73321. The very last document is our roster of official city board and commission and committees that are established by some formal action of the City Council, that work around city business only. And are subject to the Brown Act. And there are several subcommittees that meet regularly. The arts commission, the federal retirement board has several, subcommittees that are officially formed by the bilaws of the board or commission are subject to the action. And we are trying to include those on this roster.

>> What about ad hoc committees that are created by the commission for just a short-term project?

>> The Clerk: I'll let Sandy take this one.

>> Those we do not consider to be covered by the Brown Act for the open meeting rules. Standing committees would be covered.

>> Ed Rast: Lee, can I clarify something? This report, is this available anyplace on your Website or any other Website?

>> Not yet. We've just put this together in our part of trying to get our arms around the master calendar. The various boards and commissions, we would then need to consider putting on the master calendar.

>> If I could clarify, this is on the Website, on the sunshine reform task force portion of the City's Website. If you go to the section that has agendas and minutes, I believe is how it's labeled, there's an agenda for this meeting. And all of the documents we've distributed here should be posted there.

>> Ed Rast: I guess I was looking at the idea of taking and these pages that have -- this information which would be very valuable to the public and putting it as a separate document on the site someplace so people could easily see it. We're running on time issues.

>> The Clerk: Yes, we could do that. Like I said, this is a brand-new research effort to support the task force. So you're kind of getting the first opportunity of our work.

>> Ed Rast: Karl.

>> Karl Hoffower: I did not get whether the advisory bodies appointed by the mayor considered policy bodies?

>> I don't believe we call it out in everything we've seen, but in the draft they certainly would be. That's what I was trying to say. We'll answer it in three weeks, we'll do a search and try to pull things together. I don't have a very good answer.

>> All right, thank you.

>> Ed Rast: Ed Davis, I had a question, I don't know whether it's part of the ordinance or not, but the citizens bill of rights in government, where they list out in the ordinance, they show on one page what the rights are on public documents and sunshine.

>> Yes.

>> Ed Rast: Dan, have you seen that? Do you know what I'm talking about?

>> Yes, I have.

>> Would it be possible to look at that document, which is one page, and then see where we are in San José, that would then summarize on a single page what the public's rice are in these situations. That Dan.

>> A representative of Terry Franks group was deeply involved in drafting prior sunshine ordinances and

actually showed up at the meeting and expressed an interest in it. And they have some staff resources there that we may be able to contract with them to assist us in some of the drafting issues. It's called Calawear. I think we need somebody who is an expert in this to expedite this process. Otherwise we'll be fumbling around from meeting to meeting, blind leading the blind.

>> Ed Rast: Does any staff member have any single item that they want to discuss? Or do we want to continue this on to another meeting?

>> I think we need to continue this on to another meeting.

>> Ed Rast: Which will be three weeks from now. There's five Thursdays in the month.

>> Do we need a motion to do that or can we just do that?

>> I think the chair has the power of the table.

>> Mr. Chair, in response to what Dan just mentioned, I know he was directing that at staff, and Mr. McFadden. I know Terry very well and have worked with him on other projects. I'll be more than happy to give him a call. And see, you know, what kind of framework he could provide us relative quickly that might assist. I'll see what ideas he might have to expedite the process. I'll be glad to take that off your plate and do it myself.

>> Well, let's have coordination so you're not doing one thing and we're doing another thing.

>> Ed Rast: There is also cost involved, we have a limited budget.

>> I won't charge for it.

>> Ed Rast: No, no, not your cost, but if he's going to quote a cost, and coordinating with Dan.

>> I thought it might expedite the process.

>> Ed Rast: We're finished up with this particular agenda item. Our next agenda item is the next agenda. So okay, just scratching your head, okay.

>> I'd like to suggest that this item is a rather meaty item. And I'd like to suggest that we devote the entire next meeting to this item.

>> Ed Rast: Second? Discussion? Is there any particular item in the public meetings area, notification, agenda items, reference items in the agenda or anything else that would get us moving on these? Susan?

>> Susan Goldberg: Aren't we then going to follow the order on the San Francisco ordinance in that case, I mean we would suggest use it as the outline and just go from heading to heading.

>> It will be easier to do it that way.

>> Susan Goldberg: On this topic of meetings.

>> Definition of meetings, attendance at a meeting.

>> Ed Rast: My understanding what we're doing, see if staff has the same understanding. Staff is going to take the San José information, put it in that same order, so we will be able to look at the San Francisco ordinance and the San José one formatted in the San Francisco framework and look at it side by side as we go through.

>> I will do that. I think you'll see that we have great depth in certain areas, in our policies. We have gaps and it's not you know, pulled together into a coherent document.

>> Ed Rast: Okay.

>> So you'll be back then looking at adequate wording and I think you'll want to look at the three or four ordinances we're working for as a resource.

>> Ed Rast: I guess in the next three or four weeks -- Nanci.

>> Nanci Williams: I thought I could modify the motion that Ken made and extend the meeting a half hour next time.

>> Ed Rast: Ken?

>> It may not be possible to complete it, it may be difficult to complete it, so I don't want to create an artificial ending to where our work is not done to the best of our satisfaction. But extending the meeting is absolutely fine.

>> Ed Rast: Is the second agreeable?

>> Agreeable.

>> Ed Rast: Okay.

>> I had one other things, because Mr. McFadden said San José may actually have more in depth, that you're going to be able to -- let's say that the San Francisco ordinance actually is light in an area, that you would then continue to say, and, additionally, San José has these other things, okay. So we get a full and complete picture, okay, great.

>> Ed Rast: Okay, so I guess we've covered the next item. Dan.

>> Could I suggest some bullet points that have been talked about in the San Francisco ordinance, as suggested, because framework, the framework can be this big or this big. And depending on what level you drill down to. But I think that definitely we should include as items, what is the definition of a meeting, what is the definition of a policy body. Passive meetings are covered in the ordinance. Special meetings. Agenda requirements. Notice requirements. The recording in photography, and then I'm not sure whether closed session is in this part or in a different part.

>> Ed Rast: It's in a different part.

>> I think that's a separate -- separate category altogether.

>> That's a big item.

>> So we won't cover closed says in this page.

>> Does that include agenda pacts and City Council memos?

>> Ed Rast: That is part of requirements.

>> I'll just make a comment on that Dan. Under the regular meetings we'll have notice requirements so those are specific and relate to City Council meetings and formal meetings. We'll include that notice. But the general area of notice, outreach community meetings, et cetera, is a whole separate section that we have. So we have meetings, then we have public enforcing or public outreach, then we have closed sessions, then we have public records. That's the way you set up your work program, the first four sections. So what I'll put in here is basically information that relates to these public meetings, and then note what we're going to leave to -- in our work plan that further -- that subsequently.

>> Ed Rast: Okay. Any additional comments? Virginia.

>> Virginia Holtz: Mine is on a different subject.

>> Ed Rast: Is there any further discussion on this? Okay, Virginia.

>> Virginia Holtz: I just want to clarify, we're also talking about the redevelopment agency and that the redevelopment agency will -- everything that we're doing here as a public body, will pertain to the redevelopment agency, as well as the city.

>> I think we'll be covering that in the discussion of what is a public body.

>> Virginia Holtz: But in this document that we received for our meeting tonight, it indicated that this was including the redevelopment agency, and I just wanted to be sure that this is the case. For all the businesses we are going to put over sunshine ordinance --

>> Ed Rast: Authority in other bodies that are authorized, so we don't have to bring those into.

>> Virginia Holtz: Sure.

>> Ed Rast: Other comments, questions. Yes.

>> I just want to say thank you to the city staff in what they've done so far, at least producing information and getting us what they have. I think as a task force, we are in a phase that they are not sitting on their

hands, and they are working as hard as they can to get us information. We will bet it when we get it. And when we get it, we need to do our job and work with it as quickly as we can so we're prepared when we come to meetings. I think you've done a tremendous amount of work already, and we appreciate it. We're just going to have to deal with the time lines as they come.

>> Ed Rast: Okay, public comment. I'm sorry Lee?

>> The Clerk: Just real quick, because if you move on this motion I just want you to know that at the last meeting you agreed to put on your agenda for September the 7th the discussion of \$1 million contracts. As you recall Phaedra kind of deferred that one meeting, we just have that topic to deal with.

>> Ed Rast: Thank you Lee. The discussion was on any proposal, any contract would have notice time and some other things along with it.

>> Doesn't it come under public meetings?

>> Ed Rast: Excuse me?

>> Should we put those under notice requirements? Let's include that.

>> Ed Rast: We can include it as part of the discussion and bring it up.

>> Without amending my motion whatsoever.

>> Ed Rast: We'll have to remember to make sure that we discuss specifically that as time goes through.

>> Yeah.

>> Ed Rast: Public comment.

>> From here?

>> Ed Rast: Come up to the microphone and say your name.

>> I'm Pete Campbell, I live in district 1. I've got some stuff to pass around. I understand that the task force is looking for proposals from the public and I'd like to offer a few. Proposal number 1, to prevent conflicts of interest and to expose sources of interest, all contributions to City Council members must be available online for San José citizens to review. Item 2, councilmembers calendars must be made available and running online for citizens to review. Number 3, a cost benefit analysis must be provided for all projects, activities and events that seek a public subsidy. The analysis must be available for review online, two weeks before the City Council vote and after action audit must be performed on all projects, activities and events that receive a public subsidy in excess of \$25,000. Number 4, the Sunshine Reform Task Force should recommend, the City Attorney should not represent the interests of city officials and staff. At the expense of the interest of the San José public. The interests of the people of San José should never be compromised. There have been times in recent history where we've probably needed two city attorney's, one for the dais and one for the people. The job description of the city attorney's office should reflect the principle that the interest of the people should never be compromised. Finally, I want to thank you all for your hard work. You're doing something very important for the city. I appreciate it. I wish there were more citizens here. I left my contact number.

>> Ed Rast: Is the second page part of your proposals?

>> Yes, it is. I didn't number them.

>> Ed Rast: Thank you very much. Additional public comments?

>> Move adjournment.

>> Call the question.

>> Oh.

>> We have a motion and second on the floor regarding the next meeting agenda.

>> Ed Rast: Right, you're absolutely right. Call the question on the motion. Do you want Lee to repeat the motion?

>> I don't, does -- I think we all understand the motion.

>> Ed Rast: All in favor, all right all opposed, any abstentions? Passes.

>> That included extending the time frame of the meeting?

>> Yes, included extending the time frame to 8:30.

>> Ed Rast: Our next meeting will be in three weeks from 6:00 to 8:30. All in favor, aye, we are adjourned. 7:59.