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>> Good evening and calling to order the special sunshine task force for tuesday, september 12th, 2006, and the first item is the approval of the august 17th minutes.

>>

>> we have a second? Discussion. All in favor?

>> aye.

>> aye.

>> all opposed? Approved. Comments from the chair. Let me do a quick update on the task force we did a update for the city council and the report was given, and the -- we went over that we were going to have a master calendar and the city master calendar would have only city sponsored events, public meetings or other sponsored events, and the noncity events would be on the business convention bureau and the communities would work with them to work on that particular area of it and tom manhiem had a clarification question and the expectation of the sunshine task force and the city would finance that and my comment was no it would not, and you would cross the line again what is official sponsored event and what is not and we have to work with the convention bureau. A couple questions came up concerning the disclosure of the elected officials after the fact and the original proposal it was disclosed 90 days after and we made a motion and we passed and it would be disclosed at three days, but there are three on 2 going questions and the mayor and the council asked are we making a proposal at the time to implement the three day, and my comment was no we were not but we would get back to them and work out the details and they were the privacy issues and the whistle blower issues and the public brought up and the task force agreed and was the misuse of the calendar to illegal lobber or otherwise influence city policy or spending decision -- and my comment mid to early october and look at the calendars and get the dates. I don't know which the ones -- either one or the other. I would think the tenth or the 17th would work. Let's review for a minute. After reading through a lot of the stuff over the last week i could do one of two things cry or have a sense of humor about it, and as you see the work load for this week and i came up with a new motto and we have a long way to go but a short time to get there and most of the sunshine task forces have taken 18 months to three years to do what we're going to try and do in six months and granted we have a lot of support and a lot of ordinances out there and review and brown act and the existing city memos and procedures et cetera and directed the staff to bring the san francisco ordinance and the brain work of that and add in the existing policies and memos and categorize that by the seven categories and tonight is the first category which is public meetings, and then there were 17 proposals that came in -- four came from city council members 3 or groups and 13 from the public and a couple public people submitted multiple ones and what was interesting all of them came in -- of the public ones came in in the last two days and that says one of two things and i don't know what exactly this means and one is do people naturally wait until the last minute and the other thing it might say and some were fairly long, and i'm not sure we did a good job at communicating we had a deadline and the mesh ree news put in a notice and channel seven did a notice and we got it out through the television news and the mercury news and it brings the question how do you communicate with the residents on a important issue like this and i know not all the newspapers carried it and not all the members put it out in their list and the neighborhood put it out and i think we got some back from that, but i think we have a real communication problem and we need to look in the technology area and how do you communicate the important issues to the residents and i'm not sure there is centralized list of email and like me on a half dozen lists do you want dozen notices of the same things and i want to thank lee price we have the brown act up on the website and we have the updated official city board commission and rosters and of the one she put together and listing of all the commissions and boards and committees under the brown act and gives a contact number and staff contact and it's a good document that helps from the sunshine point of view and thank you lee for that. 4 the other thing i want to talk about is how we're going to go forward. I am very concerned we have a time constraint and what i mean we have a lot of items to cover and if everybody talks for a few minutes we will never get through this, so my suggestion is we do a couple things. The staff put together an initial document that the framework, the brown act, and the city policies and put it together and dan mc krono did editing and did more to get us further along from the base document, and one of the things i think we are going to talk about tonight people are going to talk verbally what they think should be added into it, or else they can make motions and i think we should keep the motions down to a minimum and it takes a lot of time unless it's really important and i think we will have a couple of motions but not on every paragraph or line and we will never get through, and the last thing of course i would like the consensus of the task force and how to provide tonight. Some of these issues are extremely complex and i doubt we can get through them or long-term discussion if we rely on the verbal

comments and motions to get through and my suggestion we consider people that have comments that are fairly complex and submit them in writing so we understand what they are talking about in the draft. We are going to look at this document three times the initial draft and revise the draft and the final before it is sent out 5 for a final legal review both by the city attorney and our counsel to take a look and see if all the issues. The city attorneys and they're experts in drafting things and our counsel and make sure it's all of the concerns that the task members are addressed and properly addressed and words from that point of. I guess the question is what document do we want to start with. My suggestion is we have two to start with and both -- if i am correct both were distributed. Okay we have the basic document and some revisions that dan put together that should be clarified and we can start with one or both of those and the other questions for the task members do you think it's adequate only to have verbal comments and my suggestion we have i didn't know comments that we need to look at later on. So open for discussion.

>> (low audio). Draft that dan had made some edits to because it really does go further than the draft that the city put together. The draft that the city put together is a editing version of the brown act and the reason we're here as part of the sunshine task force the brown act doesn't go far enough and the wan that did put together does have it and gets us a little further as a starting point and perhaps not everywhere we want to go but a better place to start from.

>> my question is we have quite a few documents --

>> which ones.

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>> which ones are from dan and from someone else?

>> with the chair's permission. The believe the document distributed in the room for hard copy is yet another version of the one distributed by staff earlier this week and that is dan's copy and the way to tell which is which and the third item is an sill lear bodies rather than passive meetings correct, 2.3.

>>

>> which ever we start with we can add or subtract and we're looking for where do we start? What document do we start and procedurally how do we add and make changes later on and we only have a limited time verbally to cover these things.

>> first of all thank you for putting in on this and i know you have taken more phone calls than you ever signed up for when you signed on to the chairman ship. After the staff distributed their one and i went through it and san francisco headings and drafting and i went through and noticed some things were put in and some things not in there, and a round of revisions down in san francisco to clean up license that was in their ordinance based on some of the experiences they had in malfeasance and thinking we wanted to catch up state of the art industry and i have a new draft and based on state's draft and bring in some of the items of the clean up process and the closing loop holes in the ordinance and i distributed that7 draft and i sent out my draft not only to staff but to several public interests attorneys who are very interested in this issue, and asked them to respond on it. I received one set of comments to my draft, and if it pleases the chair i will also distribute those comments to other members of the commission can see the comments submitted.

>> clarification for staff. When it came up before about drafting subcommittee, the motion was made and it was said that the drafting you didn't want drafting committees and wanted to do it in the full body. If we're going to different and competing drafting coming in and we have to sort these out how do you want us to go about it? We don't want to do double and triple the work and we want to use the work sent to us and what is sanctioned or not.

>> i think the work that the staff and both the city manager's staff and city attorney's staff is excellent work and it's worth while putting the stuff together, and i think as we go through we could do what we originally intended was to verbally go through this, which the more we look at would be long and tedious and never ending process and not meet the six month time frame, and we're trying to utilize the city staff's expertize in this and organize it and get a base document to work with, and then move forward in the other parts of it, and i'm not sure how to answer your question, and maybe some of the other task force members could 8 comment. Brenda.

>> maybe i missed something as far as i know we had agreed we would take the document that came from city staff and we would use that as the basis document to work with and i am sure he put in a lot of effort to revise and put other information in here, but i still believe we're looking at a document that was done by him and we should use that as a reference document to add to what the city staff has done because it feels like it's subcommittee has gone out and taken action, and someone has come up with this document that is not quite what staff proposed and other things into it and we may want to consider those things, but i thought we were supposed to start off with staff developed and base document and add to it as a group and

make changes and this is very good as a proposal for some of the changes but it should not be the base document we work from.

>> other comments?

>> just one more question. You know we had the discussion whether the product of this exercise and the task force would be a proposal, a document, an ordinance, or a program and whether it would be something implemented. The one that has little staff involved and the other has a lot and we have to feed in the impacts and whether we can put in place, or how we would put it in place, and the question is should i be asking people in the departments what are the impacts in terms of cost or do we have what it takes to implement this 9 or do you want to hold that to the end, or do you see that something done after this goes to counsel?

>> let me comment on that and we will go from there. I think we need to get some idea of the impacts are and i think the earlier comment, base on the limited budget and staff we want to get as much sunshine into the government as possible and there are staff and financial limitations and i think it's important we get some sense of each -- if there are major problems in implementation if the city couldn't afford or talk to the council and reallocating priorities and go through it and not have the money doesn't make sense and i think we would get indication where the lot of costs are and as an example that i can think of if you go from three days notice to a larger day's notice there doesn't seem to be -- might be, but doesn't seem like a lot of extra costs and you're just delaying it but if you do the city master calendar and that definitely has costs and you need software and train and i think you need an idea of costs. Any other commons.

>> i think it's important to hear a along the way and have an idea of your dream house and when the architect tells you how much it costs and there goes my dream and i think it's important to have the reality checks if you will along the way in terms of what the staff and the financial considerations are because otherwise we will really be sending perhaps something that is not doable and that's not a service to the city 10 council or the citizens if we do that.

>> i would tend to agree. I think we were asked by the city council to come up with the best program we could and we should get feedback from staff, but i don't think the cost should be the only thing. We're not trying to get the cheapest government process, the cheapest process. We're trying to get the best government process and we know there is a cost, and the way the recycling contract was made and certain deals outside organizations that happened quickly and perhaps if they were subject review and we could have saved money and that's the theory and yes we would like feedback, and also i appreciate brenda's comment as well about the manner in which it occurs and we want to be pragmatic from a cost and process standpoint in this commission. The draft i put together was tremendously difficult and took about 20 hours looking back and forth between the documents and had we did that as a group i suspect it would have taken longer to go through it point by point. The task force wants to consider a drafting committee and we need to get the staff -- it's the only way a task force can have meaningful input into the process and otherwise it's strictly a document that is blessed by the task force and just time wise it's difficult to go line by line and the comparisons by a group and it's not practical and we do need to think about this and i think we were appointed by the council 11 and come up with recommendations and if they wanted staff to do it -- and i appreciate the staff and all their hard work, so let's -- maybe we should take a comment from brenda.

>> virginia.

>> i want to ask a question for clarification of the as i was comparing these i was trying to see if all of the material that the cities documented was included in yours and i think it would help clarify if we want to start with the city document or yours?

>> essentially all the material of the city was included.

>> it's reordered in some places so it was hard to find. It stayed close --

>> i tried to stick to the organization of the city document and include everything they had and there were some language changes and clearly called out and additions in areas omitted and it is essentially based on the staff outline and the committee's direction.

>> thank you.

>> my certain right now is we have voted on whether we were going to use subcommittees or not throughout this process and this seems to me like we have a subcommittee given us another document for up to view as a base document, and we're not having the city staff present us with information on what they believe should be in a document but the information that is existing and they were to include what needed to be included and maybe everything was not included, but that was the document we decide stod work with and we are using time we 12 could be discussing the document and going into actually creating something

to decide which document we're going to use again. If we were going to do this as a have -- have a subcommittee do this and we would have someone bring a document like this and we requested that city staff bring us the document and that's what we should be using and we have had decided as a body we would not be going through the process of subcommittees, and i really do believe we should start off with the base document from the city staff and we can look at others and add and take away what we would do and we need to do that as a body ourselves and not have a subcommittee and tell us this is what we should be working on.

>> i completely disagree and our committee to be successful and efficient has to make provisions to do outside work and with these two meetings i don't think we can get through all the lines of what we need to complete and i think certain things are more important to us than others and i think we want to take on certain things and we need to make provisions how it's presented to the task force and how and the way and shape and form and how it happens and we have precedence how it occurs and judy did it and presented to us and we adopted it and there was not a subcommittee that did it and it's working. I don't know -- i am worried -- we're once again talking how we're going to do the work and not do the work and i agree with that respect and i think we need 13 to do the work and in order to gets things done we have to make provisions for outside work. And i appreciate all the work dan did on this.

>> tom.

>> yeah i wanted to expanded on this and the staff looking at this and giving feedback and i think we want to expanded that more than the cost elements and we want to comment on both issues and i trust that is acceptable to the task force.

>> what you mean by the problematic --

>> the noticing for instance may not cost more but can create challenges in terms of -- if you're looking at a city that meets twice a month and having eight or ten days notice is not a problem but if there are council meetings on a weekly base it can be challenging and in terms of the process of moving things through the council for approval and it is more challenging and just as we encounter here when you want to turn things around and we were unable to meet and i think the initial hope of the task force and everything out at least eight days before the next meeting.

>> jim.

>> i want to say i do understand how brenda feels and the process circumvented and when i saw it i was grateful for the time dan put in and knowing that the chair and the vice chair are doing work independently and i think you should be commended and everything is annotated into the document and it's the basic document and saved staff countless hours in getting it down and i don't see it as a 14 different document and because it was distributed ahead of time i feel it's a new and improved version we can work from, and i honestly don't think staff would think their work was swept aside or disregarded just because the vice chair did additions and i think it's more valuable document this way.

>> shelly tucker manager's office. I wanted to make a point and how the master sunshine ordinance meetings developed. First of all we started with the categories that are on the agenda tonight and we understood you wanted to capture under public meetings and then to the san francisco framework and captured the other categories that were in public meetings and knew you would want to look at that and we took out closed meetings of san francisco and we will address that item next. We add public disclosure and you don't find that in san francisco and we have a referral related to that and that's how we got to the framework you see tonight. The master includes san jose practice and nothing more and the staff intent was capture what is done now and the recommendations we want to recommend and that's the framework for the information we intended for you tonight.

>> mr. Chairman.

>> legal perspective i hope. I can't represent that i have gone through and detailed all the various iterations of the proposed policy and i have looked at them sufficiently enough to echo what we said earlier and i think dan's draft does a very good job, and i say¹⁵ this from the perspective of someone who has worked with the brown act for years and years in access issues of synthesizing a lot of the other ordinances and a very good starting point to begin a discussion which hopefully will begin here fairly soon that -- again from a legal perspective it's simplifies things which is in my mind one of the critical aspects of the successful access policy and it's user friendly by in large and some of the definitions make a substantial -- it increases the usability for our discussions and i would -- i think it's a good point to go and use that one that dan's done.

>> if within -- with that endorsement maybe i could submit this as a motion and --

>> go ahead.

>> virginia holt. Given the fact that our attorney has recommended that we move forward with dan's document i vote -- i am ready to make a motion to that effect and if there are no objections we work from dan's document tonight.

>> second?

>> second.

>> just a point and i have no problem working from dan's document and that's not my issue. The issue is do we wait for the document to come to staff and all the staff has full time jobs and i don't want to get into pair rel and it's time consumes and we need clarification how you are going to proceed and maybe next meeting and clarification on how you're doing this task.

>> do you want to see a drafting 16 committee? Do you think that would help?

>> we could go on for a long time what we should do and let's start to move and take a look at the motion. Second. Comment?

>> not a comment but i am new and took me a while to figure out what you are talking about and i don't remember seeing the staff's document and the two documents look alike and organized alike and doesn't matter which document we work from -- and i am glad we have both and i personally intend to check each item out what the staff is and make my decision that way and work from the staff document i would appreciate dan's document and we need to look at both documents and make a decision and the formatting very little difference in the topics and the order.

>> that's great. Virginia the cover letter to the draft they sent that two pieces that were -- that i thought should be worth reviewing by the commission and i have called those out as separate --

>> i prefer holding off on those.

>> okay.

>> and dealing with those later.

>> all right.

>> i think they're --

>> i am sorry.

>> they will take a lot of discussion.

>> i have a question for dan and if you have a concern that dan had mentioned that he was had sent this out for review from a lawyer and would be getting comments and are you other than concerned that outside people 17 would send outside comments and was that your intent when you sent it to a lawyer friend.

>> my main concern is clarity so it's readable and our document is a compilation of other documents and we didn't do editing to a city form and it's a neutral document and i want to see that you want to work from it so we don't have this discussion again and realize all this drafting and if you want it implemented and we have to come back as staff and say what the implications are and it's just to get you a draft so you can talk about it.

>> any other comments?

>> i have a question. Where are we on our own agenda.

>> we need to move on basically. Somebody want to call for the vote? Anymore comments? All right. All in favor of the motion say aye.

>> aye.

>> all right. Virginia please repeat -- i'm sorry lee price would you repeat the motion.

>> was to work and to address the document and not at this time the two additional proposals.

>> any further question? All in favor?

>> aye.

>> aye.

>> all opposed?

>> and any abstentions? It passes. So let's start off. Starting off with definitions of meetings. Let's see. On definition of meetings any 18 comments? What i would like to do is set a time frame for each section as we go through this. Let's try to keep each session for five minutes and try to keep the comments for one minutes and address what you want to change or addition, change or deletion and we can clarify if necessary why you want to do that. I'm sorry. Brenda.

>> i have one question. I just got when mr. Po krono came into the meeting and is that when everyone got it?

>> we sent an email? When was that sent?

>> the fifth and posted to the city's website.

>> who was the website from?

>> shelly tucker.
>> and the one he posted was september the fifth as well the one that the staff presented?
>> sheila can you clarify the timing of it.
>> i'm sorry what was the question.
>> she's wants to know when the initial proposal was sent to the city task force --
>> that's not my question. What the proposal from dan was posted and by email when did it come and look like and the date on near nine -12 -06.
>> i do not have the dates in front of me and i emailed and posted it on the internet with the other proposals received.
>> last week?
>> at least, yes. It's been at least a week.
>> okay.
>> do you have any further questions.
>> no that was it. 19 i just wanted an answer to that question.
>> virginia holts under the definition of meetings it's my understanding in looking through the document that the words that are being changed are "city -- removing the word "city and adding public policy body and there was "item" instead of the topic or the gatherings or in business, so i don't see any problems with these and in fact i think it adds clarity to this section and i would move approval of the changes that were recommended in -- the revised document?
>> in the section of meetings.
>> section numbers.
>> okay that is section 2.1 definition of meetings and goes down to three quarters of the second page.
>> let me ask --
>> it's only 2.1.
>> let me ask clarification. Ed davis what is the legal definition of what they have done -- in other words city versus policy body. Is it the same or different?
>> it's basically the same and in my view it clarifies and makes it simpler.
>> more inclusive.
>> i think it's more inclusive and close in the definitions and i think it eliminates arguments to what is included.
>> for example if you were talking about a policy body that would include city counsel and the redevelopment agency and the other authorized city authorities and agencies and the city could potentially be the city counsel and not the 20 redevelopment agency.
>> that is correct and further definition.
>> and you are widening it out.
>> that's correct.
>> and a question and important to have a more concrete discussion of that because i think most policy bodies is a wonk term.
>> policy body is defined.
>> in section 2.2.
>> but you have already gone --
>> okay let's take a look at section 2.2 and look at the definition of policy body. I was not sure of the different.
>> i was -- i think the definition of the term is good to have early on and you can figure out what it means in application.
>> as i understand what is being done here is defining city in broad term and i think having a specific definition for "policy bodies" and i think it's good and recognizing it's different than the city itself and whether the definition is too inclusive or problematic from a city's perspective than that is something that needs to be discussed.
>> it's actually more restrictive and one of the comments that in two -- let's see i'm sorry in my draft in item one and 3b to actually stick with the city so if you feel that is stronger to go with city in that case i will withdraw the two changes.
>> i think they're fine. And the city attorney's office have any comment about the differences.
>> i am here for sandy lee.
>> welcome.

>> i would agree with mr. Davis²¹ that the policy body is more expansive in terms of definition defining what entities are subject to the definition of meetings, and i also hear miss adler's comment about the definition after the original -- after section 2.1 -- excuse me, so there maybe some benefit to defining policy body before you jump into the findings of the meetings.

>> you could probably hand that in the final draft ; right?

>> fine.

>> okay.

>> yeah we have a motion that was made by virginia. Do we have a second on it.

>> second.

>> okay.

>> do we need to include in the motion the suggestion to define policy body in that section, or -- i think those are the things that fall through the cracks and i'm sorry.

>> i would add that to the motion and i think that makes sense.

>> the discussion point on that. It may make sense to have an entire section of definitions at the beginning of the document and i have seen that before and define everything up front and then go into the ordinance, and if that is a question we could ask city legal staff to do that at the appropriate time.

>> documents that i am familiar with have the defining terms at the end of the document, and wherever it lands within the document i think you are right on, and we really need to have a definition of terms.

>> i was going to say it's consistent with the city 22 municipal code to start off with the definitions.

>> i'm sorry.

>> i will certainly defer how to the city does it as a practical matter and making it consistent is important, and i found that in these kinds of situations and understanding exactly what is going to be a public meeting, for example, or a public document and having the definition embedded in the section dealing with public meetings is helpful, so i would differ if it's important be consistent but i think the organize here and defining what a meeting and body is an ancillary body is would be helpful to the people actually using it.

>> and openness and understandability to the public and i think it's a good idea and in the section that we are referring to is really important, and some people are not going to -- they will need to know before they start going through this exactly what we're talking about, and i think having the glossary of terms at the start is a great idea and also embedded in the section we are discussing.

>> okay.

>> would you like that addition to the motion? So the motion will read that we will include the definition of a policy body in section 2.1, and in addition we will have defining of terms of the completed document.

>> and the idea any other place where a special term is used and embed that as well and not just "policy body" and anybody outside of city government would 23 not know what we're talking about.

>> discussion. We had a second on that.

>> we did.

>> all right discussion. Okay all in favor. I'm sorry brenda.

>> as far as the actual -- what we're voting on and the beginning and ending numbers and we know how far down the page it is.

>> section 2.1 and definition of meetings.

>> all right and then we incorporated 2.2, definition of a policy body.

>> into that in the beginning of 2.1.

>> right and both sections are included. All in favor? I'm sorry.

>> we're talking about the nine -12 version or the nine -five version and there is a slight difference.

>> is the version you handed out different than what was submitted.

>> some are red lined and some are not.

>> i have the original red line version and the one track changed accepted loaded on my computer.

>> we should be looking at the red line version.

>> i'm sorry.

>> (inaudible).

>> let's everybody work from the red line document.

>> the one with the boxes on the side.

>> what boxes on the side?

>> is that the most recent one though?

>>

>> mr. Chairman.
>> yes.
>> the document that is being passed around now that has dan's email on top and contains two versions of the -- of dan's recommendations. The first version does not show the red line, so you need to go to the back of the document, the second version and you will see all of the red lining.
>> it's a clean copy and the same document compared to the original document, the staff document.
>> does everyone want to take a minute and make sure they understand what they are voting on?
>> mr. Chair.
>> yes.
>> to follow with the motion that is on the table and incorporate 2.2 with 2.1 and i would to raise the question do you not want to review 2.2, or are you ready to adopt. If you will the definition of "policy body".
>> good point. We need to review 2.2 and if everyone take a look at the definition for policy body.
>> you may want to include c on ancillary c it goes back to policy again.
>>
>>
>> does everybody understand what we are talking about, 2.3c? It's the next, the third paragraph ancillary bodies.
>> i think you're correct and talking about a contract between a body and an ancillary body.
>> you're talking 2.3c?
>> yeah.
>> it's specifically when a body 25 contracts with an ancillary body.
>> i think we need to clarify, but i am fine.
>> can we clarify -- when we are talking about a policy body and those are the bodies under the brown act and ancillary body defined -- could somebody help? Ed? In other words a advisory committee by the city charter and take a look at 2.3a, the definition of ancillary body.
>> and the question is --
>> i think i answered my own.
>> i thought you did.
>> right. Okay.
>> i like those kinds of questions.
>> can i ask a clarifying question. When you talk about a contract between a body and the ancillary body and my understanding different subsections and staff and city has created in their staff and department head staff groups, so i am not sure -- how we would be contracting -- for instance with the city council?
>> it would be a contract with a outside -- let's say the city brings in authority -- whatever the sewage authority and funded, the city would have a contract with the sewage authority that would require them to abide by the brown act and the sunshine laws of the city.
>> dan see if i can clarify? What about the san jose arena authority? Is that considered ancillary?
>> if they are subject to a special use tax. What this is designed to accomplish if a city 26 function -- let's just say for the sake of argument that the city council decided to dispense with the city manager's office and require that firm -- tax funded -- that's a bad example. Let's just say -- let me think of a better example. Let's say parks and recs and the city wants to privatize the parks and recs and they would be subject to the sunshine and the brown act and around the public process and privatizing a separate authority and that would be immune public process.
>> i think a difference between the public policy and ancillary is it says policy body shall not consist of employees solely of the city and unless established by the charter et cetera and down to four and says ancillary bodies and here it says they are exempt if solely city employees. However established by a department head and touch on policy and that's where it gets very difficult for us to work with, and i need to understand that and dan how is that works because that expands of definition of ancillary body and talk about planning or budget or anything in the departmental level and it has to be noticed and put on the website et cetera by the way i read this and i need you to clarify this.
>> city employees.
>> yes and you say to study internal affairs and not modifying or reviewing city policy.
>> i think it's exemption and not a conclusion.
>> you do. Is that the way it's written. I will take a correction on that. 27
>> dan you just suggested a scenario and city privatize parks and recs and that board is subject to the brown act under the regulations you're proposing and the history museum and all of the private -

public partnerships and their boards are subject to the brown act, and i think that would be another burden that would discourage people from serving on the boards and the partnerships.

>> i don't think those groups would be affected by that.

>> those are city facilities that have contracts with the city to run the city facilities.

>> how do you read the way it was drafted?

>> the way i read the draft as it presently exists i don't see the language that would include them and define them as public policy.

>> okay so scenario was not the same as i was just saying as an example of that that is already in place?

>> i don't see in there if you could point to the language that you are --

>> no. I am responding to what i heard and i haven't had time to read all of this.

>> it's not to say there are suggestions of the kind of board you described subject to the sunshine ordinance and i have seen problems in the past and that maybe an issue you want to discuss whether the ordinance that you are discussing should have those kinds of entities included or not, but as currently defined and i don't see public body including that.

>> just to follow up and i like²⁸ having you here and we can ask direct questions to what we are reading and if we could follow that format and that is good and someone with experience to answer our questions.

>> i will do our best.

>> i had another point to make about the drafting clarifications. The last class of section 2.2 and which defines -- the sentence starts out saying "the policy body shall not include and goes on and accepts bodies and committees and so forth and with the modification and implementation of city policies -- i suggest to someone that might have to draft this later and interpret it and what it means and what you are after and it's not particularly clear.

>> my reading of that also was that that specifically including any employee groups that are working on policy issues at the direction of either department head or the city manager.

>> the entire sentence reads "policy body shall not include a committee and except such committees in the review or modification of city policies.

>> in the red line version that is deleted ; right?

>> no it's addition and this prevents -- essentially meeting by proxy of the city council and rather than sending -- having a meeting of the city council and a representative of each office is a meeting of proxy.

>> that's how i read the first exception but not the second exception. I am skipping over that. Policy bodies shall not include a committee solely of employees²⁹ of the city san jose and except members of the city council members or a quorum of the members and review or modification of the city policy.

>>

>> anything from a practical point of view. I have read this first part and i certainly understand that you don't want a council staff to be engaged in it. However, the committees engaged in review development or modification of city policies that could be the planning department, the street department, public works, getting together trying to figure out whether or not the city will do something that would change the way the streets are paved or whatever else, and so that is another -- those are technical things that i think should not be subject to this. I am absolutely agree with getting the counsel staff together, but when you state this as broadly as it is stated and engagement in the review and modification of city policies coming after the "or" i think it really includes so many levels of city government and could be the library staff meeting with the finance department and how they are going to set the fine policies and collect the fines and could be something like that, and i just think that maybe overly broad, and not necessarily the intention.

>> this is margie and i hate to be so grammatical and i assume there is "its" left out and in other words the committees of the city counsel members and i³⁰ thought you were talking about the representatives.

>> it was designed do make a policy development committee but that's a decision that this task force should make. If city staff is -- let's say developing an ordinance or something and should that be a public process and that's a fair question i think.

>> dan.

>> i think it's helpful to distinguish between counsel staff and city staff. Counsel deals with policy, and if you try to mix those up i think it gets cumbersome and i asked counsel to comment on it and i belief around .4 a with the two "nots" and says what i said and that you can't really have department head appointing anybody or talking without having anyone notice and if it touches on policy in any way and so many discussions touch on policy as a departmental level, but when you include the department head it's a whole different game.

>> i agree with that interpretation and i am not happy about anything with more than one "not" in it and maybe a thing to change.

>> by the way i do have comments on the drafting i received afterwards and the reason i sent these to attorneys and i'm not an attorney and i sent it out for comment.

>> usually brag about that dan.

>> this is one of the things we would not discuss. "not, not".

>> virginia when you talking about what was added.

>> this was not.

>> too many negatives. 31

>> and ancillary body should be included in the motion because they were talking in this particular one section about --

>> first of all i understand there is a motion that is out there. I think it's kind of early for a motion and we have not had a full discussion of the intent of the language and make sure we can work through it and the language is completely understandable and a part of sunshine ordinance you want the ordinary person to be able to read something and understand what it means, and not have to refer to an attorney. Some of the proposals that were sent in actually refer to being able to have an opportunity to get information and ask questions of people -- of experts, so the ordinance itself should be as straightforward as we can make it, and including in there the language that covers the intent, but the intent should be clear as well, so it will be a real sunshine ordinance.

>> we do have alternative drafting on that language if it's appropriate i will share that.

>> let me make a comment. Talk to city staff, do we need to basically take a look at the drafting of this and get the intent worked out. I think i understand what you are talking about. In other words if a counsel member referring something to city manager's office and in turns the various departments have a meeting to work out the legislation that potentially 32 falls under this and is there a way to reword this so you talk about the city council city and others tom?

>> tom man heim and let me make a suggestion to help move this along. This sounded it was not your intent to extend this to committees and meetings limited to city staff and if that is the wish of the task force you have a drafting problem that any good attorney can go and put language together that just clarifies that.

>> suzanne gilbert.

>> i think we should say "policy body does not include a committee just of city staff unless the committee was established by charter ordinance or resolution of the council. I think that would clarify the wall we hit here and maybe that would make it clearer. Would that do it ed?

>> i agree. I was looking at similar language.

>> so we've got a motion. We don't have the language to adopt and we're -- i'm not real comfortable our legally wording this and passioning a motion.

>> just to respond to the question about intent. To the extent that this task force wants to discuss intent rather than specific language, we're happy to take that on to put forth the language that we think embodies your intent and that is another suggestion that you might consider.

>> all right thank you. Virginia it's your motion.

>> i would accept the language that susan put forth on that and this is top of page three or you 33 might say it's the last of 2.2 under definition of policy body.

>>i think it's replacing 13 words in that section.

>> correct.

>> so we strike the last 13 words and replace it with susan's language.

>> i agree with that.

>> ed davis.

>> may i make an observation and i don't know what adopting susan's motion means but i would urge you to draft it in a proposal and not cast in stone right now and as we move forward we may want to revisit these issues to make sure it's consistent as we go along and to put in a draft and go back and you will go back and take a look at and make any changes you think are appropriate and i suggest you follow that course.

>> so --

>> that was my assumption all along.

>> i thought that was what you meant --

>> let's make sure it's in the motion itself and the staff will make sure it's in the wording itself. Does that make sense? Otherwise we're going to get -- we're going to pass something and not know what we really passed.

>> i support that and have that be assumed for all of our motions as we go through the document and get the intent across to the legal drafters of the document and come back to us with the draft.

>> we have a public comment?

>> bob brown stein in reading two under ancillary bodies and since there is no discussion of the size of the group or the 34 duration of the meetings or the formality or lack of formality of the meetings and looks to me what it says, anytime of the mayor's staff wants to meet with people from the community and lead to a proposal of meeting and that is a ancillary meeting that requires the full participation for ancillary bodies and if the mayor told me when i was working for her to meet with someone from san jose state to see whether we could improve the city -state relationships and that notice would have to be noticed 72 hours ahead of time and anyone that wants to attend could and the mayor works with the city attorney and -- i am picking meetings that did and 72 notice and public meeting. I don't think what we're trying to get at every single meeting with the mayor's staff and with the community and lead to a public policy change is a ancillary meeting and there has to be language that limits the formality and the duration and the scale of the meeting. Obviously a meeting with a hundred people you may want it to be public, but a meeting with two people and get public policy and not the intent of what you are looking for.

>> where do you see that and i don't read it that way?

>> any group with city employees and with the stair and meet with residents and could be two people, ten people.

>> this is 2.3a2.

>> oh okay. Are we are on section?

>> no.

>> i am sorry. I thought we were on 2.3, the 35 whole section.

>> that is a good comment and we will look at it when we get there.

>> okay. We will come back.

>> sorry about that.

>> that's okay. We still have a motion on the floor. Do you want to read the motion.

>> the motion was to approve the changes to 2.1 and include definitions of policy body and other definitions up front in the ordinance. To incorporate 2.2 into 2.1 as --

>> did you get the replacement of the last 13 words?

>> right.

>> all right. Is there additional comments --

>> and to refer to staff the intent of this group to draft appropriate language and come back at some point for final approval and is that part of the motion.

>> second, agrees with the changes. Okay. Any further discussion? All right. All in favor?

>> aye.

>> aye.

>> all opposed?

>> abstentions? One. Okay so we're now going to -- well, it's 2.3 ancillary bodies, and bob brown stein's comments on -- let's see. 2.3ab2.

>> i want to follow up on bob's comment. It looks to me without going 36 over the wording three times that the operative words are body that meets regularly or a bad that is appointed or regular group and not ad hoc meeting or a planned meeting but a body that meets regularly and i hope that is the intent of this and i guess that is the form of a question. Is that the intent of this.

>> well, my comment was on 2.4 and i got ahead of us too trying to clear that up. I think it would be very helpful -- dan i think you're trying to throw the net broadly to catch things in it but it would be helpful what is not an ancillary meeting and that would get to it and whatever we come up with has to be explainable to those responsible.

>> doesn't 2.3 number four say what it doesn't include. Ancillary body shall not consist of committee with solely city employees.

>> it does but there are two "nots" in there and it's when you get to a department head and the people below that meeting on things impainch on policy and it's so broad and i don't know how we carry it out.

>> and from a drafting perspective and in order to understand number two and you have to read it in light with number four and with the two nots in it and it's poor drafting and i think i understand the intent and

bob made a good point in his comments and looking at number two and suggested what is included and you have to read it in light of number four and that generates confusion and i think that can be eliminated with 37 better drafting.

>> what is your suggestion?

>> i just criticize.

>> my question is what is the intent of the ancillary body section and that the bodies be noticed to the public and open to the public and there was so many notes and i don't know which one it is.

>> i apologize for the writing and i didn't write the sections myself and they were gotten from other ordinances with poor drafting and the intention is a body is set up to meet with residents -- and i think it's reasonable if it's an announced meeting and going to be inviting a number of people i don't think it's designed to cover the kind of meetings that bob talked about which would be private meetings by emissary of the mayor and with another agency or community group and i don't think that type of meeting should be covered.

>> i'm having a hard time with this section. Would it be fair for me to ask if you could identify -- and if it's not fair just say so. Could you identify what bodies in the city of san jose it would apply to generally or specifically?

>> i remember the downtown working review committee was set up by the mayor and that was advisory commission to the council in the 80's and meeting publicly and that should be covered.

>> i'm trying to separate out the policy bodies versus the ancillary bodies and get ideas in my mind how they are separate, so if you could help with that. 38

>> let me ask a question of lee. When we look at the list of boards and commissions and rosters and are these considered policy bodies all of them?

>> yes.

>> and to the best of your knowledge this is the entire list?

>> as of today. Now, even as of today the city council agreed to form new ones to the old city hall reuse.

>> right.

>> so and there are a couple of other ones out there we will be adding and not formally established and membership.

>> to answer the question --

>> i wanted to clarify one thing. I think that is the list of entities that we currently consider policy bodies. I'm not sure that is the entire list of policy bodies as defined under this language, so i want to be clear.

>> okay let's see if we can -- the way i understand it. Everything that is on this list is for sure a policy body, but your comment is there maybe more that would be defined by the task force as a policy body depending on how our language goes.

>> absolutely.

>> is that clarification?

>> yeah.

>> so does that partially answer the question? All right. What would be an ancillary bodies and examples and is there a list of those?

>> i think we would have to defer to mr. Paul krono to define those and with this language i'm not sure. 39

>> and see what i'm driving at and we list them and get it out for the public.

>> wouldn't this be ancillary body if you looked under the definition 2.31 and isn't that what it really is.

>> what we are?

>> i think that's a good example to show the difference between the two. This body was created by a policy body, the city council, so this body would be covered by the sunshine ordinance as a public body.

>> as a --

>> s a policy body. If one member -- we would be a policy body and we were created by a policy body. If one member of the city council appointed a sunshine task force that is ancillary.

>> the example would be councilman david cortez and did that.

>> exactly.

>> certain council members have round tables within their districts and that is examples of ancillary. What about the f and y's ancillary bodies.

>> the s and i but not the neighborhood association.

>> originally the s and a pack was -- the city council acting as redevelopment board and discontinued and the city council appointed it as a representative of the neighborhoods, so yes.

>> okay. I mean i have to tell you if we can't explain -- examples of what a policy body versus ancillary body i think we need to go back to the drawing board and make it clear as brenda said 40 and we need the lay people to be able to come forward and read an ordinance and not hire an attorney for it.

>> i think we're in good shape for the policy body but the ancillary is causing concern.

>> one thing i look at, and i was happy when lee put it together and gives me idea of what a policy body is and maybe we can do the same thing for ancillary bodies and i think it would be common sense for a list.

>> i think it's good for us to have a greater understanding and i would caution you any list that you make up becomes obsolete the following day and people get confused and it's not on the list and it doesn't apply, and the good news you can make the list, but the bad news is you have the list and people think that's all what is included and we have to make it clear enough everything knows what we're talking about. The public knows and the city employees know and the council members know and everything is really leer on it and it's worth throwing it back into the word smithing or figuring something else out and it's great to have the list to refer to, but i would caution putting together list and they -- then people will look for the exclusion and that's not what you want either.

>> lisa.

>> the other point to be made there seems to be overlap between policy bodies and ancillary bodies and the brown act would say i think also and a member of the policy -- another the city manager but the policy body or the mayor would 41 be already subject to the brown act and i think that definition is included in your definition of a policy body in section 2.2.

>> what it doesn't cover is the social and recreational, ceremonial type things and those definitions -- basically the major change from this was semantic and instead of calling passive meeting bodies to me made no sense, and i noticed some people reviewed ordinances and referred to them as ancillary bodies and it was for clarity for the average member of the public.

>> maybe what we should do and we hit a wall and hit the next section and come back and clear up the whole issue of ancillary bodies and have concrete examples of it and it would give people a better idea about it and i can try and gather examples.

>> i was not obviously clear in my comment and i don't think i expressed what i intended and i think this is a good suggestion in term was coming back to this.

>> all right. Is there any objections to have staff take a look at it and come back with it and with a clear definition and dan and the rest of the city staff can take a look and we're not doing something we don't intend. Tom.

>> we will come back with a list of some of the ones we can identify and these could be literally throughout the whole organization and hard to identify and we will try to come with a list of examples that fit the definition as we understand it.

42

>> i think that would be very helpful and having the examples make it clear to the intent.

>> this ordinance has a committee consisting city employees and not ancillary meeting and when you throw department head in qualify that and we get into this and we will come back and give clarification. And i would also ask the attorney to look at other language in this and gathering to the extent possible and i don't think we have that wriggle room and you have to accommodate people.

>> another point i was going to make is that the ancillary body requirement are different from what the brown ordinance requires and even this and regular meetings. It's your task force, so it's what the ordinances have contemplated some reduced notice and it's something for you to discuss and i am calling out.

>> take a look and if you're going to say you have to have a room as big for everyone and no elevator and people with disabilities can't attend and we wouldn't want to do that.

>> i understand the intent of the ancillary body and a body not required to be accessible or open to the public pursuant to the brown act or the broader requirements of the sunshine ordinance and or flexible tool for these bodies and the intent is to allow access if possible and you don't have the strict requirements in brown act ordinance type, and i did notice there maybe inconsistency about advisory committees created by the mayor or the policy body, 43 and it sounds like both ancillary body and a policy body and that needs to be clarified as well.

>> and table this and come back to the next meeting and come back with a recommendation and take a look at it.

>> and i apologize i failed in the role as time keeper.

>> and let's move on and 2.4 and meetings open and application of the brown act and i think it's pretty straightforward.

>> and staff and i are consistent with this.

>> the change to limit meetings to within the city limits versus within the county limits of intentional change i assume?

>> that appeared to be a search and replace from the san francisco ordinance in the staff draft because the city and county of san francisco are one but in this case --

>> they are different.

>> and the city of santa clara makes no sense and permits san jose to hold meetings up there and yes it was intentional. In general there is reference in most of the ordinances and except in san francisco and it's the city and county of san francisco.

>> yes tom.

>> just as an example of what might be a problematic issue for staff. You extended the master calendaring to the ancillary bodies and depending how many there are it could become quite a resource issue for tracking them, and that's an example of what i was talking about earlier. 44

>> it's a good point and especially since we're not sure what they are or who they are. Tom do you think you can clarify that? First of all who is ancillary body and what are the staff requirements for scheduling that is.

>> i guarantee you i could not at this point and once the task force defines it and i am sure we can find what resources are available and the definition will add to the meetings we are adding to the master calendaring.

>> one of the concerns i got is if we have to do a motion on every one we will be forever.

>> and the task force and defining that section and move on.

>> 2.5 and time and place for policy bodies.

>> I think obviously the discussion points are items e and f on the notice, on the times of the notice. This is recommending that the 72 hours in the brown act be extended to ten days which is what they have in oakland, and that is obviously something we should be discussing. Just by comparison and they have eight days and contra costa has four days and we have three days and i think there is a lot of agreement three days does not work well for public.

>> additional comments? Tom -- i'm sorry dan.

>> i was just going to say for council meetings it is 11 days we get our materials together two weeks ahead and 11 days 45 ahead and i think we're on the right side of this one. Special meetings, ancillary meetings i'm not sure and maybe the clerk can answer that.

>> to the point of city council we make available to the public -- i'm just talking about city council at this point and 15 days before the meeting and on day 13 before the meeting we actually publish the agenda and as many of the memos from the council members and published to the organization and put on the website and 13 days before the council meeting and that's the norm now.

>> i guess i'm a little unclear then and you publish the agenda and the information and why do we get things on tuesday afternoon and tuesday evening?

>> most of the items that come in on the day of the meeting generally come from the council members responding to staff reports. The staff reports are provided much earlier.

>> okay. So what we're seeing on the 15th, the 13th are the staff reports so the council memos are the ones that come in -- where is the end?

>> well, let me back up a minute. At this point we talking about posting of the agenda and i think we need to make it clear and the council memo put out late, definitely and there is no use in denying that and that happens but the agenda itself and what matters on there are posted and put out 13 days in advance.

>> so what i am hearing from staff and procedurally and cost46 wise there is not a problem with the ten day agenda notice?

>> i believe we're at 11 days right now for reports to be finished and they're late after -- i'm wrong?

>> yeah.

>> they always beat on me.

>> and we have to put this out there too and this is practice and it does happen. The council often approved a amended agenda on tuesday that was posted 72 hours in advance -- a little more than that and it's friday at three and there are those occasions where items are added to the agenda three business days in advance, or a recommendation is changed, or an item is recommended for deferral and in that regard we need the 72 hours and the publication of the preliminary agenda and way in advance of the ten days. Does that help?

>> okay.

>> you talked about agendas but i'm not clear about when the staff reports come out. It's not that same 15 day period is it?

>> no it's day 13 and then up to the friday before the 72 hours before, the friday before.

>> i think what lee is trying to say the goal is to have all of the staff reports available 13 days ahead of time when the agenda is put out and we don't meet that goal as often as we like and oftentimes work is still work done to finalize the respects and information not available and things delay the staff reports from being posted -- and this is where you have to correct me if i am wrong i believe there is all a staff 47 report posted 72 hours beforehand and there maybe more supplemental reports that come out closer to a meeting and clarify errors that might have been or confusing facts or clarify information after the staff report was released.

>> i think the issue is though you see again and again on gig items and recently as last week with the subsidies for the rep, the staff reports coming out on friday and people can't respond to that before and a longer time for the staff reports and i would actually add that included council responses, staff memos and council memos going back and forth and should be included in the longer times and other governments have done this successfully and i think a lot of the public frustration is this exact issue.

>> judy.

>> i think that the difficulty in trying to have complete staff reports ready for the deadline, and i appreciate that the goal is to always meet that. I think as susan has indicated the frustration is not necessarily with the staff. The frustration is with the practice that has evolved which allows the council members at the last minute literally they handout memos to one another which may or may not have seen the light of day and certainly probably haven't been seen by the public and maybe not even seen by staff and that is really a disservice and to the work the staff does and completely unfair to the public who doesn't have an opportunity -- and questions of the staff report and maybe the public would be interested 48 in it and if the staff has a particular insight and bore down on a particular issue, and i think really the spot we have to focus on really to get the city council and their staff to understand they have obligation under the brown act to abide by the brown act and the brown act as i recall is in extraordinary circumstance and you can declare a sense of urgency and the item was not available prior to this or something at the last minute that you deemed to be urgent and a vote of the majority and maybe unanimous vote of the council and you can proceed and i think that is completely lost on elected officials and they do their business right up to the gavel being instruct and the meeting beginning and we need to do more focus in that area and understand that the staff is held to a standard that is not the standard that the council members or their staffs are held to.

>> dan.

>> i just wanted to mention here that you have two referrals from council member cortezy and one from reed that deal directly with this point and i'm not sure how you want to deal with those procedural questions.

>> sheila do you have those so you can display those?

>> no i don't have the document up.

>> they're in the large batch.

>> this one right. This one public meetings proposed proposals and she has taken the ones that apply to this category and built it in. From dan dated september 12.

>> councilman reed and so the public will have a better 49 opportunity to participate in the debate and councilman cortezy and not released six before a meeting and provide the citizen with a greater opportunity to respond and it's late and happens lot was other places and it's extremely frustrating.

>> judy are you referring then page two, 1.2.

>> 1.2 under --

>> page two under previously submitted.

>> 2.1 under councilmen cortezy.

>> on the same page below that too and 2.1.

>> and actually mr. Davis parker refers to that as well and disallowing new documents or represented materials introduced less than 72 hours and the materials used in consideration be on file with the clerk's office on line.

>> that seems we could add that in.

>> let's clarify something. We're discussing meetings open to the public and application of the brown act and section e. Did i miss something and we're talking about the agenda it -- are we talking about the other materials added to it.

>> the brown act talks about the posting of the agenda and the materials and i am suggests that the materials use the not only from staff and from the policy body that are also used in the deliberation and those are not required to be made available.

>> that should be perhaps part of the agenda packet defined here.

>> and i should ask the city clerk are the council members required to meet the deadlines for filing of their memos on 50 agenda items?

>> no.

>> okay.

>> i rest my case.

>> let's see if i can clarify something. My reading is that the agenda reading item is in the next page 2.6 down in c, meaningful description of each item of business to be transacts and go on and city staff make a good effort to make respects available at this point and we're talking in this section and we're talking -- is there a description further on? I am trying to remember. Is there further discussion of the memos and we started off with 2.5 and jumped into 2.6.

>> i thought we agreed with 2.5 and we were moving on.

>> i don't think we did either.

>> i have several comments about 2.5.

>> i did to.

>> we were.

>> and 2.6 comments --

>> i'm just trying to find out so we don't get lost. So on 2.5 we are -- we were discussing e. Are there any other comments on 2.5?

>> i wanted to say that the issue that susan raised about e and f is addressed in 2.6a.

>> tom.

>> a quick comment on 2.5 as the public outreach manager for the city and i do have concerns that we're limiting under f that we are only providing this service to local media.

>> where are you talking --

>> we're delivering by person or mail and each person and the local media and it seems that if we can do it for any media we 51 can do it for all media.

>> and strike "local".

>> and if they request we would respond.

>>

>> i have a problem with 2.5f and gives me a head ache to look at so let's read it.

>>

>> can we refer this to staff to simplify and eliminate the redundancies.

>> i can simplify it if you want. Did you want to take the condensed version?

>> i think we --

>> you want me to -- do you want me to read the version that was sent to us. "meetings of ancillary bodies noticed at least 72 hours before such meetings and delivered personally e email or mail or fax and each person that requests such notice and the name and place of the body and the place of the meeting and the agenda packet if any maybe obtained and notice of meeting shall also be posted to the city's public access website and the time and place of the meeting shall be included in the city's master calendar and 60 percent reduction of words and i think it has the same effect.

>> 72 hours.

>> 72 hours?

>> right.

>> so tom --

>> hey just a comment. In the language that he is currently has and limits that requirement to those ancillary bodies that establish regular meetings and i want to make sure 52 that the language you just read i don't think that included that limitation.

>> i agree and this section 2.5 is confusing and time and place for policy bodies and yet it also includes ancillary bodies.

>> and different notice for ancillary bodies.

>> is that correct and i think we need to revisit it and include time and place for policy bodies and ancillary bodies and i think it needs to be rewritten and the draft you were talking about earlier that we aren't talking about and addressing that problem and solves it and i think it's easy enough to go back to that draft and fix this and with respect we're talking about both kinds of bodies with their different time limitations.

>> and the city attorney office can handle?

>> i think we can handle it very well.

>> lisa.

>> certainly.
>> okay.
>> in 2.5a you -- there is another definition of advisory body in addition to policy body and ancillary body that needs to be clarified.
>> we don't need another body to be identified.
>> i have a question to the task force. Is 72 hours reasonable notice for ancillary body considering -- well, we would be considered ancillary body ; right? No, we're policy body. Okay. Let's go back -- so ancillary body is like the old every green task force that the council member appointed? 53
>> you asked staff to come back to you with examples to define that and once you agree with what you mean by ancillary body and we will do a sort of the bodies we have in the city now and we will look at how practical that is and come back to you with a number and with a payroll of 6,500 and i don't know what the impact is and we will come back with dimensions and come back.
>> that's what i was trying to see what we were going to put our arms around.
>> can i make another recommend egg on the 72 hour issue. You might want to consider a mechanism when important things are brought forward at the last minute -- for instance there is requirement that is super majority of the council approve it and the absolute limit of not being able to bring any additional information forward past the 72 hour thresh hold may create real problems in terms of not being able to provide the council with information that it needs to make a decision and met the other deadlines.
>> comments.
>> i absolutely agree with that and there has to be exceptions and ways to speed up government when we need to and we need to consider that throughout the documents.
>> i agree with that from a very practical perspective. I'm always concerned about what is considered to be urgent, so if the staff really has a chunk of something and they weren't able to make it in time for their deadline why can that not be -- i don't want to double not. 54 it would be a good idea to consider that move to another meeting, and i also notice when the meetings agendas get congested and get behind and you ask for a continuance and the point is to have everyone involved with the information and benefits to the council members and the public.
>> and administrative thing and please announce your name and you are picked up so the video picks you up. Okay. Other comments on it? Is it the consensus of the task force the city comes back with some sort of proposal that would address that issue especially i think margories and judy's issue and a way on a emergency basis reroute it -- or --
>> the matter has to be urgent to begin with.
>> okay so -- can staff come back and take a look at and we will differ this to the next time.
>>
>> it was our duty to come up with and having staff do it and we would be discussing what we thought and be doing on that.
>> okay. What is the -- correct me -- okay. Should we be talking about the intent of the task force and staff come back with language that meet the intent.
>> i think it's our job to come up -- we're just talking on this issue of whether or not when it comes to wanting to add stuff in after the deadline ; right? That we would come up with the language ourselves and instead of --
>> the difficulty the way i see⁵⁵ it and we can get more comments we're not particularly qualified to draft items. I think we had an earlier discussion that the city attorney's office would do the drafting and we would review it and see if it meets the intent and ed davis would look at it also.
>>i was confused.
>> otherwise we will be here sometime 2,010 if we try and draft all the stuff.
>> and i would ask of the other sunshine ordinances and are there narrowly escape clauses for true emergency situations and use it when it's convenient.
>> the ordinances do not have escape clauses and you would be in new territory and as carl suggests and the task force decides what the default position and six days is what the member is recommending without qualification and if the city things that is too strict or the council members give you escape provision and six days unless and whatever language would qualify with the unless, but would caution based on my experience and litigating these issues and the escape clause can swallow up the rules.
>> and i believe it was in the closed session and immediate throats to public safety and natural disasters and perhaps that language might be the basis for it.
>> lisa harris i would point out that the brown act does a fine job and defining emergencies.

>> and i understand it's documents in advance of the meeting and i'm not sure how natural disasters fit into that.

>> and notice of government 56 meetings and the rules you create for it and that's what i see in other places.

>> all right.

>> i think this is a big issue and the neighborhood representative and i think it's a big issue for the public's involvement in what the council is doing and i think as a task force we need to strive for the best standard possible here and keeping in mind keep government doing what it needs to do and not a government needs to differ everything to agenda and agenda and given the time we have left tonight and strive for the best possible and understand the environment we are working at today is out of control and the memos going back and forth the day of the meeting is ridiculous and i was in that situation and the decisions they made were shameful and we knew nothing about and that has to stop and i think it's the responsibility of the task force and to did that and step back and how can we run government on that standard and i agree with you and we need to run government as quickly and efficiently as we can, but i think the role of the task force is look for the best standard possible and i think we can do that.

>> question to the task force and where are we on this particular issue? Are we sending it back to staff and sending for recommendation or additional discussion and intent?

>> are we okay with the ten days? Can we do some of it?

>> that's the most material change in the whole section. 57

>> i think we should get a sense of where the task force is.

>> does someone want to make a motion.

>> for the policy body and 2.5e.

>> second line towards the end. So you're going to substitute at least 72 hours, at least ten days is what you're --

>> 72 hours would become --

>> ten days.

>> at least ten calendar days.

>> okay.

>> well, i just wanted to point out if we had to be publicly appointed ten days we would not have be able to schedule the meeting and we would have to cancel it.

>> if we knew it was ten days.

>> i guess i'm from another different era and we had a goal of speeding government and cutting red tape and meeting the goals of the public without bureaucratic meetings and i understand the goals you have and it's a different kind of governance in the last ten years and this is a heavy reaction and i could support it if there was a method of calling council meetings sooner than ten days or any policy body for that matter and if something happens and they have to meet and give advice and they have to meet and we can't wait ten days.

>> if i understood lisa and the brown act would deal with that.

>> for emergency situations.

>> and i thought the situation is we would go beyond that and not the loophole.

>> you would have to incorporate that.

>> i think if we incorporated it would work very well and it's very limiting about what you can -- what you can proceed with 58 in emergency meeting and i think that would be helpful.

>> that would be fine and my understanding is we do notice for ten days for the council meetings.

>> and everybody is jumping in and let's slow down to recognize everyone.

>> my comments about the emergency provisions in the brown act were not intended -- as i understand your motion -- let me back up. As i understand your motion -- you're talking about the section that includes meetings of ancillary bodies and you want to intend that from 72 hours to ten days.

>> i would have that say meetings of policy bodies and shall be proceeded by notice at least ten calendar days prior to the meeting et cetera.

>> is that a motion?

>> yes.

>> do we have a second?

>> i will second.

>> thank you.

>> and i have to ask a question and any provision for emergency meeting if an urgent matter comes up.

>> does the maker of the motion want to amend it and include the brown act provisions of the meetings.
>> i guess again i would ask the attorney and how does this work in other cities who managed to do this.
>> if we're talking about section 2.5 it's a mess right now.
>> okay.
>> if you -- section e define ancillary bodies and when they're supposed to meet and 59 they don't have regular meeting scheduled and section a each policy body except for advisory bodies and shall establish by resolution to have regular meetings and the way it's drafted right now for policy bodies their regular meeting schedule is already set so there is no need to have a specific time limit when you notice them except for section f and the large section i'm not too crazy about and it's long.
>> i think maybe we should --
>> what we need to do is fix 2.5 so it's consistent with when you are talking policy bodies and talking about ancillary bodies. Right now policy bodies are defined -- they already set their meetings so you're just talking special meetings and ten days should be in f.
>> and we should go and fix this.
>> and i disagree with lisa and include in here and i don't think it is and have the special emergency provision and we can refer to that from the brown act and we're narrowing what the brown act says unless we put it in here it would eliminate the brown act provisions and we have to include that for the emergencies and that part of the brown act has worked well over the years for emergency meeting and i don't think we need to amend it.
>> and we can do emergency provision included if we're silent.
>> not we're silent. Refer to by reference.
>> and 2.4 and government sections 549 and does that include the emergency provisions? 60
>> yes.
>> so we have incorporated by reference by doing that.
>> no we haven't it says in the case of conflict between sunshine ordinance and the brown act the requirement which would result in greater access shall apply and in the emergency situation that would create confusion to which is the most expedited public process and i recommend you include that in the --
>> 2.4 or 2.5?
>> dave.
>> 2.5 and 2.6 have the same language and intent in them and especially given the time we have left tonight and me personally i would not support any motions tonight given the work we have left to do. We wait for staff to come up with some of the clean up they're planning to do and we tackle this fresh at next meeting and especially i think there is a lot debate left and provisions about calendar days and the agenda and when it's going to be released and what the emergency provisions are going to be and i want to go back and look at the brown act language and i think there is really good language there and probably -- another enforce.
>> would it be okay to ask counsel to come back to us based on some of the concepts.
>> absolutely.
>> and some of things and i heard ten days for the policy bodies and incorporate and reference of the brown act and emergency provisions and the ancillary boods we only need 72 hours.
>> if they are prepared to do 61 that.
>> and ask for a fresh draft with the three points.
>> and the question is the duplicity of 2.5 and 2.6 and were they planning to combine those sections?
>> dan you had a comment?
>> i mentioned earlier on one of the biggest problems when you cut and paste and policy body and ancillary body and can't get much sense out of it and we're happy to go through and get that clearer and we don't circle around that and i think we have a short time on the next meeting and we have enough done in the machine we could do that pretty readily.
>> so is staff clear on the intent so far of the task force on the rewrite?
>> i believe so i think -- i will be reviewing this meeting but yes --
>> susan wants to go ahead and clarify -- or dan i guess.
>> i think i got it.
>> you got it?
>> withdrawn your motion.
>> susan withdraws her motion then.

>> judy nad lel and can i ask that we do in the general area and 2.5 or 2.6 wherever it's appropriate and address the issues of the council members and that's really the sticking point for me and it's not covered by the brown act and it should be -- or we should cover it.

>> i can't remember dan may remember where it is and i know i saw it in here in language somewhere and saying nothing could be distributed less than 72 hours before a meeting and that was what actually raised by 62 original question about emergencies.

>> i think it needs to be --

>> or mr. Parkers and i think specifically it was mr. Parkers.

>> in one of the three i sited and it is specifically -- i think we actually have to say city council or mayor or both and if you just do that blanket no documents then the default is that applies to staff and doesn't call out that it applies to the elected.

>> 2.6c is the language that i think is at least gets us close.

>> virginia.

>> i was going to bring up see council memo and they approved some of the items and long list of things we should discuss and one of those -- and i want to raise this with you and their recommendation is that the council members could come in at 24 hour noticing time and personally i don't feel that is appropriate and should be held to the same standard as the public.

>> i have to respond to that one and there has to be element of it here and if the staff has ten days then the counsel has to have opportunity to absorb what they are saying and the recommendations and come out with memo on that and we might think it's behind closed doors and there has to be less time for the mayor and the members and if all at the same time there is no room for discussion and compromise.

>> virginia go ahead and then i will ask a question.

>> this is a sticking point with me because frequently over the last couple of years and i have been speaking on behalf of an 63 organization for the city council and i have come in with prepared testimony to speak to those issues and in one case there was a memo that the city council began at 130 and there was a memo, full page memo and it was a very big topic for discussion and it was a cim project and the council proceeded to talk about the memo. I was in the audience and i couldn't respond to any of those items because i didn't have a copy of that memo, and that happened -- in one year's time that happened three times so i got rather impatient with that process.

>> i agree with that and it's unacceptable but there has to be a little difference in time and the counsel at 72 hours and staff at six days.

>> i understand there needs to be a gap when the material comes out and the next stage of staff reporting and then the council member looks at it and then the member responds but it needs to be in time for the public to absorb what they are saying as well.

>> i agree with that.

>> let me ask a question of staff and the preliminary agenda and staff recommendation and 15 days?

>> 13 with the staff memos.

>> 13. Okay.

>> that are ready.

>> if we're trying to get to ten that would mean that you have to move that up to 15 or something like that and a couple more days out. In other words we have 15 and the task force looking at ten 64 and three in between and that is kind of short and can the city staff looking at moving that backwards?

>> what kind of days, calendar days?

>> calendar days.

>> you have to make that clear.

>> we're talking about calendar days.

>> let us come back and give you exactly what we do and at the rules committee prior to the council meeting and it's a week plus prior we're asked are all the staff memos finished and are they in and that's what we try to push against, so i think that we're out ahead of the ten day limit by quite a bit, but it's be more specific and we can't agree here.

>> okay. You see what we're trying to drive out and we need a time line.

>> i think we have enough intent here that we can give you something.

>> okay good. Let's see. Is there anything else --

>> i think it's important that you keep the meeting timing separate from the agenda time and agenda matters are completely topic and having them in separate sections is very important.

>> i agree.

>> clarification question. If a staff report is not available in sufficient time is there any provision currently in the city procedures to do absolutely differ to the next meeting?

>> i can answer that question. The rules committee and one of their standing am whys on the 65 rules committee every week when reviewing the agenda for the following week and the preliminary agenda for two weeks out they receive a report from staff what reports are outstanding from that date and one of the items that the sunshine council put forward and relates to contracts of million dollars or more and the rules committee has the authority to differ any item that pertains to a contract of million dollars or more and the report is late as of that date and rules is on a wednesday and we're talking about the next tuesday's meeting so if staff has not released that report by that wednesday and rules can differ that to the next council agenda if that item is not out and that pertains specifically to million or more.

>> and the task force may want to look at as a way to get the reports out and if it becomes with the exception of the brown act emergency thing and we might consider an automatic deferral if they don't meet the particular requirement.

>> i think that is great and it's a really good start. For people in the neighborhood and people who have, who are very concerned about issues that are going to personally affect them that's worth a million dollars to them and it maybe a small budget item from the city's perspective but it's the world to them and while i think it's a great provision i don't think it encompasses fully how decisions impact the public and they impact more than just the budget and they impact public confidence and services.

>> i was just going to say that 66 often in issues of neighborhood concern you mobilize people and the council meeting and get their thoughts together and they make the plans and when differed it discourages people in taking place in the process.

>> but if the deferral is far enough it's okay. We're running out of time and any other topics to be covered. Okay.

>> i just had a question.

>> right.

>> about our next meeting. So -- i mean we're going to talk about closed meetings and now instead talk about these.

>> and the next item on the agenda and that's the question before the task force right now and we continue the conversation on these issues and schedule it such we move into the closed session meetings at the same time which we should be able to. Maybe. All right.

>> have we moved to next agenda.

>> yeah we're on the next agenda item right now.

>> and i want to remind the task force and we have invited gloria young who was the city clerk of san francisco and involved in san francisco's sunshine ordinance and the task force and all the work they did and she has agreed to come and speak to the group and talk a little bit about what that process was like and maybe share what went well and what didn't go well and what is really happening now and are they enforcing it and problems they are finding with it and assuming the task force is interested in hearing from the city of san francisco i would suggest that we leave enough 67 time on the agenda so she can give a good presentation and entertain questions and she's a wonderful speaker and good facilitator and not someone that will lecture and correct in putting out the points.

>> and you suggested 15 minutes on the agenda is what you were talking about.

>> perhaps she could take her 15 minutes to do her presentation and entertain questions and answers.

>> schedule wise next meeting or is she available at a later meeting.

>> she might be available to a later meeting and she is out of the country and i could check to see if she could do it in october.

>> do you want to do it next time or differ it?

>> and maybe do it next meeting and i think it will take longer to get through it.

>> my suggestion is we continue this meeting and put her on and we agendize the closed meetings in case we got to it and then it's agendized and sheila could get out of the information on it.

>> it's almost ready to go.

>> and get us ahead of the curve so into speak.

>> and staff is differed to the rewrites on the public meeting sections and i don't know what the expectation of getting the provisions out that you asked us to rework on public meetings and i think there are at least three and are we continuing this and go through the section and get another staff report out for the three you differed to us?

>> is that possible?

>> not and closed sessions.
>> not and closed sessions.
>> i think it's a lot of us to get and susan's suggestion and hearing from miss young and hoping to finish out this portion is enough for one evening.
>> let me see if i can clarify. We sent items back to staff on the meetings and we also have the closed sessioned meetings and you can do one or the other but not both.
>> and you referred back a couple sections and there are more to get through.
>> right.
>> are you wanting in the next meeting and come with the rewrite and the other sections.
>> if we go to the sections we did not cover on the public meetings. We have the public presentation from the city clerk of san francisco and you prepare -- are you ready to go forward on the closed sessions at this time?
>> we're close.
>> you're close?
>> but the expectation and rewriting the public meeting sessions and we will stop.
>> is it better to go for the closed session and come back on the next one and come back with the public or try to stop what you are doing and get the three things referred back to you and come back at the meeting.
>> my feeling is to define ancillary bodies and tremendous impact on the rest of the section in public meeting and you will find the concepts recurring and we have not defined them.
>> and you're saying postpone the closed and cover the com-- 69 complete the public session next time.
>> i would like to second that. I think we need to get through this section.
>> that's fine.
>> and dan has given us a good document to work through and we made progress tonight and do a little editing we can clean it up.
>> one last thing that came up when we had the chair and vice chair's meeting and conversation with city staff and the way the task force is set up and this is the only time we can do agenda items and the chair or vice chair can not add and we were discussing to add and for example the work plan and do we want to continue that way and the chair in consultation with the vice chair and add if it's prior to the meetings according to the brown act.
>> well i'm all for the flexibility and trust the creativity and your insights what might be on the agenda i am concerned that we stick pretty much to what we have set to do and then if something comes up i certainly could understand that, but we have such a --
>> tight schedule.
>> work load with the calendar.
>> i'm looking at it --
>> can you give an example?
>> referral from any member of this task force. If there needs to be some process by which virginia says i would like to speak for five minutes on this or bring it before the traffic force she could come to the chair and place this on the task force and they would have the power to put it on the agenda. 70 the other option is to have staff do it but they made it clear in the drafting process they didn't feel that individual members of the task force coming to staff with requests is appropriate and the most appropriate person would be the chair.
>> and notice and ten days ahead of time and it's a good way to live what we are suggesting the others do and we are a policy body and let's see how it works.
>> my only hesitation and number of individuals here and we might have something we would like to have discussed but we such a huge responsibility to get through what we have been given -- to get through our assignment and i would be hesitant to open too much -- two additions to the agenda and if it comes up in the course of the meeting and like you are doing now and what would you like us to agendize for the following meeting and if that comes up we meet frequently enough i hope we could address whatever comes up and the entire group agrees.
>> and i am comfortable either way and i wanted to bring it up for clarification.
>> and the amount of time it takes for the agenda and part of the decisionmaking here and only take five minutes and i feel comfortable in having the cochairs determine whether that needs to be agendized and when and move that forward and rather than bringing it to us.

>> and i would agree with it and don't want to argue about it and we have if you have in mind a five minute discussion and we don't know if an hour discussion 71 will happen and -- we're going to get into potential for getting behind.

>> what is the consensus? We do it? Not do it?

>> the problem is no way to get anything on the agenda for a month otherwise and it's not ten days and it's a month and staff -- there are agenda review meetings that staff asked the chair and the vice chair to attend but if we don't have the -- any power to suggest or decline an agenda item and the meeting are for no purpose and we should stop having those meetings.

>> and i had a suggestion if individuals come to you as a chair or vice chair before the meetings and maybe staff could put out email for members is that legal?

>> no.

>> i am in favor of delegating to the chair for setting the agenda and more than ten days.

>> that's fine.

>> the other question i had of staff and do we need to agendize the work item and as we get along -- if we start -- in other words we get through this and change around the work plan do we have to agendize that each time.

>> only if you want to change the work plan.

>> we don't know if we're to a meeting and we're potentially two weeks off.

>> you could make that a standing item on the agenda.

>> okay that would solve most of the issues.

>> if i could and the second meeting and we had a discussion similar to this and i talked 72 about the blue ribbon task model and they were to meet for six months and met for a year and continued to add to the work plan and extend their work and i bring it up as a reminder.

>> i think after six months.

>> i would like to suggest you give a description to the public and know if they want to speak and give testimony on.

>> okay.

>> i have a question and the two items in the cover of my proposal and the lobby disclosure and should we tackle those at the next meetings.

>> i suggest you look at the timing and how long it's going to take for us the ancillary discussion and in addition to have the person invited from san francisco and see if there is time, and i think we just need to leave that up to you, but it needs to be put on the work plan.

>> yeah. Okay.

>> we will try to get these two items on and they have been distributed and there is a correlation and most people are lobbyists.

>> i was going to suggest those items should be discussed in the conflict disclosure.

>> ethnics of disclosure.

>> conflicts of interests.

>> 2.14.

>> right.

>> this is already 2.14 and should we discuss this proposal at this stage as well?

>> it -- yes let's do that definitely.

>> we're really running late and any other issues and we have public comment. Is there any public comment? 73 there is no public comment. Okay. Do we have a motion for adjournment.

>> i move.

>> second.

>> okay.

>> all in favor?

>> aye.

>> aye.

>> and we are adjourned. Thank you.