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>> Ed Rast: If you haven't validated your parking ticket would you please do so? If you want to speak tonight would you pick up a speaker's card. If everyone would take a seat we can get started.
>> Ed Rast: Good evening. Welcome to the Sunshine Reform Task Force. The meeting is Thursday, November 16th. The meeting is called to order at 6:10. Approval of November 10th meeting minutes moved and seconded. Any discussion?
>> Phaedra Ellis-Lamkins: I made the motion, Virginia seconded.
>> Ed Rast: Any discussion? All right. Move for approval. All in favor, any abstentions? Judy Nadler. Second agenda item, comments from the chair. We've had a change in the agenda for all-day meeting on Saturday between 5 -- between 9:00 and 5:00 and that is that mayor-elect Chuck Reed will be speaking to the Sunshine Reform Task Force. He's going to speak to us at 9:00 in the morning. One of the other things we're going to take a look at tonight is move forward and item C that we referred to the attorneys, we will come back and take a look at that on Saturday and we will continue to move forward from that through the agenda. That's about all I have for now. We have almost a full house of people. Phaedra.
>> Phaedra Ellis-Lamkins: I have a housekeeping. And you and I have talked about this. Is this here or should I wail until --
>> Ed Rast: Let's -- where don't we cover it now. p.m. okay. I just let folks know that I am going to be taking two months off of work between next week and January 20th. So I am going to be asking -- I have talked to the City Attorney, but asked someone from my staff to replace me. This is a labor seat, Bob Bronstein, I think he will roll into this work. I haven't had a chance to check in with you. They're not sure if it has to go before the City Council. Because they went to labor and said who do you want to have. They're going to check in on that. I'll be back January 20th. I will not be able to be reached from this -- actually starting next week. So I'm going to see if it's appropriate for him to sit starting Saturday morning, because I'd talked about, I was at this time sitting on a panel.
>> Ed Rast: We had a resignation also, am I right?
>> Not that I'm aware of.
>> Ed Rast: At least I got one.
>> I did want to speak. Sheila tucker. We did agree that if you held a seat or your organization nominated you, that if you had to step down for any reason, that that organization would nominate another representative. So I just wanted to clarify that.
>> Ed Rast: Okay, thank you.
>> Phaedra Ellis-Lamkins: So as the head of the organization, I'm nominating.
>> Ed Rast: Okay. Any other announcements or anything else? Okay. And then let's see, staff, do you want to go review the meeting material, next agenda item?
>> Tom Manheim: Mr. Chairperson, Tom Manheim. If you have information that somebody has resigned, you might share that with the group. Have you received a letter?
>> Ed Rast: I received a letter. Dave resigned, and so what we'll have to do is, I'll talk to Lee and you know, go from there. So.
>> Phaedra Ellis-Lamkins: Dave Roberson? Oh, Dave Roberson. Was it Dave Roberson?
>> Ed Rast: I looked at it real fast.
>> Dave Zenker is here so --
>> Ed Rast: It's Roberson. What I'll do is forward the letter. I got it real late this afternoon. I'll forward it and work on getting a replacement. I'm sorry --
>> Which category was he from?
>> Ed Rast: That's what I was trying to remember.

>> He took Clark Williams, so it was a border commission representative. I can go back to the hat.
>> Ed Rast: And look for another commission member. That's where he came from.
>> The Clerk: The votes are way too close.
>> Ed Rast: And still a lot more to count. So we'll just see where it goes. And so any other items to go over? Nanci.
>> Nanci Williams: You know, this is probably a good time to bring this up. That is the second time that chair has turned over and there is another chair turning over. Time is my most precious commodity and we're moving at a rate of three hours per item. And I think we should move in terms of getting a draft at some time in the future. I don't see that happening, and I know that we set as a requirement, in this commission, three absences and you're out. How many meetings have we had, does anyone know?
>> Ed Rast: Yes. Eight, nine. This is the ninth meeting.
>> Ninth meeting?
>> Ed Rast: 10th meeting.
>> We haven't accomplished a lot in ten meetings and I think we have to think about getting through a page per meeting and drafting something at some point that we can draft at some point. We are going into excruciating detail, this isn't going to get done before 2008. If we're not going to think in terms of being more expeditious in terms of three meetings out of the 30 or so we're going to have in the next six months is not realistic I don't think.
>> Ed Rast: Comments? Dan Pulcrano.
>> Dan Pulcrano: I met with mayor elect Reed yesterday to discuss the work plan a bit. And he's hopeful that we can deliver something to him by January 1st.
>> Nanci Williams: Do you think that's realistic?
>> Dan Pulcrano: It depends on the way we work. We may need to look at ways to expedite things. And secondly, if we're going to have to worry the replacement of members who fall off the truck and bring more members on, it may slow us down. So we may elect to leave some seats unfilled.
>> Ed Rast: Susan.
>> I wonder given the mayor-elect's concerns of timeliness, we should look at a drafting committee. The triumvirate of Ed and whoever looking at this, because drafting by committee is a very slow process.
>> Ed Rast: Phaedra.
>> Phaedra Ellis-Lamkins: I would be happy to send the ordinance to the committee of three. The City Manager, City Attorney, and Ed Davis, to come back with something. Because I'm actually really interested too in talking about the things that don't relate to the ordinance. Like we haven't talked about the reforms, and the other things, I think, that are critical, and we have concerns about 30-day noticing which is not in the ordinance actually, but is actually something separate, that we raised before that we'd like to talk about. So I'd love to at least get some feedback from that group and have them bring a draft ordinance for us to at least look at.
>> Ed Rast: Okay. I'm not sure what -- Margie?
>> Margie Matthews: Is that the kind of committee you were talking about Susan?
>> Susan Goldberg: I think to Nanci's point and I think she's right, I think there's a lot of frustration with how long this is taking. And you know, Chuck Reed ran on two things. One was fiscal responsibility and the other one was open government. And he was elected by a gigantic margin in this town. And I think it really says something about the direction that a lot of people in our community want to see us go. And I think that we really have an obligation to try to deliver a strong ordinance in a timely way to help him meet that. And to me, whatever it takes. If it's these three or those three and a couple of members of the committee, I would be all for that.

>> Ed Rast: Let me comment on if you take a look at how much time we've met so far, if we have nine meetings, the initial couple of meetings were two hours, then it was two and a half. Probably like 20 some-odd, 22 hours worth of time. All the other cities that did this did it in 18 months to three years. San Francisco actually has been working on the thing for about ten years now and they've still got problems with it, you know. I think one of the comments earlier and I'm probably as frustrated as some of the other members of the task force about the progress we're getting. But I think one of the key issues that have you to look at is, is the document we're producing readable and understandable by the general public? Granted it's taking time. I read a number of times, the other ordinances, they are not particularly readable. They look like, and it's not a -- they look like they've been put together by attorneys. And it's very difficult for many of us to understand the particular ordinances. And it's no reflection upon our two attorneys. They've been doing a great job. But it's difficult for the average person to take a look at these things and understand them. And the other factor that we've got, more so I think than any other city, is, we have the lowest level of taxes, revenue of any city, large city in California and almost all local cities, the same in the staff levels. We cannot afford to have unintended consequences or other things coming up. We are trying to balance openness and sunshine and participation in the government with a reasonable document. When you look at the size of San Francisco's city-county government, 30,000 people. And the size of our government, what is it, 6500, it's a lot of difference if you are trying to administer something. I think it's one of the comments that was made is we try a Saturday session and try to move through some of this fast. Because you know, by the time -- I think that may be part of our solution, is taking a look at if Saturday works maybe we ought to take a look at doing some sort of a different meeting schedule. We ought to go forward and take a look at and at least discuss a drafting committee or some way to move through this stuff faster or maybe go down through the document, make our points, refer it over to staff and have them go back at it. In other words, maybe we can try something like that tonight if it goes that way. Brenda.
>> Brenda Otey: Two things. One is, I believe, the scope of what this task force is charged to do in the first place was not to create an entire ordinance. So the tine lines that were given may have been suitable for what was -- the charge was initially. And the creation of an entire ordinance may -- will be beyond that. Because there's more work in creating language and the other things that's involved with creating an entire ordinance. The other thing is, as far as how we're doing things, it's like, I think we voted to continue working, and here we are talking about how -- what we're going to do. Are we going to do it this way, are we going to work. And I think if you go back and look at the time spent on talking about it, versus doing it, you might -- there might be some competition as far as the amount of time put into either one. And I would hope we could just move forward now. Come back later and reevaluate. But we have only done a few meetings where we haven't had this as an issue, that comes up for us to use time in discussing it.
>> Ed Rast: Phaedra and then Nanci.
>> You missed me. Joan Rivas Cosby. I know my message but how am I going to say it? If you have a draft it is so much easier to fine tune it, we could say I like this, I don't like that, we're all smart people and what we're forgetting is to bring in a little bit of common sense. When Ed says, we need readable language, we can use our common sense, what's our message, what do we want to stay and then stick with it.
>> Ed Rast: Phaedra then Nanci.
>> Phaedra Ellis-Lamkins: You know, I just want to underscore what both Brenda and Joan said, which is it's fine that we're doing an ordinance. But that's not what we were charged with doing. It is a function of maybe one of the ways that you create open government, and you deal with sunshine. But part of why I'm trying to figure out wherever it goes is, I think that there's so much stuff that we're not dealing with as a

consequence of making the focus of this task force the ordinance. And so in my mind, what I'm just trying to figure out is, how do we -- how do we create time to deal with sunshine, and involving people in government and creating it -- make it more accessible that's not just the ordinance. Because I don't think that meets the needs of a whole lots of people in the city. If we think of the impact to communities of color, the ordinance as it's drafted, meets the criteria, I agree with Brenda. I'm just willing to send it anywhere so that we can talk about some of the other reforms or other ideas. And so -- but I do think that Brenda makes a good point and maybe we should have this discussion after Saturday to see how far we get on Saturday. Because if this is something that this purpose is to have huge goals and to be able to engage people that maybe nine meetings isn't that much, it is when we, you know, so --
>> Ed Rast: Nanci and then Ed and then we'll move on to the agenda.
>> Nanci Williams: I don't think I articulated what I was trying to get to earlier. I actually reviewed the tape of our last meeting since our last meeting. I think I was getting to my personal frustration, it just doesn't seem like we're moving very far. What I noticed in the meeting dynamic is going, we move to a page, we go in excruciating detail down to the word, we typically defer to staff and we ask them to come back with a recommendation on how to phrase it. And I would suggestion that perhaps we have representatives from all these various groups around the table, that maybe we should be thinking of more of a broad brush approach where the media can tell us what their interest, what they'd like to see in a sunshine ordinance, bib would tell us what they would like to see in a sunshine ordinance, labor, and other cities, and staff comes back and tells us what doesn't work in this city, and then we ask staff to draft an ordinance based on all those things we can review. I again timed it and we're going a page every three hours. So I don't see us getting it done even in the 18 months.
>> Ed Rast: Ed.
>> I agree with some of what Nanci said. After the last meeting, Lisa and I worked together based on our instructions from the task force. And I think we actually accomplished a fair amount. As an example, talking about agendas, between the City's input and mine, we have a draft of definitions. And some of the definitions, I think there are problems with. It will of my suggestions, the city thinks there's problems with. But that's up to the task force to decide. The definitions that we drafted are also the product of the two of us hearing, over the course of the meetings, what the general objectives of the task force are. So working off a document like this I think is very, very helpful with everybody. Where I disagree with Nanci, unless you're lumping me in with staff, is that we need both the City's input and then my input. And then I would suggest, because I heartily concur with the notion of a drafting committee. But I think we need a representative or two of the committee, so it's not just lawyers and city people, but somebody as well. Then we can come back to you with -- as we've done with the definitions, I think we made a lot of progress already on public meetings. And so you have something to work off of, Lisa can give you her ideas from the City's perspective. I can give you my ideas from my perspective. And then you can decide whether that's an issue that is some -- how you want to decide it. If there are other things that, our thoughts are just completely off the charts, and you can decide and tell us to go back and rewrite it. So I agree, basically with what Nanci is sake, other than I think we need task force input into a smaller group into some of the drafting. I don't think we'll be able to hit December 31st, but I think we can move far along and get an ordinance which, by the way from my perspective as a lawyer, I'm not sure what else this task force can odo other than do an ordinance. If you have an open sunshine statute here and one here, that's not going to work.
>> Ed Rast: Sheila and back to Janet.
>> Sheila tucker. A couple of meetings ago, I was trying to get the task force to focus on what staff had developed as a new section of closed session. We realize the way public meetings went, the exact

ordinance language was painful and we feel it has stopped us up. I think hopefully we'll find with the next session and the closed session material that we structured in a way that we can talk at a very high level about what each member wants to see in these provisions. We've asked broad questions. We hope to get your input and go back and it can be a small drafting committee if you'd like that to be, and draft the language. But we will not be putting forward draft language in the further section. So you know, what's being suggested here might fold in quite nicely with the new structure, the new material, and we can go back, after having a good -- a better understanding of the intent, and the types of things you want to see in the ordinance, and we'll draft the language.
>> Ed Rast: Sheila, if we're able to draft this section, that's the first time you'll see it, towards the end of Saturday we should have a good idea if that's going to work.
>> I would agree.
>> Ed Rast: Unless somebody has got a comment I'd like to go back to the agenda and start to move forward as quickly as we can. All right. So okay. Document A, first agenda, you know time and place for meetings. Which is 2.3.
>> Phaedra Ellis-Lamkins: Wait, can we get the update on 22 council reform referrals?
>> Ed Rast: I'm sorry, what?
>> Phaedra Ellis-Lamkins: We skipped the review meeting materials and the 22 council reform referrals.
>> Ed Rast: Oh, I'm sorry. You're absolutely right. Skipped on it. Update on the 22 council reform referrals.
>> The meeting material? Really quick.
>> Ed Rast: Thank you.
>> There were four packets over there of information for tonight's meeting. The one title meeting agenda packet is the primary document for tonight. I hope we all have that in front of us, it had the agenda an the minutes. Section 2.3, time and place for meetings. It has task force member Susan Goldberg's comments, she asked me to please distribute those again so those were there for quick reference. Document C which is a summary of the public's proposals. And I know that that document has not been used widely up until now but as we move through these new provisions I think you can find that there's been quite a few proposals submitted on these provisions. And then finally you'll have the public meeting ordinance comparisons should we want to go back and see what other municipalities are doing. And the last document in that packet are the staff reforms, which Ava will be speaking to. There are several e-mails that we recently received in the sunshine inbox as well as the clerk's office recommending a strong policy of openness with regards to police records. I also had the draft study session agenda which we will talk about later on the agenda. I'd like to walk through what Steph plans for that day and talk a little bit about the task force role. And finally, there is a policy over there on the table, Ava will speak more specifically to, that will be heard by council next week regarding the disclosure of conflict of interest and that is a reform proposal, one of the original 22. The other document over there, or task force member comments that have been submitted along the way in relationship to public meetings. And that's it.
>> At the last task force meeting the task force requested athat staff come back with an update on the reforms that were referred to the task force. So if you will notice in the document, staff has completed eight of the reforms that were referred to staff for implementation. As Sheila mentioned earlier, there is another document that's coming forward which has to do with the declaration and disclosure of conflict of interest which the City Attorney's office has developed and going forward to council on November 21st. It is -- the document is the last document in the meeting agenda packet for those of you who haven't found it. And so if there's any questions I'd be happy to answer any questions you might have.

>> Phaedra Ellis-Lamkins: Have I a question about the report on public subsidies. Which is reform number -- I'm going to try to find it. It's the one where -- here it is. Public -- it's number 11, the significant public interest. And there's also -- this is one that I am -- we as an organization are really interested in. And the reason that we're interested in it, it's just from the perspective of, when there is a public investment, how much time is given before the investment so that groups know that something is happening in their neighborhood, whether it be 30 days, like what's the time line as it relates to this, and also want to be involved, I'd like the committee to be involved in what's the way you measure whether an investment is effective or not. And so part of what we did is in my public comments I supplied kind of some thinking that we've done before because we've been thinking about this for a while in the last couple of years, how do I measure whether it's effective. And I guess I'm wondering how done engaged in that process.
>> Well, you will have an opportunity to address the council on the 30th. And the task force does have an opportunity to address some of the reforms that have been -- that have gone forward to council. So this speaks to --
>> Phaedra Ellis-Lamkins: So this speaks to me the question of the ordinance versus whatever reforms. Whatever the ordinance ends is right on. But there are substance of the way business is conducted. That's where I have significant questions. And what I'm wondering is, with the council spending $1 million or more, or what's the amount of time that's going to be required so that people know that that investment is happening and what's the method to evaluate that investment. And so what I was thinking is that rather than having it just speak in front of the council, that since this is the sunshine task force, some of the issues people raised in the community around open government around public investment or public subsidies, is that something we should discuss here, what's the process for that, and that doesn't all get covered in the ordinance.
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: I had a question about the reform number 10 we had talked about before about the calendaring. And really none of the conversation that we had is really reflected in here. We had talked about real time calendaring, not quarterly, that seems like frankly a joke. So what is up with that?
>> Tom Manheim: This is Tom Manheim. If I could respond to that. Staff followed direction of City Council. This was a reform that was referred to staff by council, with very specific direction, which we followed, which was to find way for them to record out quarterly, redact any information that was personal, so that's what we have done. You're correct that it does not reflect a task force discussion. The council has not yet heard from the task force about that, chairperson Rast, when he went to the council, indicated that there -- I guess the mayor had some questions, is that correct?
>> Ed Rast: He had a series of questions, and the councilmembers did, too. And he indicated he was going to write a letter back which we received I think two meetings ago, which was distributed to the task force. Because there were still open questions, we -- when the question came up we deferred the implementation of the three-day at that point until we resolved the questions.
>> Tom Manheim: If I could just clarify, any changes that the task force wants to make or recommendations that the task force wants to make to any of these reforms, it's certainly at the task force discretion to recommend those. The decision of whether or not to implement obviously rests with the county.
>> Susan Goldberg: Sure, I had actually thought that was one of the things we had come to an agreement on. Was that incorrect? I don't know if others who are here have a different recollection.
>> Ed Rast: We came to an agreement on it but there were still, if I remember correctly, we had three major open issues that we were going to get to when they came up in the particular work plan itself. The

issue you ran up against when the mayor and the councilmembers brought the questions up, the question was, do you want us to implement the 90 days as originally put in or do you want us to do the three days. And they had questions about, because of the whistle blower and the other two, I can't remember, personal confidential or anything else. Telling them to do three days and then you would end up in a situation where the council would be upset because we had given them a complete document. We said fine, go ahead with 90 days and come back when we had completed the entire issue. The mayor indicated along with the councilmembers that they wanted to come back with that memo which came back and we would use that as a discussion point.
>> Susan Goldberg: We have not discussed it yet right?
>> Ed Rast: Because we haven't gotten to that point. Dave.
>> Dave Zenker: In those areas where we have these reforms that have been referred to staff, and we ask this last time, is you know, our concern is, if staff is moving forward on these things, that we want to have input on or we put on so far as to actually make motions on and make recommendations on, when are we going to do that work, so that this stuff doesn't go charging forward and get completed without our input and/or without us making that kind of presentation to City Council?
>> Sheila tucker. I just wanted to remind the task force that the work plan that was approved by council is a pilot, six-month pilot to implement these referrals as stated. So as Tom indicated if there's recommendations we're certainly open to those and when we come back at the close of the pilot and evaluate the implementation and the task force has more recommendationes we'd be more than happy to present those to council.
>> Ed Rast: Tom Manheim.
>> Tom Manheim: Tom Manheim. The council can at its discretion modify direction, change things. I don't believe that there's anything in the reforms we're moving forward on that's in cement in any way.
>> Ed Rast: My remembering of the conversation was, that we were concerned on two grounds. One, that we make a comment upon it. But also, we were concerned that we don't start making comments out of context. And therefore we would start to approach some of these as we got to these areas. What's happened as been pointed out this evening is, we are considerably slower getting to these sections than we anticipated. So it's --
>> Dave Zenker: This is one of these rare areas that we are in agreement and have made a motion to do so. This is a recommendation to the City Council that needs to go to them. And so I guess my question was actually more of a logistical one, how do we make that recommendation to them, that we explain the means behind which we've made this recommendation and convince them that what we have recommended is actually a better way than what is before them.
>> Ed Rast: Phaedra.
>> Phaedra Ellis-Lamkins: I want to wholeheartedly agree with Dave. These issues are going to impact right away and they're happening without us paying attention to them. I think it would be worth it for us to at least -- because there's a memo or something going forward to the council or at least a report on the sunshine task force, to have something clearly stated, this is a recommendation on the sunshine task force on calendaring. That's why I asked this to be agendized today and Saturday, around government accounting reform number 3, expenditures of $1 million or more that require public review. I'd like to have some recommendations even if it's here's a time line where people should get involved. I think Susan Susan is right. I think Chuck did run on a platform of government reform and accountability. Those are two significant ones. I think certainly we should have a recommendation to the council. If they choose to ignore it that's fine. I think calendaring we've had consensus on and I think it would be important for us to have some say around huge public investments and process.

>> Ed Rast: Sheila tucker.
>> Sheila tucker. I was just going to point out that when we do get to the point on the agenda to talk about the study session, I had hoped that we could start a discussion or dialogue on those issues that you want to bring to council's attention on the 30th. And calendaring may well be one of them, as well as the item of significant public interest. So I'm hoping that we begin a brainstorm exercise this evening during that topic that helps us with the presentation of material by the task force on November 30th.
>> Phaedra Ellis-Lamkins: This is the stuff that is being -- like before the ordinance happens which is critical, this stuff is happening as we're continuing to meet. I want to make sure we are flagging this because this is the stuff, the checklist that was done out of the sunshine task force that we're not paying attention to. And so -- and it's not a criticism of what the staff is doing. It's just we did okay, which is this ordinance is critical, yet we didn't focus on the stuff that's happening. That's why I'm a proponent of sending it to a drafting committee so we can have discussion on this stuff because this is what's actually happening right now.
>> Ed Rast: Nanci.
>> Nanci Williams: That kind of goes to what I was saying earlier. I'd rather we be debating and discussing general policy instead of what we're doing which is editing by committee.
>> Phaedra Ellis-Lamkins: I would be happy to present a recommendation on this. I gave comments I think after our second meeting specifically about this one. I'd be happy to make representation recommendations. This is like the policy level discussion, what we think government should do when it spends money. Should meetings have to be at night if it's in a community that impacted. Should they have 30 days -- that's the stuff --
>> Could we take people to look at it?
>> We already had agreement on the calendar.
>> Phaedra Ellis-Lamkins: I'd be happy to be on the committee, we make a recommendation. But we'd be happy to make a presentation on Saturday. Brenda.
>> Are we thinking of forming a committee for each one of these reforms?
>> Ed Rast: Go ahead, Lee.
>> The Clerk: Lee Price. This item is on your study -- or your agenda for Saturday, the discussion of the 22 council referrals. As staff we expected that we would hear your input on those reforms on Saturday as well as start that discussion.
>> Ed Rast: The way it was set up is you were supposed to have an update today, we'd go back on Saturday, and that would be prepared for the study session coming up on the 30th.
>> Phaedra Ellis-Lamkins: Right now, we only have 20 minutes for that discussion on Saturday on the agenda. I don't think we'll have a full discussion on those substantive issues, the 22 reforms on Saturday. So my recommendation would be, I'm happy to do this in the form of a motion but I need some feedback from the group. I think we should pull out the reforms we feel we should have a discussion going to council, we should identify, I'm from the League of Women Voters from willow glen, that we should be able to talk about it on Saturday, so when the report goes forward on the 30th we've discussed those issues. And I'm happy to be on a committee, if people think it's a committee structure that looks at issues that they want to raise, whatever it is, whatever the way to do it is, I'm happy to do it. I just want to be sure we raise the issues.
>> Ed Rast: Virginia.
>> Virginia Holtz: I'm concerned about this, it sounds good to have more people working together to bring these issues forward. And to raise issues on the committee, and at the policy level, I agree with Nanci on that. What might -- what is concern to me is that if we -- if we cherry pick the issues, they might or might

not be -- some of these need to be developed in conjunction with another element, and another issue that we have, you know, before us. And it might affect one or the other. And I'm not right now thinking of one in particular to give you in a good example. But it seems to me that sometimes these have a -- an effect on another section, and so to do that kind of thing and moving forward with making decisions on certain aspects, without looking at the whole picture, I think, is something that we need to be cognizant of.
>> Ed Rast: Phaedra.
>> Phaedra Ellis-Lamkins: I'm certainly happy to look at all of them. But the reality is, all of these are being done whether we talk about them or not. At least the ones they say completed, so some of these in the world of the council are already done. So what we are essentially doing is pulling them back. If you think we should pull all of them back, because some of them say completed. I'm just saying there might be pieces of these that we all might be interested in talking about before they go away. For me -- I don't know if that makes more sense.
>> Virginia Holtz: That makes more sense.
>> Phaedra Ellis-Lamkins: What I'm saying is there's one on here that says staff changes the memo format. I don't know if that meets the needs of what our population thinks about the world. Subsidies oar key issue. I'd like us to have a conversation about the way they happen.
>> Ed Rast: Let me make a suggestion, see if we can move on. We have it agendized on Saturday. If the task force would take a look at these items between now and Saturday so you could flag the items that should go to a work group or a drafting committee or that might have as Virginia and I think the consensus of the task force previously said, there might be other things that would work into it. So you would have time between now and Saturday to look into it. We could address it as an agendized item on Saturday. That would give us time before the work-study committee on Thursday, the 30th. So unless -- what is -- Margie and then Phaedra.
>> Margie Matthews: I think that's a good idea. But I think we have 13 reforms that have been referred to us. And I for one want to recommend that we already have a full plate, we can't seem to get a grip on, and that maybe we ought to focus on the 13 reforms rather than the 22. It appears that the council has already decided several and directed staff to implement them and we need to focus on what we've been directed to, and that's the 13.
>> Ed Rast: Yeah, that's correct. We were originally --
>> Margie Matthews: The cover to the listings, the status report is dated, was written yesterday.
>> Ed Rast: One of the ways of handling that --
>> Margie Matthews: I'm sorry, 14.
>> Ed Rast: One of the ways is to prioritize the 14 that were handed to us and look at the other ones. My concern right now is we were supposed to have an update on this particular item. I think it's important we have the discussion. We have it agendized for Saturday's meeting. You have time between now and Saturday to review the issues and think it through and make your recommendations if we want a drafting committee or which ones we want to take a look at so Karl.
>> I want to clarify, while there were 13 or 14 things given to us we decided at the second meeting that we were going to expand those. We're not limited to the 14.
>> Ed Rast: Phaedra.
>> Phaedra Ellis-Lamkins: I want to make sure we have more than 20 minutes agendized to do those. Also have some discussion about some of the things that have been completed that I just want to make sure that we're identifying ahead of time it's going to be longer than 20 minutes.
>> Ed Rast: Okay.
>> Didn't we spend an entire meeting discussing the calendar? I think that is discussed.

>> Ed Rast: Excuse me.
>> I thought the only --
>> Ed Rast: Excuse me. Sheila.
>> I'm going to remark, the topic would the suitable also later in the day under the discussion item, study session.
>> Ed Rast: Let's get back on our agenda items. I think we can think about it, go forward from there. All right. Okay, discussion. We're in -- okay, we've completed -- we're into agenda item 5, discussion of public meetings category. And we're 25 minutes behind in the schedule at this point. Ken Podgorsek.
>> Ken Podgorsek: Ken Podgorsek. I have a quick comment, looking at document A, I don't know, maybe I'm just missing the point. And this continually happens and I need someone to explain to me why it happens. We had excruciatingly long discussion on definitions. Where for lack of better term, as Nanci pointed out, we spent three hours on a paragraph. What I find disturbing, on a regular basis, is we define that paragraph. We actually define the words, define what we want in the paragraph, went through all that. But then we come back in, I open up the paragraph, I look at the paragraph and we're back to the old paragraph. So -- I don't really -- and could you correct me? That's with why I'm asking the question.
>> Lisa Herrick. We have not revised document A. We have kept track of all the corrections the task force has agreed to.
>> Ed Rast: The rationale of knows not revising it, we have already almost a foot and a half of paper. And we want to continue to move forward.
>> Ken Podgorsek: That's what I said. I knew I was missing something.
>> Ed Rast: Page 4 of 14. Item 2.3, time and place of meetings. Go ahead. Document A.
>> Virginia Holtz: Document A but what section did you say?
>> Ed Rast: 2.3. It's half-way down on page 4 of 14.
>> Ken Podgorsek: Mr. Chair. Ken Podgorsek. May I make a suggestion to the committee and of course you can choose to do it or not do it. Where we have -- I they we need to stay away from wordsmithing. Where we have worked really best on these documents, discuss intent and legality staff come back later with the intent into wording. I think if we go through sections, if we discuss intent, I think we will just start really just moving through this stuff really, really well.
>> Ed Rast: Okay. Yes.
>> I just want to remind the staff, that on September 12th the committee did take action on public and time and place of meeting of policy bodies. It's written behind you.
>> Is there someone who's presenting this document, and boiled down issues that we have to make decisions on?
>> Lisa Herrick. You're looking at me like I have an answer so I'll give you an answer.
>> I'm just wondering, is there an author of this document that says look, we've drafted this and these are the issues that the commission has to decide?
>> Well, I can tell you the sequence of events and I think Ms. Goldberg --
>> Skip the sequence of events.
>> You asked the question and how about if I give you a brief answer.
>> Is there somebody that can present the decisions to us?
>> The answer is, I can go through the document and what I'm trying to tell you is that there was discussion by the task force on September 12th as I just mentioned, and there was some -- there were some decisions made that was encompassed in this document here, and then Ms. Goldberg made some follow-up comments. I can walk you through document A, Ms. Goldberg can walk you through her comments. There is not a definitive answer that you're looking for.

>> I was just wondering, if someone could lead us through the issues.
>> I'm not sure Dan if this is where you're going but I hope this is. I think it is a good point that in we could identify people to say to us, here are the outstanding issues that you're looking at, it would be helpful and so that we could say, here are, under public meetings, here are the three things that these documents make the case for, here's what we have to decide, that would be really helpful.
>> I agree, Phaedra.
>> Phaedra Ellis-Lamkins: We're talking about this A Dave.
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: If we're going to start maybe we should start. I had an issue under policy bodies because it talks about policies bodies that don't meet regularly. I think that's language that we should be concerned about, you could evade the act by just not meeting regularly. Without getting into a wordsmithing discussion, I would lay that out there as a concern.
>> Ed Rast: You'd recommend, striking out except for --
>> Susan Goldberg: I'm not -- the intent that I'm expressing concern about is that the law not be able to be evaded by meeting irregularly.
>> And I think we talked about in a prior meeting that that's just too vague, that we'd like to see better language, and I don't think we have the language here tonight.
>> Ken Podgorsek: Again, Ken Podgorsek. If that's what it demonstrates, our previous intent is do remove that language. That intent continues through the document, as we proceed through the document. Mr. Chair, may I make a comment?
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: I want to go down through ancillary documents. I find --
>> Are we on that yet?
>> Ed Rast: No, we're still going through.
>> Ken Podgorsek: My apologies. I will wait.
>> Ed Rast: Time and meeting of policy bodies?
>> I just have a question, is everybody okay with removing the regular meeting requirement that Susan brought up?
>> Ed Rast: That do not meet regularly is what --
>> Correct. There's a requirement that in order to be subject to this act, bodies have to meet regularly.
>> Phaedra Ellis-Lamkins: No, she said the opposite.
>> She wants to remove that.
>> Is everybody okay with that, closing that loophole?
>> Phaedra Ellis-Lamkins: I have a question, not I guess an answer. Does this mean someone's transition team is covered?
>> Susan Goldberg: No. We're talking about policy bodies now, so these are you know, elected boards and officials and that. This does not apply to staff meetings, and it never has.
>> Phaedra Ellis-Lamkins: No, but wouldn't the transition team be an ancillary body?
>> Susan Goldberg: I don't know.
>> Ed Rast: It's outside the city unless --
>> Susan Goldberg: I can support that, we have that round and round about policy bodies --
>> That's what we are talking about here.
>> Ed Rast: Okay. All right. So we're finished with it, with the policy body and ancillary bodies? No, we're not finished?
>> Ken Podgorsek: I want to make a comment on 2.3, can I make that comment now?

>> Ed Rast: That's what I was asking. Any other comment on --
>> Ken Podgorsek: I have a comment on section 2.3. Specifically, I don't know this language bothers me. We're talking about public meetings and the language in here is the meetings need not be conducted in any particular space with the accommodations of members of the public, [reading] you know and it's okay. What I'm saying is it's a public meeting or not a public meeting. It is not maybe a public meeting. A public meeting held behind closed doors or impossible to get to for security reasons or whatever is not a public meeting. It is a private meeting and it defeats --
>> Ed Rast: What you're talking about is 2.3., the whole section, if you read through the whole section it's objectionable for lots of reasons.
>> Ancillary body?
>> Ed Rast: ancillary body. If you read through it, it must be accessible upon inquiry, if you don't ask for it you don't get it. If they hold tonight a small room, it's a problem. Meetings must not be conducted in a particular space, et cetera. The whole in my view the whole thing is problematic.
>> Ken Podgorsek: You talk about loopholes, I find loopholes like crazy.
>> Ed Rast: In the whole paragraph. Tom Manheim.
>> Tom Manheim: Can I ask a question for clarification? I don't know how the distinction came about between policy body and ancillary body, but there is some recognition that these groups have different meetings and different requirements. Could the task force maybe clarify how they want an ancillary body treated differently than a policy body? Because that might help with this definition.
>> Ed Rast: Phaedra.
>> Phaedra Ellis-Lamkins: This is why the question, I just want to ask Ed, as an example, a transition team is an ancillary body. So by definition, all of their meetings would be public. And that's -- all I'm saying is, I want to give real-life examples to the stuff we're doing. Because it is a body that would hold regular meetings that would -- Ed could explain. That's what I just asked Ed. Is this an example of an ancillary body and he said it is.
>> Susan Goldberg: A transition team of like staff members?
>> Phaedra Ellis-Lamkins: No like you appoint ten people.
>> Susan Goldberg: If you point ten people, the mayor's transition team, exactly. They would all be open to the public.
>> Tom Manheim: For clarification, the mayor's internal staff meetings, just his own staff, you would want those open to the public?
>> Phaedra Ellis-Lamkins: No, that's not what we're suggesting.
>> Ken Podgorsek: Those would all be city employs.
>> Phaedra Ellis-Lamkins: If you became mayor Tom, and you appointed these 12 people, would that be an ancillary body? The answer would be yes. If you met with those 12 people those would be ancillary meetings. We want to make sure we agree on the type of bodies these are. Giving examples of these are the type of groups would be helpful to me.
>> Susan Goldberg: But it isn't a meeting of the mayor-elect and his staff.
>> Phaedra Ellis-Lamkins: No.
>> Susan Goldberg: Correct.
>> Phaedra Ellis-Lamkins: Right.
>> Ed Rast: Tom Manheim and then Ed. Ed Davis.
>> Ed Davis: Let me try and answer Tom's question about this whole notion of ancillary bodies came from. It's important for us all to realize. There is no Brown Act equivalent. The thinking was there are bodies that are created or that work with city governments, or city governments, that make decisions that

are important, but they should, for practical reasons be subjected to less scrutiny and less stringent requirements than a policy body. So you know, our first task is to finish defining what an ancillary body is. As I told Phaedra, I think under the definition that Lisa and I are working under that it would be considered if the mayor appoints this transition team, it would be an ancillary body. Where, just to give you an overview of the difference between how a sunshine ordinance would govern an ancillary body, they don't have to hold regular meetings. Accessibility is required only to, and this is the problem that Ed Rast has, but I think in looking at the other sunshine ordinances, what they're focusing on, accessibility is required only to the extent practical. So given the circumstances of access, because you don't want to require some ancillary body to, you know, hire a hall or something that's just impractical for them. The notice requirements are much shorter and different, usually, with an ancillary body. The -- sometimes public comment is not permitted. I know Susan's draft suggests that public comment should be permitted. There are issues about how onerous the agenda packet should be, in terms of distributing it to the public. A policy body is able to distribute agenda packets a lot easier than an ancillary body. Because an ancillary body is not quite as important if you will or have as much impact as a policy body, the sunshine ordinance are much less stringent. But there is no Brown Act equivalent. This is something we are creating all on our own and can be as limited or as extensive as is practical.
>> Ed, do you want a statement of intent from the task force regarding transition teams?
>> Ed Davis: Sure, anything you want to tell Lisa and me in the drafting would be fine.
>> Susan Goldberg: I would be curious how, do you think how they're dealing with the ancillary body question is by and large okay, does it work, is it too weak?
>> Ed Rast: Ed or Lisa.
>> Excuse me for interrupting. I want us to keep on agenda. We are going to talk about definitions. And I pause for a minute because I think in discussing time and place of meetings, it clearly talks about ancillary bodies. But when we start talking again about the definition of ancillary body, it is not agendized. For a sunshine group we should be sticking to the agenda. And sorry to interrupt the conversation. But I want to be careful.
>> Then it's impossible to have a meaningful discussion. Because we had a long discussion on ancillary bodies, and I objected to lots of the definitions. I was thinking about nonprofits. Any of the meetings that happen, if it's publicly noticed, how could a mayor-elect get advice on staff, if the meeting is open to the public, and people's livelihoods and qualifications and skills, it's Public Health unworkable. If we are not able to revisit the definition of ancillary body, I can support this but it all links to what they can and cannot do. So how can we have a discussion? And just while I have the microphone I very strong support what Susan has suggested, see what other cities are doing in the area of ancillary body.
>> Ed Rast: Lisa and then Karl.
>> Karl Hoffower: Karl Hoffower. All they have to do is not meet regularly. I thought we changed this thing -- that was right. Even then when it comes back to there, the mayor-elect isn't in this list.
>> he's a Councilmember.
>> Karl Hoffower: On this particular time with this particular mayor-elect it would fit.
>> Phaedra Ellis-Lamkins: Part of the things we have to raise with each other, Chuck has already appointed his transition team, none of this has been passed so it won't apply to him at least, this ordinance won't. But what we're trying to do is identify in this future, I have practical questions what we're doing. Is this the intent of what we're doing, is this the purpose, and so that's why I'm raising it. But it would be covered.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: Ken Podgorsek. Much of what you say I have an agreement with. Again that goes

into the net-casting concept. We want to be careful we're not casting a net and gettings unintended consequences. My purpose in bringing this up is read this language. We're talking about public meetings. My point was more in the sense that the language is wrong. We're talking about public meetings and giving the exception of when a public meeting doesn't need to act leek a public meeting. Many of the decisions that affect neighborhoods never go to a policy body. They stop directly at a director's level. The director is advised by ancillary bodies many times that are created by that director. Many times there is not public input on these items and the public finds out and gets to be a scandal and goes to the council and gets examined 2700 other times. If it would be right with public disclosure and discussion, the decision could be made at the public director level. There are a lot of meetings going on in the city that quite frankly don't need to be brought forward in a public way. The mayor's transition team, I don't think meets any definition of public discussion. That's the mayor putting his staff and team together to make things work.
>> So you would not favor --
>> Ken Podgorsek: Thank you for clarifying that for me. The point for saying that is I want to stick on this issue. And this issue is look at this language and say to yourself, does this language define a public meeting? Forget all the other stuff. The language has to be good. And then we can come back later and we can define what meets the ancillary. But we can't do -- but we can't, you know, if the language really says oh, you have to have public meetings but you really don't have to have them, then we're just back to the same stuff we were before.
>> Susan Goldberg: The question is when is a public meeting necessary.
>> Ken Podgorsek: No argument.
>> Susan Goldberg: Should it be a public meeting or not.
>> Ken Podgorsek: But this section doesn't talk about when it's necessary. What this section talks about specifically is how can you get around holding a public meeting. That's my problem with this section. I agree with much of what you're saying and I agree that we have to define so we're not casting that net in directions we don't want it to go. But we need to make sure that the language is right to do that.
>> Ed Rast: Ed Davis.
>> Ed Davis: I was just going to agree with what Margie said, I don't know how it fits on keeping on the agenda. Unless you know what an ancillary body is, it's difficult to make a decision on whether or not it's appropriate to have their meetings public. There are suggestions that Lisa and I have worked on, that I know reads on what Margie has said. If we don't include nonprofits she probably wouldn't have the objections of the kinds of meetings that they have. We're pitting the cart before the horse a little bit, but having said that, and you know, Lisa is more the parliamentarian than I am. She pointed out that we're off the agenda topic. But you know, I think we're making a little bit of progress here at least talking about issues. But until we understand what a policy body is or an ancillary body is, I don't think we can talk about what should be open to the public and what shouldn't.
>> Ed Rast: I think -- okay.
>> Ken Podgorsek: Oh, man.
>> Ed Rast: Karl. You had your hand up. Okay. Lisa.
>> The if the difficulty -- Lisa Herrick. If the difficulty is talking about the time and place for meetings because there needs to be more discussion about what an ancillary body is versus policy body then I might suggest that the appropriate thing to do is go to the next item on the agenda, agenda requirements, talk about that and then table this discussion so we can talk about it on Saturday. I think that would be an appropriate context.
>> Ed Rast: Susan Goldberg.

>> Susan Goldberg: What I was going to suggest is why don't we talk about the things that apply to policy bodies. Because I think there's large agreement about what a policy body is. We all agree with that.
>> Ed Rast: All right. 2.3.20, ancillary body A and B, we're going to go to 2.4 policy body agenda postings. Phaedra.
>> Phaedra Ellis-Lamkins: I just want to concur with Lisa and Ed on this piece which is I think these are really difficult to talk about without knowing who we are talking about. So when we talk about things like time and place of meeting, agenda requirements, notice requirements, I don't actually know why -- why I raise the question, it gives a vivid picture, I don't think how we have these discussions, then you say okay, I don't feel comfortable saying, here's the notice requirement if I don't know who I'm talking about and what that group is, because -- and that's where I guess I need it as an example and why I'm struggling here because if it's a group that we're saying here's the type of groups that it might end up being, we might say oh, ancillary group, here's the three things we might be worried about. Absent the definitions of who they are I don't know how you define what their rules of conduct are. So I have been very nervous about having the discussion about these things, beyond public comment by members of policy bodies because all these things also relate to ancillary bodies.
>> I think we've agreed on policy bodies. I think page 2 of 14 is that a current definition?
>> Lisa Herrick. No, it's not a current definition.
>> Ken Podgorsek: Let's all face it, policy bodies are defined, Ken Podgorsek, in the Brown Act. And we all basically know what a policy body is. Our problem is we're trying to define what the ancillary bodies are.
>> What agenda item --
>> Ed Rast: 2.4.4. Let's slow it up for a minute. Tom.
>> Tom Manheim: A question for Lisa our parliamentarian, Lisa. Is it -- I assume that it's fine for -- can we refresh the task force, task force memory on decisions it's made in the past? I'm just thinking of, if there's a question of what a policy body is. Is that allowed?
>> Ed Rast: Yes. Phaedra.
>> Phaedra Ellis-Lamkins: This is what doesn't make -- I'm sorry this is difficult and I'm sorry I'm being difficult. But we're discussing, the definitions we're not discussing until Saturday, including policy body. The definition Lisa and Ed are coming back with. That seems a little backwards to me.
>> Ed Rast: We had a suggestion earlier that we talk about policy bodies. We're on agenda item 2.40.10 (a). Policy body. Trying to work, a lot of these are, you can use a the policy body as-is, so let's start off with A-1, comments. 2.4, 2.4.01, policy body A, agenda posting 1.
>> No Web posting requirement. I thought that should be in there.
>> Ed Rast: Towards the end.
>> It's omitted from special meetings.
>> Ed Rast: Question of staff on that. Why would each policy body designate a post and location. I thought the city had a central post-in location that everybody uses.
>> Lisa Herrick. This is not a staff document. This is actually a reworking of the draft that Mr. Pulcrano brought in. I reorganized it and made some changes based on what we understood the direction to be from the task force on September 12th. This isn't our language. We haven't signed off on it. This is language mostly from the Milpitas ordinance.
>> Ed Rast: My question is, the city has a location where everything's posted, am I correct on that? We already got the city's public access Website and we've agreed on a master calendar. Those three things should be in there. Whatever policy body or other -- anybody under the sunshine ordinance ought to post in one place, rather than play game and try to find where in the heck it is in the building.

>> You want us to reflect current policy in this section?
>> Ed Rast: Including adding the master calendar. Next. Call your attention to the last sentence in that. The description should be concise, written in plain concise English, provided to the policy body, the plain easily understood English is what we're trying to accomplish in the whole sunshine ordinance.
>> Virginia Holtz: Virginia Holtz. But it has to be accurate topic.
>> It speaks to a meaningful description of each item.
>> Virginia Holtz: Description, okay.
>> Ed Rast: You're right.
>> Question, are we going to talk about other languages in this group? Are we going to accomplish that at all? It's pointed that it's plain English.
>> Ed Rast: Isn't the city policy that we publish in three languages?
>> Tom Manheim: Tom Manheim many of our publications are published in three languages. It is -- there is a fair amount of time and money that goes into that process. But we've never tried to apply that to for instance every agenda. There are so many agendas and the pace with which they're put out, translations could be problematic. And I confess I don't know what other cities are doing.
>> Karl Hoffower: Karl Hoffower. That is just published in English and there's no rule that that has to be published in another language?
>> The Clerk: The only rule my office deals with, has to do with the voter rights act. So we do have to publish voter materials in the five languages and I pay the registrar to do that.
>> Karl Hoffower: And based on what Mr. Manheim said --
>> Tom Manheim: We target, make a determination, certainly everything that goes out citywide, it is almost always in the three languages. If we go into a particular neighborhood, we may make choices based on our knowledge of the languages that are spoken in that neighborhood. We oftentimes, sometimes when we don't publish in three languages, we'll publish in English. We'll have wording, this is available in another language.
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: If there was something on the agenda that was going to affect a part of time where say it was a heavily Latino community or Vietnamese community, is there an occasion when you did those agendas in another language?
>> Tom Manheim: Not to my knowledge, we made sure we had translators available so people who attended the meeting.
>> Ed Rast: Tom, correct me, public policy 630 addresses multiple language meeting notices. I don't know if it addresses agendas in other languages.
>> Tom Manheim: It doesn't.
>> Ed Rast: Just the meeting notices in other languages?
>> Tom Manheim: It addresses, the idea, when you go out into a community you reach out to them in the appropriate language, you make judgments based on the knowledge of the community, and the need to translate. But it's not a blanket, always translate or not.
>> Ed Rast: Okay. Judy Nadler.
>> Judy Nadler: Judy Nadler. But the ADA accessibility is standard, so is that a problem to just say also, about the other languages, upon request?
>> Tom Manheim: No. You mean, you're talking about adding the other languages in?
>> Judy Nadler: The boilerplate about ADA.
>> The Clerk: Well, we'd have to have the ability to do it. We can't pop on the agenda that we'll do it on request and then not have the resources to meet the request.

>> Judy Nadler: But the ADA you have to give advance, if you have special needs.
>> The Clerk: And we can accommodate them.
>> Tom Manheim: I believe the requirement is 48 hours notice and we can meet the ADA requirements. I'm not sure that we could accommodate translations in that time frame, at least with our current resources.
>> Ed Rast: Ken Podgorsek.
>> The Clerk: We will bring translators to the council meeting if need be. We have a very diverse workforce, so we have a lot of employees that are bilingual in various languages. And/or if individuals bring with them someone who can translate for them. But we don't currently have the ability to translate our current written materials into other languages.
>> Tom Manheim: You'll notice even on your agenda, we have wording that says, if you want translation service, we'll provide 48 hours notice.
>> Ed Rast: Please announce your name so the recording can pick your name up that way.
>> Ken Podgorsek: Ken Podgorsek. In my position I've had circumstances where I had to get documents translated. Translation can be quite difficult. And legal documents can many times be even more difficult. And I think it would be probably cumbersome to require the city to translate legal documents into other languages on a regular basis.
>> Tom Manheim: Tom Manheim, you haven't lived, before you have mediated a fight between outside translators and inside translators, it is a very interesting process and time consuming.
>> Ken Podgorsek: And if you write it incorrectly it's amazing how easy it is to offend people and you don't understand why you're offending them.
>> Ed Rast: Margie Matthews.
>> Margie Matthews: Thank you for that, that is another area that is not within the purview of this commission but it is important to acknowledge it.
>> Ed Davis: Ed Davis. Confusing things rather than enlightening them, if we agree on this language, what should be in the agenda, that that be moved to section E, which is requirements of what belongs in an agenda and not in the section for posting. So again, the posting would simply say, number 2, at least ten calendar days before regular meeting a policy body must post an agenda for the meeting, period. And then move the rest of the body of that to section E.
>> I agree.
>> Ed Rast: Susan Goldberg.
>> Susan Goldberg: That is something that fits better in that section.
>> Ed Rast: Is there consensus on that? Virginia Holtz.
>> Virginia Holtz: I would like to move that we approve the policy -- public policies, A, agenda posting, 1, and then the first sentence of number 2. And get that put to bed.
>> Ed Rast: Agenda posting 1, we may change this to it. So you're suggesting that you approve it as-is or --
>> Virginia Holtz: As modified. As Ed suggested. As-is.
>> 10-day posting requirement, right? [simultaneous speech]
>> Do we need a vote?
>> Ed Rast: We have a consensus on it.
>> I'll second.
>> Ed Rast: Rivas-Cosby seconds it. Section B, staff reports and council memoranda. Susan Goldberg. I wanted to say something. The comments I look at is, says all staff, so the question is, is that city staff, council staff? Second, when you get down in the third paragraph, middle of it, it says or. So it means, the

way it's written here is you post on the Website or it's available. I think we want and instead of or. And then the other one is, office of City Clerk, available for, you know, available for inspection, copy. I think it is, what the staff is and put an and in. Susan Goldberg.
>> Susan Goldberg: It doesn't say staff, it says all staff reports.
>> Ed Rast: Okay. We have two definitions of staff. One is council staff and city staff.
>> Susan Goldberg: I have a suggestion that would resolve that. I would change that to agenda packet. Agenda packets related to the items on the agenda. So I mean, this is -- what I really think this is about is, is people getting access to the agenda packets. And so --
>> Ed Rast: So you're suggesting we change the heading, staff reports and council memoranda to agenda packets?
>> Susan Goldberg: Under B it would say agenda packets, staff reports, and policy body, not council memoranda, and under 1, we change that to agenda packets, remitted to the items on the agenda for a regular meeting must be posted blah blah blah blah.
>> Ed Rast: Phaedra and then Margie.
>> Phaedra Ellis-Lamkins: I have an intent statement, if the intent is not for City Council member staff to give them a report, for that information to be on the Website. The intent is for the reports that are done by staff, that are coming to the council for general information.
>> Correct.
>> Phaedra Ellis-Lamkins: I want to make clear. Because there isn't always clarity around definition of staff, we're talking about city staff reports to the council.
>> Susan Goldberg: This is anything that will be discussed on the agenda, and these are the backup documents that, that the council has.
>> Phaedra Ellis-Lamkins: Right. I just want to make sure, so someone besides me writes the intent.
>> Ed Rast: Susan, in it it says council memoranda, in it, they talk about a different time frame for council memoranda which is three days.
>> Susan Goldberg: I would change that to ten.
>> Ed Rast: Want the council memorandums at the same time as the staff report? Is that practical?
>> Susan Goldberg: I think the point here is that we want to include documents related to the agenda items, and make those available to the public for as much time in advance as possible. So that -- and so that's why I would define it in this way, make it consistent.
>> Ed Rast: Margie and then Ed Davis.
>> Margie Matthews: Well, I like the ten day, six day, three day, and item 5 I'll ask for exceptions, although I couldn't find what those were. If everything looks like a done deal, when everything is out in a nice packet ten days before, all taken care of well before the council has a chance to act. And as I mentioned before, there's a die electric particular, there's a back and a forth, there's a resolving of issues, there's an art of politics, there's listening to the constituents and the parties involved that happens between the time the staff report is different and the council has to have a substantive discussion. So this 10, 6 and 3 looks good to me. Having everything out ten days in advance just again is not -- I mean, this is government.
>> Are you suggesting that the public get involved before the staff reports?
>> Margie Matthews: No, if the staff report comes out ten days in advance which I support that it should, which is before the council gets it which is good. But then there's this time to see, you know, to test it against the public and to see about the parties involved and to you know, talk about it with other councilmembers. It is the art of politics. It is how legislation is made. So after that point, then there's the time for the councilmembers to give some thought to it and issue a recommendation. So you need a little

bit of time in there. If the councilmember were ready to do a memo ten days before, something would tell me that they had private meetings with someone to be able to have a recommendation on this at the same time that the staff report came out.
>> Virginia Holtz: Mr. Chair.
>> Ed Rast: Virginia Holtz.
>> Virginia Holtz: In the scenario that you're painting for us --
>> Ed Rast: Margie?
>> Virginia Holtz: Margie, now, I don't see where the public gets involved between the time that the staff reports, and then you say, and you're happy with the three days for councilmembers memos. But there's no public input into that time period. And the public only has three days to respond to a council memo. Which might be and often is very significantly changing the whole proposal.
>> Margie Matthews: Well, the public has access to the staff recommendation and then the public has three days access to the councilmember. And if it's less than three days it would be deferred, giving them another week. Maybe I'm not getting it.
>> Ed Rast: David.
>> Let me say I think three days to get council memos is still a huge improvement, considering most of them come out the day of the meeting, and the public doesn't see most of them, they are handed out at the time of the meeting. Frankly to see council memos posted three days ahead of time would be a huge improvement.
>> Ed Rast: Susan.
>> Susan Goldberg: I defer to Ed. , because he is so patient.
>> Ed Davis: Not really. We're working our way into some confusion here that concerns me. And we're back to our old problem about not knowing how we've defined things yet.
>> Ed Rast: Right.
>> Ed Davis: But agenda packet as defined includes any memorandum prepared by a member of the policy body, city staff, or council staff, pertaining to a matter to be considered by the policy body, at the meeting. From what I'm hearing, there is some kind of document that, this three-day document you're talking about --
>> Ed Rast: Council memo.
>> Ed Davis: A council memo, is the task force intentioned that the council memo be included as part of the agenda packet which we previously indicated was going to be a ten-day notice period.
>> Ed Rast: That's the discussion. There's two sides that I hear about it. One is, some people believe that the City Council memos should be included at the ten-day point. Others believe they should be as late as three days. One of the issues that you run up against is, if the city staff report comes out, that then starts the public discussion on that particular item, and therefore -- and then --
>> Ed Davis: I understand that. All I'm saying is, in order for us to do the drafting, we need a good definition of what the council memo is, and how that distinguishes it from other memoranda prepared for the council.
>> Ed Rast: Good point. Ken Podgorsek.
>> Ken Podgorsek: I'm not going to get into the definition of council memo but I want to bring up a pet peeve of mine and that's three days. Council meetings are Tuesday. 5:00 on a Friday afternoon is within three calendar day. Noon on Monday, giving you one working day which is a significant improvement from the current thing, five minutes before what's heard on the agenda. I would really like to suggest that if we're going to be using the term calendar days that we really increase three calendar days to five calendar days, that makes it effectively Wednesday afternoon at 5:00, then have you three days to deal

with the issue.
>> Ed Rast: Tom Manheim.
>> Tom Manheim: If I could take just a minute to kind of describe what our process is for those of you who are not familiar, I think it might help. When the item is going to council, the staff report which is the term we use which is a report from the staff to the council that essentially provides all of the facts and information, as well as staff's recommendation about action that the council should take. Prior to that memo coming out, the council is not going to have the ability to form any opinions or draw any conclusions about the action. They just don't have the information. So that staff report you're talking about is essentially the initial piece of information that goes to the council and to the public at the same time, that allows both the council and the community to begin forming opinions and drawing conclusions about how they feel about whatever staff has recommended. There are occasionally supplemental memos, clarifying something that was in the original staff report that was not correct or providing additional information that was not available when the staff report came out. And then the last, generally the last sort of communication you receive on an item, we generally would call a council memo, and those are memos coming from council offices about the item, generally laying out, you know, a councilmember or a couple of councilmembers who, whatever number have signed it, their recommendation, or their beliefs about that item. So if that helps at all in determining, you know, how that -- I guess I'm trying to help you understand some of the challenges, if you're asking for the council to be putting its memo out when the staff report is out at the same time, they simply don't have the information to do that.
>> Phaedra Ellis-Lamkins: Phaedra Ellis Lamkins. I just have a couple of questions. On the agenda, I just want to raise again the definition issue because I realize as Ed raised what they're looking at for agenda packets would include what we would say as council memos. I just want to flag, I think we're going to have a lot of these conversations on Saturday because some of the things we think we have clarity around, we really don't and the definitions are going to change on Saturday so we're going to be revisiting the same issues. Which is a problem in my mind but may not be in others. We're clarifying, hey, these are the definitions, but this is what we have created because we're having the conversations on Saturday. Any way we can figure out how not to have this conversation is I think important. I think I understand Susan's intent and Virginia's in order to have the information ahead of time. I would agree with Margie, I would be nervous if council had a memo the same day as the staff report, because the assumption is the staff report is going to the councilmembers. If the councilmembers get it on that day and all of a sudden have a prepackaged memo on the staff report that would make me a little bit nervous. I think it's fair to have it beforehand, just not the same day the staff report comes out. The same day we're asking ourselves to respond the council probably needs its own time to respond. I think the three-day window is fine and if it's three days at noon and maybe we say -- define what three days looks like, if it goes to five, I just think ten days, I'd be worried if it was ten days notice.
>> Ed Rast: Susan.
>> Susan Goldberg: I'm fine making a distinction, these staff reports to council and then a separate what you called, Tom, I think you defined it really well, a council memo. I do think that ten days is really important for the initial staff report to be out there when the agenda item is out there. And maybe we can figure out some other period of time. My concern though is Ken says the way three days has worked in San José has been really inadequate for normal people who do something other than follow city government 24 hours a day and have regular jobs. We've had all kinds of problems this year, under that three days. Maybe three days isn't enough, maybe five days is enough. I'm not sure exactly what the right number of days is.
>> Ed Rast: Judy Nadler and then --

>> Judy Nadler: Judy Nadler. I agree with your definition of what I consider to be the staff memos, my experience that's what it is, the staff comes forward with all the information, the pros and cons, and where do the council subcommittees or special advisory committees, that's kind of a -- that's not really a council memo, but it's not really necessarily a staff memo. So do we need to have, to acknowledge that there are occasionally these other documents that come into an agenda packet, that may not fit the definition of just one or the other?
>> Ed Rast: Dan McFadden.
>> Dan McFadden: Dan McFadden of the mayor's office. I think there is a strong agreement that the council subcommittees have to be reenergized and be a place for public participation, we have more openness there and we can schedule that. People are noticed. The problem if you squeeze all the flexibility out of this is that you're going to -- a lot of people are going to show up on Tuesday and find that things are deferred because the councilmembers didn't have a chance to react. And so you're going to add a lot of movement into this process. And it's going to be a little chaotic. So I think you have to allow some flexibility as Margie is saying for the council to respond.
>> Ed Rast: Dan and then Margie.
>> Dave Zenker: Well, to address that issue, I would tend to agree, actually it's probably a free speech item, if a councilmember wants to issue a memo stating their position on something. However, if -- there maybe be some controls that would be placed on four or five councilmembers signing a memo. And I believe the mayor elect has talked about the maximum of two members signing a memorandum and that might be something this commission may want to speak to. Secondly with respect to the supporting document issue there's been questions raised about the burden of having to copy you know, an airport environmental impact study which you know stands this high off the ground, as part of a packet. And one suggestion might be that the agenda packets identify the supporting documents and where they may be viewed, either viewed on this Web page, or available for inspection at the City Clerk's office or would everybody be agreeable with that concept?
>> I was just going to comment, that is our practice now that when a document is simply too large, it's available for inspection in the City Clerk's office. And the largeness of a document, just so you know, also affects our ability to post it on the Web in a timely fashion. For instance, when the budget is passed, it takes a full week of a contractor working simply to scan it in and index it so it's a document that we can post. On the larger documents, having that flexibility to simply having it available for inspection I think is very important.
>> Ed Rast: Sheila tucker. And then we'll go back to Margie.
>> I just wanted to bring up a point that troubles me, with regard to deferring items when not all the supporting documents are in. Because I think one of the unintended results that we may not get, some of the late supplemental memos that do nothing more than inform the process, doesn't change the recommendation, but it's new information that should be shared with decision makers and the public. And I don't know how we get around that. But you know, in instances where you -- where staff has information that they didn't otherwise know before the recommendation came out, that does not change the recommendation whatsoever, just adds more information, that that's something that you should consider.
>> Ed Rast: clarification. Does that come about on clarification of a point that might not be there and therefore staff puts out something that is meant to clarify or add to it? Margie and Ken.
>> Margie Matthews: That's a very good point, information that illustrates or enhances the decision maker's ability to make a good decision, come forward in exactly that way, when the staff memo is made public and people have questions, rather than have a phone conversation or tell one councilmember, the staff tells all the councilmembers in written form. So there's got to be a way to allow supplemental

information to come forward. But I have other comments. If that's okay.
>> The Clerk: Can I add a clarifying statement to what Sheila just said? In addition to what she clarified, was supplemental, many of our land use things, because when we place our public hearing notification, it goes out to the community about a land use item, we say when the Planning Commission is going to hear it, we say when the City Council is going to hear it. In keeping with our own internal time lines, when we put something on the agenda, many of those land use items have not yet been heard by the Planning Commission. So the Planning Commission follows up the Thursday afternoon after the Planning Commission, with a supplemental, letting council know what it is they did the night before, so they can make their decision the following Tuesday.
>> Margie Matthews: There are oftentimes, this is Margie Matthews, in the interests of helping the public, they will have a quick turn around, certainly more than ten days to expedite things and save people money and solve problems. These are real-life things.
>> Ed Rast: Ken Podgorsek.
>> Ken Podgorsek: The way the council memos are used in this city, when I think of a memorandum I get in my office, it is usually some information that somebody wants me to have and it gets passed out. If the council as a rule in San José use memoranda to say, I've examined this and here's my thoughts on it. Here's my thoughts, pass it to the colleagues, I don't think we would have this problem. It's the way it is used, the memorandum is used as a piece of legislation, brought forward, entered in as part of the motion, the actual language of the memorandum is included in the motion, it shows up five minutes before the actual item is heard by the council. There is this concept that maybe this isn't really a public process. I think, and that's so, our challenge is we are using memorandum, we are acknowledging that we are using them in an unusual manner, saying if you are going to put legislation forward, we want to see it enough days in advance that we can actually prepare, our arguments are our presentations to either support that legislation or to not support that legislation and to actually have at the public meeting a full public discussion. This is why we're having difficulty discussing this issue. Is because the City of San José uses these documents in a manner that what appears to be unusual in the way other cities govern themselves.
>> Ed Rast: Susan then Dan McFadden.
>> Susan Goldberg: Sometimes documents are added to clarify or add information. But what I'm worried about is if you don't set some pretty stringent restriction on terms of number of days that you're really disadvantaging the public that won't have the information that the policy body has, when it comes to making an informed decision and having informed decisions. Maybe it should be something like ten days for the basic agenda packet stuff and then five days for these other -- these other things. I just am really worried about this three-day thing which has not work, and there's got to be some place between three days and ten days that could both allow government to go forward, but allow real people to get informed.
>> Ed Rast: Okay, Dan McFadden and Phaedra and Virginia.
>> Dan McFadden: Dan McFadden, from City Manager's office. This is a bad practice, crept into the practice here. We recommend in our draft that no memo have no more than two signatures, and I think that's what Dan said. I think that will go a long way to sort of discouraging that practice. I just -- we understand the problem. I'm not sure the solution is in hand yet, that we've got, we know how to fix it very well.
>> Ed Rast: Phaedra and Susan.
>> Phaedra Ellis-Lamkins: I guess I have a couple of questions. The way we're talking about staff memos, I understand there's a way the current practice is and I guess I'm asking what an appropriate clarification question. The way it exists now, the councilmember gives a memo that says here's how I

want to change the project. It's shift the staff recommendation. If we're saying it needs to be three days ahead of time, can it still get shifted but it just gets shifted in the motion or are we saying that it can't get shifted at all.
>> Ed Rast: Tom Manheim.
>> Tom Manheim: Tom Manheim. There's no memo necessary to shift it. Once it's on the agenda for action, the councilmembers could simply at the dais make motions that change it and that frequently does happen. But the practice that you're talking about is the memos coming in late, that have an alternate recommendation in them.
>> Phaedra Ellis-Lamkins: I guess it's -- I'm not sure if it's a legal question, can they still make that alternative, it just means it's not in written form?
>> Tom Manheim: Yes.
>> Phaedra Ellis-Lamkins: To me we haven't totally solved the problem. If the problem is, all we're saying now is, it won't be in writing, right? We're not saying that you can't get together and create an alternative recommendation, you just can't put it in writing before the council meeting. I just want to say one, I'm not sure it solves the problem, and maybe there isn't a problem, I want to say I don't know that we agree on the problem. And two Dan, Pulcrano, I think your draft says the same thing, the one you gave us, and the thing that session about two people on the agenda and also talks about --
>> Ed Rast: People on the council memo? You said people on the agenda.
>> Phaedra Ellis-Lamkins: I thought this draft came from Dan but maybe it didn't.
>> Dan Pulcrano: It wasn't mine.
>> Susan Goldberg: It was mine.
>> Phaedra Ellis-Lamkins: This said it came from Dan Pulcrano. Got it.
>> Dan Pulcrano: If you want to credit it to me, that's okay, I support it.
>> Phaedra Ellis-Lamkins: Some of these changes if we look further in the document are actually in there. The three-day rule, that doesn't exist right now. That is probably not relevant, there is no rule. So to me, moving from five minutes, to three days, is a pretty significant gain, and I'd like to see that happen. Especially if just make it longer doesn't stop people from doing things any different, it just stops them from putting it in writing.
>> Ed Rast: Virginia and then Margie.
>> Virginia Holtz: I'd like to speak to the issue of the councilmember memo that's been on the table for a long time. It's number 4, which does say two members of -- no more than two could submit a council memo, and that's in writing. I didn't hear any discussion here tonight, and maybe I'm not listening very well, but I thought we were always talking about written memos, and not even suggesting no written memos, or not asking people -- councilmembers to not put something in writing.
>> Phaedra Ellis-Lamkins: My question was --
>> Ed Rast: Phaedra.
>> Phaedra Ellis-Lamkins: I'm Phaedra, sorry. My question as it relates to I thought what we were trying to do is let people know ahead of time if there's going to be significant change to something that happens during the council meeting. Now it's hard tore put it in writing which is okay if that's what we want but it doesn't necessarily stop the change from happening. And so all I'm suggesting is I think what might happen instead is it might not be in a memo format, people might come to a council meeting and say look, surprise, some person makes a motion and all people agree with it. I'm saying, what is the happy medium, that would encourage people to put that in writing.
>> Ed Rast: Virginia.
>> Virginia Holtz: Thank you for that clarification. I'd like to go back to the council memo again and make

two comments, one, I see a significant difference between a staff memo that is making a recommendation and a council memo that is actually a part of a motion that is -- that has the motion actually written out. And so, to me, what we're talking about right now is council memos that are in the form of a motion, on a particular issue. And I suggest -- and I think that it will help very significantly by having just the two, and limit it to two. I also think that it's fair to have a time frame of five days before. The council -- the staff report will come in, the packet will be there ten days ahead. And then between that time, the councilmembers, if they would like to have -- write out their own memos, they would have five days in preparation, and they have staff to help them, where the public sometimes does not. And that allows the public to have five days. So I would urge us to move that number to five.
>> Ed Rast: Item number 4, the councilmembers move to five --
>> Virginia, would you be comfortable to three business days?
>> Virginia Holtz: Yes, three business days, I will -- I'll go along with that.
>> Ed Rast: All right. Virginia, you want to make a motion?
>> Virginia Holtz: Okay. I move that we -- well, my concern is, that I'd like to do this as a whole section.
>> Ed Rast: All right.
>> Virginia Holtz: And so people aren't ready to move in that direction, so if you'd like me to make the motion on number it is number 4. To change that, the last part of that section, where it says make available for -- well, I'll read the whole thing. Councilmember memos which may be signed by no more than two councilmembers, must be posted on the city's public access Website and made available for inspection and copying three business days before a regular meeting.
>> Ed Rast: Okay. Do we have a second?
>> Phaedra Ellis-Lamkins: Second.
>> May I ask a question?
>> Ed Rast: Yes.
>> In a legal document that this will end up being at some point, does it become confusing to go back ant forth between business days and calendar days from a legal standpoint?
>> Lisa Herrick, no.
>> Ed Rast: Marjorie.
>> Margie Matthews: I'm really comfortable for the five days, I'm glad we had the discussion. But I think you're limiting people's right to speech, freedom of speech, by saying they can or cannot find a memo. But my God, I guess that's going to be for someone else to prove or disprove.
>> Ed Rast: Judy.
>> Judy Nadler: I may be arguing against your argument. I want to make sure that whatever we do doesn't address solely the current practice, which is unfortunate, last minute, here it is, cut and dried, five minutes before the meeting starts. We want to eliminate that clearly. I think we also want to eliminate the majority of the council getting together and signing something, which actually is a violation of the Brown Act, if you read it as closely, and I read it rather narrowly when it comes to public access. But the third part of this is that by, you know, I want to make sure that by looking at the memos, and how many people sign it, and all of the rest of that, that we don't actually drive this underground, so that what we have is no actual printed evidence, but we do have, still, the discussion, and the -- this pre-determined, you know, pre-determined motion in advance. And I think that it is -- it is a cultural thing now. I think that under the perfect circumstances, the council would see that this is a practice that is not supported by the public, and it's certainly -- I think it's one that's not supported by the task force, and it's not in keeping with transparency and sunshine. So I hope that that will be a good first, you know, start. But I want to just say that if we are so focused on the paper, we may just eliminate the paper, but not eliminate the underlying

problem, which is getting together ahead of time, and discussing, without benefit of a public hearing.
>> Ed Rast: Karl, Susan and Dan.
>> Karl Hoffower: Karl Hoffower, don't we have that defined, a serial meeting, that already nixes that, I believe, isn't that what we already have?
>> Phaedra Ellis-Lamkins: Kind of.
>> Ed Rast: Susan.
>> Susan Goldberg: That's what I was going to address, the whole serial meeting concept, the law, what we should discuss. I don't think we should get hung up with whether it's two or three signatures. Virginia's idea of sort of splitting this baby, they get five days, we get five days is a really good compromise.
>> Ed Rast: Dan McFadden.
>> Dan McFadden: Dan McFadden, City Manager's office. Gives the concept that the deal is down, but having it decided outside the chamber. The second thing is, I don't know, I can't speak for what, how things are going to be defined in the subcommittee. But when Margie was a councilmember here and I staffed the subcommittee, all the council reports went through a committee and they were reviewed and clarified and went through had and were posted. So there was a longer time for discussion and opportunity. Councilmembers knew that staff report was in play, they had members of their staff sit in those subcommittee meetings. There was a lot of information that preceded that ten days. And so I think, depending how it's set up here going forward, I think it can all work well.
>> Ed Rast: Phaedra.
>> Phaedra Ellis-Lamkins: The reason I raised the issue which I appreciate Judy supporting, the serial meetings, doesn't meet the five folks, I believe what might happen is that five councilmembers could get together and say, let's all talk about what we're going to do, and right now, that is easier than getting a memo five days ahead of time. And that's what makes me nervous. Which I say, what's the problem we're trying to fix, and let's identify what's the solution. And if the problem is we think five people getting together to really the idea is to then create the solution, five people, I don't know that the only answer is making a memo available five days before. It might be one of them. But I just want to flag this as something we should maybe have a different conversation about. Because I'm not sure that people giving it ten days or five days fixes the problem. I think three fixes the problem. Because right now it's not happening at all. It's five minutes before. And at least three is something. And I guess I would love to hear from Margie what's reasonable. Not ever having been a councilmember, in a city this size, I don't know what's fair, councilmembers get together, what's fair. If you have a ten-day, if you have a supplemental three days before from the Planning Commission, how do you respond or what's appropriate?
>> Margie Matthews: Well, I spent about 15 years as a councilmember, and a council aide, writing council memos, to clarify issues, making sure everyone was on the same page literal. I guess that's changed now. A lot of times as in life we work towards deadlines. So I'm comfortable with the five days, I really am, they will have to work toward the that deadline. Often if you know the council meeting is Tuesday, the meeting happens Monday night. People finally focus and it happens, sometimes the weekend before. Often the community can't come together until a Saturday. And the memo comes out on Monday. We'll adjust to that.
>> This is on the borderline of relating to sunshine, I have a problem with council memos signed by any more than one councilmember. I don't like the process of a weaker councilmember co-authoring a stronger councilmember's memo. I don't mind if they submit ten council memos, all that say basically the same thing, I want to get an idea where they're coming from. I'm fine with the five days by the way but I would like to just see us say memorandum is signed by the person that authored them, period.
>> Ed Rast: Ed Davis.

>> Ed Davis: I have a couple of clarifying questions. I think I've got a handle now on council memos. [laughter]
>> Ed Davis: And the problems with them. But Margie raised another issue that I would like a little bit more clarification for drafting purposes and that is, she indicated there may be legitimate, last-minute documents.
>> Ed Rast: Supplements.
>> Ed Davis: Supplemental documents, thank you, in addition to council memos. If you could give us some guidance with respect to how we could define those so we could carve them out and put them in the category, the five-day category as opposed to the ten-day category. I understand we've got three categories, 14 days for big ticket items.
>> Ed Rast: 1 million and over.
>> Ed Davis: Ten days for anything that is not responsive, and then five days for --
>> Ed Rast: Council memos.
>> Ed Davis: responsive documents. If you could give us guidance.
>> Virginia Holtz: We actually said three business days. You better stay with that number now.
>> Ed Davis: Three business days. And then the second thing is, penalties. Whether it's the 14-day, the ten-day or the three business day requirements, are there going to be penalties if those aren't met?
>> Ed Rast: Okay. We have a motion on the table that addresses item number 4. Your items, I think, are appropriate but we need to take care of the motion and then address --
>> Couldn't it be number five? Ed your issue could be number five the next discussion, which has to do with exceptions or conditions.
>> Ed Rast: Here we are from time. We're about 12 or 13 minutes after. We're about 12 or 13 minutes late, we were supposed to get into the discussion on the study session coming up. We've got a motion on the table for item number 4. And now we're discussing other items that are different than 4. Not that we shouldn't, but I'm just saying that we probably ought to solve one of them and then at that point see what we want to do about -- we need to get through the council study session, at least start to have some conversation, unless the task force is willing to go later.
>> I think we can call for the question on 4 because Ed's question is about number 5 if I'm reading it right.
>> Ed Rast: And again -- call the question, all right, fine. Okay. All in favor? Opposed? Abstentions? It passes. Lee, you've got --
>> The Clerk: Yes, I want to go back to my suggestion that Planning Department supplemental conditional I'm a little concerned about B-3, if other items are not posted or calendared six calendar days before the regular meeting. Have you a Planning Commission meeting on Wednesday. Day 6 is Thursday. I know the planners are really, really good about getting those supplementals out but sometimes the commission has a lot of land issues on their agenda. And I'm a little nervous about supplementals related to land use. I would at least like to talk to the planning folks and see if six calendar days is doable. Maybe under 4 or we add a new paragraph about supplemental staff reports, you know, giving a little more flexibility, maybe a 2 of the three business days, or something. I know those planners work very hard and sometimes a Planning Commission meeting went until after midnight this week, and they've got to crank out a memo and it still has to go through their office and the City Manager's office before it can be distributed.
>> Ed Rast: Susan and Phaedra.
>> Susan Goldberg: Land use is one of the most complex and vexing thing that the public has to deal with. Maybe if that can't be done it would have to be postponed to the next.

>> Ed Rast: Phaedra?
>> Phaedra Ellis-Lamkins: I was going to completely agree, land use is where cities have power, key decisions are made, especially absent of resources. If it is a significant land use decision, rather than having a report on Friday for a decision on Tuesday that it should wait a week. That if some of the most significant decisions that the city is going to make without notice, it shouldn't be made.
>> Ken Podgorsek: Ken Podgorsek, there is probably no certain thing as important as land use. Probably because the Planning Commission went to midnight is because of some contentious land use issues. Very few things ever need to be done that quickly. One week isn't going to kill a land use issue. They're global in nature, as a general rule. So if they can't finish it then it gets deferred out.
>> Ed Rast: Okay. David and then --
>> Dave Zenker: I'm going to jump on the same band wagon. There was a Planning Commission meeting I couldn't attend so I went to watch it on TV. There it was not on TV or on the Website. To this date, I haven't seen any minutes on it, this was last week. Talk about important land use, none of this is prepared for the Website. Talk about an important meeting. This stuff is ridiculous. Turning over those kinds of decisions that quickly.
>> Ed Rast: Just for clarification, about a year ago, I asked the same question of staff. And the question there was, it was not budgeted, it's a very large budget issue. I think Tom can address that. We're really running -- Tom, be brief.
>> Tom Manheim: Tom Manheim just briefly, we're not staffed to cover Planning Commission meetings. We've been trying to work with the Planning Commission, pardon me the planning staff to institute odd audio streaming which would be the first step. I think we will anticipate that following audio streaming we would be moving to video streaming at some point. You're correct, we're not there yet.
>> Ed Rast: We are 17 minutes after. We originally scheduled 20 minutes on the council session. Which at the time, we figured we needed to cover it.
>> Phaedra Ellis-Lamkins: What we're saying is, if something comes from the Planning Commission, the night before, that they're really, then it should be have the same noticing requirements as everything else that we wouldn't make an reception. I want to make sure there's a consensus around that.
>> Ed Rast: Lee Price.
>> The Clerk: The item is noticed. The packet will generally include you know, all of the background information, the report that went to Planning Commission, the maps, the studies, you know, what have you. And there is a -- you know, a staff report that's there. And then you know, then the agenda is amended to include the Planning Commission's recommendation, whether it's approved or denied. It has been properly noticed, I want to make that clear.
>> Ed Rast: Judy Nadler.
>> Judy Nadler: I'm more than stunned that the Planning Commission is not covered but I understand that hopefully that would happen in the future. And it -- the problem with the document is, the supplemental document is as just described is that it's great to tell the council, where the Planning Commission was on this item. But it does not say where the public was on this item. And that is what the council needs to know. Because the Planning Commission is not always in sync, you know, with how the council is and they're not always in sync with the testimony that comes for the public. So while we -- I think it would be worth at least an asterisk somewhere along the way, to, as one of our recommendations, to encourage the council to move ahead and find the resources to be able to provide at least, at the minimum, an audio --
>> You say they --
>> The Clerk: They do not produce minutes, like a synopsis. But they do audio-record. They are

audio-recording so one can come in and listen to the TV.
>> Watching us edit on TV and making important land use decisions.
>> They're so much better looking.
>> Ed Rast: Okay, Marjorie.
>> Margie Matthews: Open the question of exceptions, we can talk about the Planning Commission and I believe one of the solutions, economic development and all that, that's kind of a mantra. Everyone including the mayor-elect. But there's got to be a way to have exceptions, there really does. That should be addressed in number 5, not only Planning Commission, but all kinds of urgent matters. That discussion can happen within 5.
>> Number 5's pretty narrow.
>> I couldn't find the section.
>> Right here.
>> Oh, okay.
>> Ed Rast: Section, the reference in 5 is actually to the C-2 below, that 2, which also includes A, B, C.
>> Talks about emergencies and serious -- I don't think that's the kind of thing --
>> Or terrorism.
>> Ed Rast: Question of the task force is do we -- we were going to talk this evening about the council study session. Which it's an important issue that we need to cover. Do you want to stop the conversation on this, we're over agenda time and continue on that?
>> Yes.
>> Ed Rast: All right, so we'll stop it. Do we want to give any direction back to staff on these issues before we do that? And there was a suggestion by Susan that it be changed on council to a different name --
>> I thought we were going to stop now. As long as we hold our place. No, no, we're up here. We're between 4 and 5, right? We just finished 4.
>> Ken Podgorsek: Mr. Chair, I don't have Saturday's agenda in front of me. Is this topic on Saturday's agenda?
>> Ed Rast: Yes, it is.
>> Ken Podgorsek: Could we move instead of having that discussion tonight could we have it on Saturday?
>> Ed Rast: Yeah, no problem. It's on there, Phaedra.
>> Phaedra Ellis-Lamkins: I just want to -- I have a question about the Saturday meeting.
>> Ed Rast: Right.
>> Phaedra Ellis-Lamkins: And I want to make sure, we review the Saturday meeting. Some of the things we said we were going to discuss here, I have different times attached to it. I just want to be sure what we're doing on Saturday.
>> Ed Rast: We were going to talk about the study session. It was suggested we defer that conversation to Saturday.
>> Phaedra Ellis-Lamkins: What we said is we're done with it. We're not going to discuss the November 30th study session. I think we should probably review our Saturday session to make sure all the items that we're talking about now so we don't get to Saturday and say, "weren't we supposed to do this?"
>> Sheila tucker. I understand you want to defer the item. I would ask I have the opportunity to say a few words that might help facilitate some thought and feedback for Saturday's discussion. Because it was my understanding from the last meeting that the task force wanted to use this study session as an opportunity to get some feedback from the council in some areas. And as I'd mentioned earlier on in the agenda, I had hoped that we could spend some time brainstorming some of the issues that we want to

bring to the council's attention. And I heard if a couple of things come up earlier on in the meeting, I would encourage the task force to think about some of the areas that they're considering going beyond, what's required by the Brown Act, and the public records act. The concept of ancillary bodies, what you're looking at on terms for expectation for a closed session which that might come out on Saturday's meeting ore even public records. I think if we spend some time on Saturday looking at what some those issues are, and also talking about who would be presenting on that day, I would like to have some input on that. I distributed the draft agenda today, that will go out tomorrow to the council. We're preparing a binder. You'll see the underlying text in that agenda. That correlates to the sections of the binder, and we'll have those for you on Saturday. This is a joint meeting of the City Council and the Sunshine Reform Task Force, I also wanted to bring that to your attention.
>> Ed Rast: On the 30th.
>> Right. The extent of that could center on some of the issues you might seek direction on.
>> Ed Rast: We believe an hour on the November 30th council session. And I would like to ask some of the task force members to consider the idea of being part of the presentation on particular topics that we're going to talk about. Phaedra.
>> Phaedra Ellis-Lamkins: I would just like to talk about the fact that on the agenda, we have Sunshine Reform Task Force review of progress, council reform referrals, which includes things like calendaring is only ten minutes for all four issues. And I think we should give a little more time for all of that piece.
>> Which agenda?
>> Phaedra Ellis-Lamkins: The joint council session. The study session for November 30th. She said that this agenda is going out tomorrow. So if we're going to discuss it on Saturday, that's fine. But if this is going to the council tomorrow, I just want to flag that both the reform proposals that were sent to us and sent to staff, that there's ten minutes on that, and that I just think that somewhere, that should be longer, or it should be added to, task force work plan status so that under task force work plan status that we can say here are the additional changes that we'd like to make to these reforms, so it's added to that piece.
>> Ed Rast: Sheila.
>> Sheila tucker item 2 is a progress on the task force. Item 3 is entirely your hour-long presentation. And that is where I would expect that that be brought to the attention. I'm also working with that, or I plan to, to put the PowerPoint presentation together, which will -- can present information and slides. It's not in this binder currently because we weren't ready to present that at this time. That will happen in that number 3.
>> Phaedra Ellis-Lamkins: If this is what's going to the council, I'm suggesting that in there -- I see, tap 5, tab 6 is referring to the sterlings, not the agenda.
>> Correct.
>> Phaedra Ellis-Lamkins: The only thing the council will see is 2, 3, not the tabs?
>> No, they will see the tabs.
>> Phaedra Ellis-Lamkins: But it won't be reflected ton agenda.
>> I can broaden the title of number 3 to not only work plan status to -- and other recommendations or something to --
>> Phaedra Ellis-Lamkins: Maybe additional recommendations to the reform proposals. Just so somewhere it's reflected. Because there is clear consensus on some of those reform proposals. So it would probably make sense for it to be reflected that those things are also coming back. The committee has said in addition to these things here are the things that we would like to see happen.
>> Okay.
>> Phaedra Ellis-Lamkins: Perfect.
>> Ed Rast: All right. So we're talking about upcoming agenda and work plan is where we are now. Any

additional comments? Margie.
>> Margie Matthews: What are we doing Saturday? Do we have an agenda for Saturday?
>> Ed Rast: Right.
>> Phaedra Ellis-Lamkins: We do. And again I want to just -- this is Phaedra, add I think we need more time to make sure we have consensus around the reform proposals that will be reported to the council as completed. Which we have 20 minutes on the agenda. I want to make sure we see here I think you're going to need more than 20 minutes.
>> Margie Matthews: Can I ask that we are able to discuss definitions on Saturday and we can discuss functions. Okay.
>> Ed Rast: I know that. Is there any additional comments? I know, they turn the lights off.
>> Trying to kick us out of the buildings.
>> Ed Rast: Public comments. Bob Brownstein.
>> I'm a little concerned that we're putting restriction on certain parties, as regards City Council meetings, and the ability to make substantive amendments to an item that's on the agenda. And there are no constraints on other parties. So as I understand what's being done at this point, the city staff can't submit a memo after ten days before the meeting, a developer can submit a memo two days before a meeting. And the city staff would then not be allowed to respond in writing. In addition, a member of the City Council, a single member of the City Council, cannot issue a memo, and move that memo, at a council meeting, but a developer, could come up to the council, and submit a proposed amendment, and a councilmember or any number of councilmembers, could move the developer's written amend as an amend to a policy. What we now have essentially putting into place is developers and interest groups have the ability to communicate in writing with the council and submit amendments in writing to be voted on by the council whereas city staff and members of the City Council itself don't have the ability to do anything in writing on council days. However, a councilmember still has the capacity to make a full amendment to a proposed -- a proposal that's on the agenda verbally. And the only problem with that is, my experience is, 90% of the utter confusion you see in council decision-making is when complex issues are discussed -- amendments to complex issues are made verbally and not in writing. So maybe, if what people are really concerned about is that everybody has real, tremendous amount of time to look at everything carefully, that you just say, you can't have substantive amendments on the day of the council meeting and everything has to be deferred if it's not going to be approved as initially transmitted.
>> Ed Rast: Thank you. Additional public comments?
>> Phaedra Ellis-Lamkins: Ed, I want to make sure to say thank you to this group. I will miss you all for two months. Certainly these meetings are always entertaining. People say they watch these meetings which I just wonder why. I can tell you what it's like to be here but certainly, I want to make sure Bob Brownstein who you all say has been attending meetings, used to be the budget and policy director for Susan Hammer, has a lot of experience brought to this group and why he has passion, being in Susan Hammer's administration.
>> Ed Rast: Move for adjournment. All in favor, aye? We have a vote? [aye]
>> Ed Rast: We are adjourned. Thank you.