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>> Councilmember Pyle: We're happy that you're able to join us today. There are a few people that are a little tardy, but we are going to begin. We want to respect people that show up early. With that, I would like to give you a hardy welcome. We'd like to talk about how we came to this meeting, a little bit of a chronology. In 1997, the policy was written, but not completed. We were only able to work with two parts of that policy. And we have one of the authors of that policy right here today, Bob Brownstein. And then in January, there was a memo to the council, in March there was another memo for a round table discussion. With the help of city staff which I'm very thankful for, we were able to put this meeting together. I think there's no question that the importance of good policy is unassailed. We need to work and use our outsourcing as a tool. We need to make sure that the tool is in good condition. And when addressing the budget, I think this will be extremely helpful. This is somewhat of an historical meeting in that we haven't met as a group such as this since I believe Susan Hammer's time, that's a while ago. Hopefully, it will be historical in other ways as well in that we'll be able to accomplish some things so that both sides of the fence, labor, business, and nonprofit community, will have a better understanding of where each party is. We hope that we will all go away with a greater understanding of one another and greater understanding of different concerns and work to weave all of those together. We do have some committee members here. Rose Herrera, Ash Kalra, I think Sam is on his way. However, the more councilmembers show up, they may not speak. Otherwise, it would constitute a problem. So we encourage open discussion, to questions raised along the way. There are speaker cards, in fact, I already have one. Susan has put them all over the place. So if you can't find a speaker card, just go over to Susan. We'll be happy to help with that. So with that I'm going to ask you to introduce yourselves. We could go around the table so that everybody knows who's here. Start over here.

>> Ed Moran from the city attorney's office.

>> Brian Doyle from the city attorney's office.

>> Pat Dando: Pat Dando San José Silicon Valley chamber of commerce.

>> Linda Didis, I'm the business agent for MEF and CEO with AFSCME.

>> Bob Brownstein: Bob Brownstein, working partnerships.

>> Walter Rossmann: Walter Rossmann finance.

>> Leslie Hamilton, friends of Guadalupe park and gardens.

>> Gay Gail, president of the city association of management personnel.

>> Cal Horton, I'm the vice president and general manager of first alarm security group.

>> I'm Bill Pope, with operating engineers, I'm the business agent.

>> And I'm Jim Ortbal, the assistant director of the City's Department of Transportation.

>> And I'm Sheila tucker, with the City Manager's office.

>> Ed Shikada: Ed Shikada, deputy City Manager.

>> City Manager Figone: Debra Figone, City Manager.

>> Councilmember Kalra: Ash Kalra, councilmember.

>> Councilmember Herrera: Roast Herrera, councilmember.

>> Councilmember Pyle: With that I was reminded, we do have water here. Your throat might get a little dry. We have that, and also, Sheila, bless your heart, will be typing up comments that are made, they will be on the big screen and all of that will be compiled

after the fact. Thank you for that, Sheila. With that I'll turn it over to Debra Figone.

>> City Manager Figone: Thank you, Councilmember Pyle, Madam Chair. I am going to turn this over to staff very quickly. I did want to make opening comments. I agree with you councilmember, it's an important day to have so many different perspective around the table to confront what is a sensitive topic. And I think I need to talk about the elephant in the room a bit, contracting for services is a sensitive topic. What I am encouraging us today as your City Manager is to focus on how do we deliver services in the most cost-effective manner with quality and accountability. And that is a key underpinning to the conversation about contracting for services as a form of service delivery. I encourage you, as councilmembers, to not take away the options that you're really going to need, in order to continue to confront the challenging budget situation at hand and continue to find ways to ensure that you can find services to your residents in a cost-effective manner. That said, I'm very proud of our city employees. I'm very proud of public service, and continue to work personally very, very hard to ensure that we have a quality organization and continue to be the best that we can be within the resources that we have. You will, though, continue to confront many challenges as you deal with this budget situation. Contracting for services is just one of them. Raising revenue is another. Cutting services is probably the worst of all. I do want to say that apart from any competition policy, any contracting for services policy, under state labor laws, in particular, Meyers, Milius Brown, the city does have a duty to bargain with our bargaining units whenever considering contracting out work. That would be contracting out bargaining unit work. So I just want you to know that, because as we talk through the issues and the interests at hand, we should not forgot that we do have labor laws which set forth processes when we are considering contracting out work which is currently performed by a bargaining unit. And that consideration happens case by case and there is analysis that goes into it before those decisions are made. We also continue to work through the beyond budget cuts initiative that I brought forward, and advised council of in the fall. Two new councilmembers really weren't part of that discussion. But I'm very proud of the effort that we've undertaken to engage our employees through some pretty robust labor management committees, many of our labor partners and employees around the table here today are involved in those efforts where we do continue to explore streamlining how we deliver services. Busting bureaucracy, you know, cutting the red tape. That red tape frustrates our employees as much as it does those that we do business with. So what I want to do is to ensure that we don't undermine those efforts by taking things in an opposite direction with more burdensome processes as opposed to streamlining and finding capacity and seeking innovations. So what I asked you today, as we go through this really important effort, is to suspended our collective judgment on solutions before we fully explore the problems that we're trying to solve. And you know, I'll just put it out there, it may be that getting rid of the competition policy is one of those options. And starting over from a perspective of interest and values that you hear coming forth today. And as you said, Madam Chair, and I would just like to reinforce, I would ask that we not design from the dais today. And anything that, you know, emerges from this conversation be referred to staff, so we could really go off and turn it into some feasible implementation steps on your behalf. So with that I'm going to turn it over to Ed.

>> Councilmember Pyle: I just wanted to brag about you, Ed. Ed has just returned from

a very prestigious group that went to Okayama, was it?

>> Ed Shikada: Actually a number of cities in Japan.

>> Councilmember Pyle: Okay.

>> Ed Shikada: Including Okinawa and Tokyo and Kyoto.

>> Councilmember Pyle: Representing our city. You were one of not many that were chosen, very proud of you.

>> Ed Shikada: Thank you very much, councilmember, chair, you've been extraordinarily supportive. Thank you for that, appreciate it. Okay. Once again, Ed Shikada, deputy City Manager. We've got quite a bit of material we'd like to go through this morning. So we'll walk through it fairly briskly. We will have plenty of time both for discussion, for questions as well as for the panel to get into some back-and-forth conversation. So let's get started. Sheila, if you could help me with this. All right. In terms of the goals of the presentation that I'll walk through quickly, as the City Manager noted, we really want to start with establishing a common base of facts, both in terms of what the existing policy says, as well as what our current practices are, which really do go above and beyond the competition policy. And you'll hear me refer to it as 0-29. I want to be really specific that there's a black and white policy that you've got in front of that you embodies a number of principles and procedures. But again, those do not embody our entire unifies of contracting practices as well as management practices. And then talk about the implications and initial staff review of the proposed policy revisions and then really turn it open to the panel for sharing of perspectives and some discussion of perspectives on what the issue would be going forward. So next slide, please. So with that, in terms of our format, we have established some basic benchmarks for the timing of how the discussion this morning could proceed. We want to be definitely flexible, and as I noted, plenty of time for discussion. I will invite, and you won't hear us say this very often, I'll invite interoption. Certainly, if it's necessary, or useful for clarifying anything I'm saying, but also, to, if you vehemently object to something you hear coming out of my mouth, feel free, raise your hand and I'll absolutely invite the interruption. If at the same time, I'll reserve the right that if it starts to get drawn-out, then we may try to move it forward more quickly. That's it, absolutely invite any interruption in order to correct or clarify pieces of the presentation. So in terms of the flow that we've got in front of us, just to give you a general feel for how it will proceed with our discussion of the service delivery alternatives, we'll talk about very general. The general options that the way that the city approaches service delivery, then we'll get into more specifics as we talk about contracting and then ultimately the competition policy itself, kind of a focusing from the general terms of service delivery to the specifics of competition policy. Also, the particular issues that were raised for discussion by the councilmembers, four councilmembers that brought forward this item. And then as we get back to the perspectives and discussions questions and alternative paths forward, we'll broaden it back out again. We don't want to limit discussion to the competition policy itself. We do want to speak more generally to issues of how the city makes decisions about service delivery options, how those proceed going forward. So again, general to the very specific and then bring it back out to the general so that the panel has ample flexibility to address the issue as broadly as you'd like to. Next slide please. So with that let's talk about service delivery alternatives. The numbers here, 1 through 7, are really drawn off of some of the background work that was done back in

'96, '97, as a part of the development of the competition policy, 0-29 but really apply today and we expanded on it a bit in terms of the variety of methods by which city services are delivered. Certainly, and again, they really reflect the spectrum of options or forms that services can take from direct employee-provided, below cities delivered services to situations where we have interagency agreements, such as our animal care services, where we contract in with other cities, third, where we have service contracts with private companies which I think is really the essence of away we're talking about here today, but also, variation on the theme, where we have contracts with nonprofits to provide services such as our homework centers. Fifth would be public-private partnerships, an issue that a number of us around the table, we've worked together on, over the course of the last year or couple of years, to look at the situations that really are win-win and at the same time, don't quite fit within the general, we'll call it the typical process of contracting. And our McEnery park maintenance by Adobe is a perfect example of that where we've got a company that's immediately next to a park and has expressed interest in helping us provide services that otherwise couldn't be made. Six, volunteer services such as the municipal rose garden where we have a volunteer organization actually created in order to meet needs that are near and dear to a particular constituency's interest. And then finally, changes to service delivery methods where we may actually be getting out of businesses as just-in-time delivery such as the case of office supplies could necessitate or at least provide an opportunity for review. Next slide. Going through those general ranges of how services can be delivered to focusing particularly on contracted services. What this slide is intended to articulate are a variety of circumstances under which it may make sense for the city to pursue contracted services, rather than having in-house staff provide those services. And so we'll drill down here. First, where in-house expertise could be enhanced by specialists that do a particular type of workday in and day out, consult services, in particular could be construction inspection, where there's a particular discipline such as maybe seismic, that is of particular specialty, second, where there's seasonal work, such as the additional load of summer recreational services that may be necessary for a particular type of service. Third, where an augmentation of existing staff might be necessary based on peak loading such as plan check. Fourth, where there's a short term project and this has really been institutionalized as it relates to Public Works construction, where we bring in contractors to work on a contract by contract basis, given the nature of any particular project. Fifth, where capital or infrastructure needed to provide this service is highly intensive, such as refuse collection, both in terms of trucks, equipment, and the like, would be very cost -- capital-intensive for the city to provide. Sixth, where it may be more cost effective, to a certain extent, elephant in the room, where we have a particular service delivery element, not necessarily a service as a whole, but where particular elements again are perhaps areas of specialty or where simply the, because of the routinization by certain companies, certain elements of street resurfacing can be provided more effectively by the private sector. Seventh, where we've had economies of scale, and we've included medical transport, there can certainly be a debate on whether the county's contract with American medical response is an economy of scale, but as an example of where there is a multijurisdictional contract where the City of San José is piggybacking on that service delivery method. And then finally, where we're exiting a service or a function such as printing services a number of years

back, actually predates me, where printing has been devolved out of a direct city employee provided services. So again, intended to illustrate the circumstances, a number of circumstances under which the city has pursued noncity employee delivered services. So from that context, we want to drill down to what I'll affectionately refer to as the sunny side up graph, where the intent, this graph is intended to illustrate the -- take the big oval, the universe of city services, doesn't show all the yolks in there in which the variety of options I talked about earlier but in particular, focusing on the distinction between city employee provided services versus contractor provided services. And it really put the context around policy 0-29. And Walter -- I'll turn it over to Walter in a second. But basically, the point of this graph is to show how really 0-29 deals with the question of if and how there's a transition between city employee provided service or contractor provided services, and the arrow has two heads to it, because it could go either way. And in fact there might not be a change at all based upon the process embodied in policy 0-29. But nonetheless really intend to provide the context that there's a very specific application that this policy was intended to address. So with that, let me turn it over to Walter, unless there are any questions on what I've already talked through, we'll turn it to Walter to talk about 0-29. All right. Mr. Rossmann.

>> Walter Rossmann: Thank you Ed. Let's talked about managed competition first. Managed competition is really a process that requires government agencies to compete with the private sector in order to produce public services at the highest quality and lowest cost. Managed competition derived in the '80s from Great Britain and made its way not U.S, has been successfully applied in cities like Indianapolis and Phoenix. It has actually also been applied in various areas such as refuse collection, information technology, printing of fleet maintenance services. As Ed talked about, this graphically represents the entire universe of services the city provides but also talks about actual processes, managed competition or more properly 0-29, is actually a specific process in order to make -- in order to compete services provided by the government and the private sector. Next slide, please. Let me provide you first of all a context about the actual competition policy. It was adopted by council in 1997. It was -- it became suggested through the new realities task force, as a proposal for the city to evaluate the cost effectiveness and the competitiveness of city services. It was developed in conjunction collaboratively between various groups which are represented here today, business, labor, the nonprofit community, education, and city management. The goal of the policy, like the goal of all contracting, is to provide high quality service in a cost-effective manner. It has several principles in the policies which are really important. One of them is, some of them are listed right here. First of all it has been a prepartnership, that up front as the policy gets realized, there is an involvement with the effective bargaining units. There needs to be a level playing field, between the service contractor and the government agency or the employees which are subjected to the policy. It's important that the comparison we do through the entire process is accurate, but it's a financial comparison, the quality of service, the performance measurement, et cetera. It's also crucial that the internal service unit is competitive. So one of the areas which the competition policy prescribes is that we need to go through an internal competitive assessment before we subject any organization unit within the city to the policy. And lastly like all procurement processes, it has to be fair and reasonable. Also, through the process in 1997, council

very much retained a preference for the use of city employees. Whether it is that the actual cost advantage between the private sector and the public agency has to be at least 10% or more, meaning that private sector has to be 10% cheaper, more than actually the public sector through the competitive process. It's also important that there are no layoff provision contained in the policy and that we have to go a step talked about, arrived at on the onset through the meet and confer process as regulated by state law. What we want to do actually next is ask you to get up with me and actually go through the competition process at the flowchart right back here. So if you don't mind, following me would be wonderful.

>> Ed Shikada: Feel free or can you watch from your seat, if you'd like.

>> Councilmember Pyle: We have one in our packet.

>> Walter Rossmann: Let me first explain the flowchart. Typically what you see in the flowchart are the diamonds, the position points and the boxes are actually going through. As you can see, this is about a 21-step process which is a simplified process than what actually happens when we go through the competition process. But we try to simplify it to hit on the main points here. With 21 steps, all the way to end process, but really down here is if you were in the position to a private sector, it really depicts for that you it will take us about one and a half years, one year and nine months, to go through the entire process on the average. The experience we've had with two competition processes in 1997, was with the road marking crew and with landscape maintenance services. We actually went both ways, landscape management services was at the time contracted out and we brought the service in through the competition process. With the road markings crew the service at the time was provided by city employees and we actually retained that service through the competition process. Really, the first part of the policy is, how do we start the entire competition process. The city manager reaches out to identify services. That outreach is to other council appointees, to councilmembers, to department directors, and see whether through the annual work plan it makes sense to go through this. Then once we seek proposals back, which services we should either contract in or contract out, actually go through the competition process, the City Manager decides what to do, and she decides let's go through a particular service like with the road markings crew and that juncture what she did, first thing we did is get the bargaining units involved to make sure they know that's the intent we have, then we go through the road markings crew services with the competition process. What I talked about before, before the initial competitive assessment, that is really important. Because we want to make sure that our internal services are actually ready to compete with the private sector. That may take several forms and shapes, establishing performance measures, make sure they're streamlined to services, make sure they have access to the supplies they need and their operation can be successful. Once this improvement is implemented we actually make a needs assessment and say well, is the potential cost savings now, as far as we know, greater than 10%. That's what I talked about before, that really the private sector being 10% cheaper than the government area. And if it's not we end the process. Let's say it is indeed less -- more -- less expensive, we go through, if we don't know what it is, we go through request information process. That's a process where we basically go through the private sector and say we think about potentially moving that service to the private sector and we ask certain questions, we get responses back and based on that we may have a

good idea whether the private sector can be more competitive. As can you see the 10% is really important because if indeed it doesn't make sense from a financial perspective to even go through this process we stop it and end the process right here. Now let's assume we are now ready to issue an RFP, now we have trained our employees, they are competitive, but one thing they don't know yet is what does it mean to actually respond to a request for proposal? What do I have to know about my operation? Usually work units don't know about financial issues. They don't know about budgetary issues. So we need to make sure they're trained appropriately. About a decade ago it took us a full year to get there. We actually hired a consultant. We brought in KPMG and we helped them to go through this training. There were four or five modules and there was training binder which was that thick in order to get people up to speed and our staff up to speed. So we went through this, we released a request for proposal, that's a clear fire wall, by the way. I was asked by this yesterday, how do you do this, there are city employees and city employees, city employees respond to a proposal and city employees actually issue a request to proposal. There is a clear fire wall that they cannot talk to each other to ensure that the procurement process is fair and open. We obviously get -- the proposal process goes through, we get the proposals in, we evaluate them, again, it's a group of employees and also members who will evaluate the proposals and then we recommend the supplier. But once you recommend the supplier, there it doesn't stop yet. Because now what really comes is the hard work. The hard work is, does it now make sense to transfer that service outside to private sector? Because there are costs in the city which made to consider. The actual cost of impact to other departments, so once you do a service differently, how does the work flow come through? How does the private sector now support either the residents or the internal service, other departments internally and it's the effect on overhead rate. So many cost factors we need to look at. So we do that we go through that and again there's the 10% question. The 10% question is, is the private sector 10% more cost effectively than the government sector? Let's say indeed it is, we develop the agreement, seek council approval and again there's another decision point right here. Council at the time can say thank you staff for the work, we're not interested in doing that and yes, staff, that's a great idea, let's proceed, there's a contract to work out. Then transition to service, that takes some time too, also we take care of our employees, what are we going to do, and how we can ensure that they still have through the no layoff provision, a job within the city. And then transition to service, now letting the organization know or the residents know from now on, after, it's a different provider which takes care of the service. Any questions for me regarding the flowchart? Yes.

>> Bob Brownstein: I have a question regarding -- oh, sorry. I have a question regarding the time estimate you have there in the corner. So as I look at that, the first thing that struck me is, most of the time involved in this process would still have to be used if we had no public-private competition policy. If we simply decide we wanted to outsource, cold, not involve city employees at all, more than half of this time would still be used, because most of it is involved in the pure RFP process, start with some time for internally for the city to decide what it wants to consider outsourcing, developing an RFP, you have to do that whether or not you have a competition policy, advertise an RFP, those ten weeks are still needed, evaluate your responses, develop agreement, seek council approval, transition, all that stuff would be done if there was no competition policy, am I

right?

>> Walter Rossmann: Yes and no. If you look at the direction start, develop the RFP, which starts six weeks, that's where the breaking point is, transition of service service only comes in if you're actually transitioning from city employees to others, if the position is between two contractors, that usually goes parallel with the development of the contract and council approval, and that usually takes us maybe one to two weeks, it's very efficient with that. The other thing is what we do have in the city we have a retention policy. If we have a contract employees for security service and we bring a new contractor in they have to retain the previous contractor's employees. You already have a benefit there that the people who are working on the site right now for security services for instance, know the site and new contractor comes in just brings in the management personnel. So really, if you look at this, the RFP process, and this is a rather aggressive one, by the way, I do have to agree, it's six months. But the main work is up front to make sure that our employees are competitive, they are trained, they know what they have to do, they understand how to respond to an RFP, and then obviously, the transition is ten weeks, maybe actually quite aggressive, too. Any other questions? Great. Well, thanks for coming up, and let's proceed.

>> Councilmember Pyle: That's amazing.

>> Walter Rossmann: So as I mentioned this, in 1998, we went through two pilots, one was the landscaping maintenance services at the water pollution control plant where we brought the services which was provided by a contractor in-house and the second was the roadway marking service where we actually retained the service after going through the process. There's actually many lessons learned in 1998. As I mentioned, as I hope to exemplify here, the process is time-consuming and resource-intensive. It costs the city a lot of money to actually get our employees to be able to be part of this process. It was also very beneficial for us. It was beneficial that we focus on the road markings crew as an example and we were able to reduce their costs, we're able to increase production and the performance of the service enhanced. The interesting part is that when we -- another lesson we learned is for the road markings crew, the private sector did not engage in the RFP. We did not get any proposals, but since we had performance measures established we could measure and see how this service has improved. On the landscape maintenance service, we actually got about ten proposals and nevertheless city service staff was more competitive. In order to achieve all this, we actually created a team.

>> Pat Dando: May I ask you a question on the landscaping? Will you refresh my memory on -- you had ten that expressed interest at the end. How many were actually in the process?

>> Walter Rossmann: It was actually ten who tonighted a proposal.

>> Pat Dando: Who was in at the end? Did they all stay in or did some drop out?

>> Walter Rossmann: You know, I don't know exactly how many were responsive to the RFP and how many staff actually were comparing to the in-house proposal.

>> Pat Dando: That might be interesting to find out how many were in at the end.

>> Walter Rossmann: Thank you. So in order to accomplish this, we actually formed a team. The quest team administered the policy, subsequently and ensured that the employees were ready to compete. It was a budgeted full-time equivalent of staff of 4 to 5. And then as we realized that performance measurement is really the important way to

look at citywide and that's how we should actually budget our -- put together our budget, as it was the trend at the time, we used that team and shifted the focus towards performance measurement establishment and used those performance measures as part of the budgeting process. Unfortunately, starting '01-'02, fiscal year 2001, 2002, we -- the city started facing budgetary issues. We had to close budget gaps since then and gradual that team was eliminated. So today there's no dedicated staff anymore to actually go through the managed competition process. I do want to actually share with you an excerpt here of the Mercury News what it said at the time about the managed competition process. It was not favorable at the time. The Mercury News felt that we were actually favoring city employees and stacking it up against the private sector. And as you can see from the other last fold which is interesting too what we have shared with you today that the process indeed was also seen as being quite cumbersome. With that actually I would like to now get back to Ed and he will talk about the actual recommendations we have put forth by the councilmembers.

>> Ed Shikada: Thank you, Walter. Before we do that, any questions on the existing 0-29? Okay. Then we'll move on and talk about an initial staff review of the proposals that have been advanced by councilmembers for discussion. What we've got over the next two slides is basically a grouping of the individual issues that were raised. The grouping reflects the first set being where staff's initial cut indicates that it could be covered by other policies, or that where implementation was relatively straightforward, but with a particular focus on where existing policies address the issue, and the second grouping would be where either additional analysis is needed, or again, the initial staff review suggests that its implementation could be problematic. I do want to draw your attention to one of the items that was issued earlier this week, as a supplemental. It is a matrix that should be in front of you, has a blackheader to it that itemize in more detail the detail that we're about to walk through. That's what it looks like. Why don't we go back, Sheila, to the slide. Thank you. Okay, so again, I'll do this quickly. I do want to preface the comments in this walk-through, as I do it with great trepidation, because whenever we talk about a staff analysis of an issue that can be this detailed, it's certainly based upon interpretations from staff, as well as some perhaps assumptions in what was intended, because it was really brought forward on a very preliminary basis. At the same time, variations on the theme, should our interpretation be different from what was intended, could certainly change some of the implications. So just want to start with that preface. And note that, in particular, if there's nothing else you take away from this part of our discussion this morning, that the staff review is not intended to argue against the merits of any of the issues that have been raised. At the same time, we do feel certainly obligated to talk more specifically about where they fit and how the devil can be in the detail on some of these particular items.

>> With that, let me do a walk through on the items. On existing policies and the third tier review, the key point reference to a different policy, 0-35 and the integrity and policy of interest policy, does provide some elements related to how third tier review applies. And to the issue of breach of contract. And second, contract performance standards, this is embodied in the fundamental practice of all contracts, and whether bid or prequalification and that's a component of evaluation process. And third the contractor/employee standards of the city's policy on living and prevailing wage. Largely based upon

standards of turnover and as well as requirements for employees, and largely embodied there. And fourth, the cost comparison that the existing policy includes general language and, reading, that it will ensure integrity and costs of those gains. Expand and provide more detail to that analysis. Next on the maintenance of minimum in-house capacity, again referencing to the existing policy, the need for addressing and considering core capacities and resources. Again more general terms used there but certainly the spirit of that item is included within the existing policy. Next, monitoring the contracts, that wanted to reference there is existing work ongoing with the open government task force work and recommendations that is working through the rules committee and city council review. And finally committee responsiveness hearing, really the closest analogy is through performance reporting that is currently over the course of the last couple of years, been organized through the city council committees. It doesn't deal directly with contracts per se, but what it does focus on is the service provided for both, be it the contractor or city employee services and focus on the performance resulted from the work, whomever is doing it, and those are reported to city council committees on a quarterly basis. As well as open issues to be raised in open city council meetings or contracts for discussion. That's the first set, let me go to the next slide. Areas of more significant analysis or would be necessary. Or where there could be significant costs involved. First, I can take these more categorically, small businesses and use of small businesses and nonprofit. There is significant amount of work done in this area, on an ongoing basis for many years. But in particular noting that over the course of the last two years, this has been reviewed in particular with the construction contracts on bonding. And where feedback from the industry indicated that bonds were not significant impediment to the contractor to do work with the city. And more generally and similar outreach is that it's problematic from a cost standpoint or not generally considered to be an impediment to city business or doing business with the city. Next in terms of regulations, our analysis noted that the correction between policy 0-29, but to recognize existing procurement and process integrity policies as well as connection to the city's lobbying ordinance. And clearly could be connections there on how this could be crafted. And from the attorney's office perspective, raising the concern or need to consider any constitutional issues that might need to be factored depending on how it's described.

>> Ed, I am surprised to see the reference to constitutional issues, since pay to play regulations are in place all over the place. San Francisco has them, Oakland has them, and they are governed by the California constitution and states all over the union have them. In is not a new form of public policy, it's ubiquitous. And if we mimic the many ones in existence, why would there be a constitutional problem?

>> Let me take a crack at it, to your point it depends on how the particulars of it may be crafted. And whether expand beyond precedence, the attorney's office has found to be workable.

>> Clearly it's constitutional and limitations on contributions. What we are saying, if you want to limit the contribution of a particular group of people, that's what we look at. Language that would be constitutional and limiting certain kinds of people. And contributing and where other people would be allowed. We are not saying it's possible; the city has those in its code. But that we limit it to a certain type of person, then we need to make sure we can substantiate the basis for that.

>> Moving on, everyone in the room would agree that it's important to minimize or maximize. And what staff is reacting to the suggestion, if there is not more than three or there is a hard minimum set that existing ordinances and best-practices would allow the city to negotiate on the basis of a fewer number of bids. And it's the illumination of that release value or the ability to work on existing circumstances that would be least problematic.

>> What is the practice now if there is only one bid that comes in?

>> Walter would you respond.

>> Sure, one bid, we would look at responsive, and then we look whether the bidder is responsible in the sense that they can adequately provide the service. And if they can, we move forward with the award of the contract.

>> It's possible for us to move forward, it's not necessary for us to move forward.

>> That's correct, yes. We may reissue the RFP to test the market again.

>> At the chair's discretion.

>> Thank you, would you also just talk a little about that when you require a certain number of bids that it could also encourage collusion?

>> That's a concern from staff, that the hard number of minimum bids could create some incentive to gaming the system or to put additional bids.

>> I would have a question of that, it seems bizarre if there is no requirement and best practice is two responsive bids. How does providing three encourage collusion if having no minimum number or best practices of two not create that same degree of risk of inclusion?

>> I think the distinction would be two responses of RFP's [inaudible] and not sure that rule came from.

>> The rule of best-practices is to reach out to as many as we can. And that's the first rule. And to see who can respond to the certain requirements. The challenge, some industries are specialized and of technology and the of airport two years ago, we had two bidders. So it depends on the marketplace, if I have one bid from landscape and maintenance services, my staff will look at the spec's and if they are twisted or that the bidders didn't respond or the marketplace. And assuming that three is the magic number, that's what I am concerned.

>> I understand that, and if three is the right number. But to suggest by putting a number that it would encourage collusion and I think that collusion could occur no matter what. And I appreciate the fact of certain industries and a discussion of certain bids it may not be helpful to have a hard number. And in other bids it may. But that aspect I thought was interesting.

>> Deborah.

>> If I could add to clarify. It may be that what is not understood are the best-practices we use as through Walter shop, in terms of purchasing and the analysis that goes behind the determination that we recommend that the council reject the bids versus a public works process versus rp process. And to bring the proposal forward because of the scam of the environment. The concern may be to put the hard numbers that forego and permit the thoughtful analysis from a procurement perspective.

>> I want to add to that, for our community there is only one provider that provides cold weather shelters for the city. And we have many providers for the network, and because

we try not to duplicate and work there is only one. So I have concerns on the two. That's not all the time, but in some specialized service areas, we only have one to provide that service. So we have to be conscious of how this policy is implemented. If they have to have two to bid, does that mean you have to call a friend, even though you haven't done this in your life, would you bid. So we can get the contract because of the rule of two. And for our community that's a conversation, for specialized organizations is there is only one Vietnamese and that would create an opportunity for that to occur. I want to give you examples, if it precludes us from applies at all, then that's an example of that.

>> Could I --

>> Walter.

>> To talk of collusion and that issue is that proposers invest a lot of time and money to respond to city RFP. And if they put this investment forward and for two proposers they prove a bid and that's difficult to prove, to get the investment or contract. Or conversely, I won't enter the marketplace, it doesn't make sense.

>> I was going to say that, if you look back several years historically, those kinds of things did happen. It should be our intention to set up a process that's most inclusive and most communicative, and the outreach thorough, and if we get one bid, and we have done the due diligence, that's what we go through. We should be best service, best cost.

>> Thank you.

>> I wanted to say something similar; I want to say that the spirit of this is to reach out and to maximize the number of bids. But we need to apply common sense. I think that's the most important thing too, not get lost and lose common sense. And we have heard situations where there are simply not three companies that can do that work. I think that everyone in the room is willing to work on a common sense basis too.

>> Well, Ed, you have to rise out of that, are you ready for the next?

>> That's what we want, spirited discussions. Okay, we will take on, we are at emergency services.

>> Yes, we did skip protection of emergency services.

>> My apologies for that. Let's -- sorry, protection of emergency services. This item was really, I think what brought the attention from staff analysis perspective, understanding the unique services related to police/fire. One case, disaster response is another situation in which an analysis of decrease in quality responsiveness to services could be subjective. I think that could require additional work in order to identify how that conclusion would be drawn. At the same time noting that the existing policy does require evaluation to public safety. This does embody a broader analysis than typically done on a service by service basis.

>> Could you elicit a little bit? You are talking about fire? Police? Emergency vehicles?

>> That could be the direct example, if there was a service related to medical transport, perhaps the most salient example, certainly public safety is a key consideration. Where it gets more complicated if we were talking about, say for example, a reduction in street maintenance or just use that example, street maintenance, staffing levels based upon contract. Those staff members also provide an emergency response function in the case of heavy rains, flooding, earthquake, you name it. So there could certainly be an argument there is a reduction to our ability to respond to emergencies in that situation. If we were speaking to take a generic office function, say accounting as a similar

example. Our accounting staff also provides an emergency response. So it could be the conclusion you may want to draw is it's a complex analysis.

>> I had one question about disaster response, in the state of emergency, the Red Cross and other nonprofits respond in disasters. Could you explain, if Katrina hits here, I am positive you will need the Red Cross. And pretty sure you won't have time to do an RFP for their services. So I want to know in a state of emergency, many of us are called upon. And I am unclear about that.

>> The city is required under state law to have emergency response plans, every city employee regardless of the number is a disaster service worker, whether librarian or police officer. So we have specific roles and functions within the emergency response plan for the various components of the organization to come together and deal with the emergency. And to your point, there are agencies predestinated through agreement and contractors and the city to be available. For the Red Cross, they are in the housing component of the plan and responsible agency in our guidance to set up care and feeding. Given the magnitude of the disaster, where people are at and plans are great. But to be flexible. But the main point is that we draw the resources in the moment, and much of that is predetermined and planned.

>> And I add that Santa Clara County, the best plan in the state, has meetings at least four times a year. I am serving on that. And we at each meeting hit certain topics that are of high interest. And we are working on a micro and macro plan. The macro is probably the best in the country. And you raise a good question, and I will bring that up to the director of emergency prep, to see how smaller groups are engaged.

>> If there is a plan, that's fine. But after the fact, you didn't do it this way. If there is a plan, no problem. But I wanted to ask the question and we need to be sure they are not in conflict.

>> I am glad you did, we need to know.

>> Just from my perspective and the intent of that measure, it wasn't in an effort to undermine emergency response at all. And I think it's more along the lines of making sure that core public safety services, those are the services that you want to make sure that we have a sense of comfort and make sure those services are provided in an effective manner. And now we can be certain in talking of that matter further and talking to the folks of police and fire, and continue to work with other governmental agencies and nonprofits to augment our emergency response. That's where something, by putting this measure in there was a way to say look, at the end the day we need to be sure that our public safety is maintained at the highest level. And we have a great police and fire department, and we don't want to mess with what is working. But to augment with the county and other services to augment emergency response. And that's an area where we all agree that we have to work together. If we want to make it through any potential disaster.

>> Thank you, a clearly perfectly example of how this policy connected to other areas.

>> I wanted to add a comment based on the fact that based on the last nine years in purchasing, at the end of my time I had responsibility for materials management. And a core component of emergency services is fleet staff and warehouse staff of providing materials. There is discussion of outsourcing and this is a direct relationship to that. That this may not be the accountant but the person who gets the barricades or water. It's not just our police and fire sworn personnel but it's our personnel. And when we go to outside

contractor, safety needs to be the core question.

>> There should be services that we should be very weary of outsourcing. Public safety and police and fire are the core services of the city. We need to be very, I would say that we would never want to outsource most of that. So obviously nonprofits and other groups that help us in terms of emergency, again common sense. We need to work together that we are protected. But there are certain things that this city needs to say that this is what we do as part of city. And the point is well taken; it's just the line people but the supporting things that go with that. If we had to have parts that needed to be there, if we had a fleet that was disabled somehow, and if god forbid, that G.M. went bankrupt and we had to provide those things in emergency. It's not that far-fetched but we need to be sustainable in our city. That's the spirit of that but we need apply common sense and that all agencies that work in a nonprofit sector are included in this.

>> You want to go first?

>> Bill.

>> I would like to make a comment. I represent employees that are responsible on a day-to-day basis for public health and safety. Whether it's the street crews or the workers in the plant. And that they are responsible for public health and safety on a day-to-day basis. Not just emergency, let's not lose those guys.

>> Just a follow-up item, we want to do is better understand from the emergency response or disaster response what the plan does. To gauge point, there is a logistic section that's responsible to get the barricades to the place they are needed. Regardless if they are in the warehouse or to get to the vendor that's pre-established with the city. I think there is an opportunity to set our minds at ease on that point as a follow-up step.

>> Great, any other questions?

>> If that wasn't challenging enough, we will take on sunshine requirements. Again, just briefly, the recommendation for discussion is for public access to recommended under contract for the city. And sunshine requirements the public records is a source of reflecting a great deal of thought. And expansion of that raises a question and concern about how that would affect ongoing records related to private and nonprofit contractors. That was a flag of issue of some concern.

>> Thank you. And can you elaborate on one point made here, that the sunshine task force consider proposal, what was that similar proposal and how does it relate to the suggestion here?

>> I may need to ask someone else to pick up on that one.

>> I was there. What the sunshine task force considered was the idea of actually having decision making made by a private vendor. As open to the public as city decision making is. And even more following the adoption of sunshine rules. In retrospect it didn't but didn't look at the public records associated with outsourcing.

>> If I could add to that and where we are at in that process, many sunshine reforms are in the rule process. And the point that council has yet to hear the full package, there are still open issues.

>> To what extent possible that this is done, then it may make more sense to wait and see what comes forth. And as individually or as a group address those concerns.

>> Exactly.

>> Ed, just one comment from the private sector. Since we are trying to pull this together

on how and if we use competition. The private sector I think would be interested to have more clarification on what records are intended to be disclosed. Certainly a private company won't disclose their financial records and files of personnel and as the city wouldn't do that. I think it's important to be consistent and to have a good understanding of what records we are talking about.

>> Good point.

>> To be continued.

>> Bob.

>> Sometimes it helps to have an example to get a sense of what is really being talked about in an issue like that. Let me give the kind of example I think should be covered by this kind of approach. Let's say that city vehicles are suddenly to a great extent involved in accidents. And repeatedly the situation occurs where the driver is saying, I stepped on the brakes and nothing happened. And that's why I was involved in the accident. On those circumstances and the media and public would be entitled to say, we would like to see the records from the city garage. When the people are getting their brakes maintained, they are getting maintained. And is it a driver problem or maintenance problem? And we have a garage and the same scenario, stepping on the brakes and nothing happens. And public should be able to access those records from the garage and that's the kind of records we are talking about in this proposal.

>> Walter.

>> I want to take it a step forward. And what would happen, the city would request the records and then they are city records and then accessible to the public.

>> Sam.

>> This is a provision that raises the question of what problem are we trying to fix. I can imagine a scenario of what Bob described. In the 10-pages provided and lists the contracts, are there particular records there that we believe are involved in those private contracts that are critical for public knowledge? I think we ought to start there. Rather than an imagined scenario, talk about the real scenarios and where there is a disservice. And look at the pros and cons in real context. The problem as described it raises the record production that will chill any private vendor to participate with the city. And that's what I am concerned about. The lack of specificity and the lack of what the problem is today. And I would be interested in engaging of the conversation of what the problem is today and those issues. And we should start with a list of contracts we have and see if we identify a problem with one of those. And at least talk about that in a much more pragmatic context.

>> Thank you, and response of what Sam is saying, I think that the idea is especially as we go forward with sunshine and public disclosure of records and so on; we shouldn't expect more or less if we use public money to contract out to the private sector. Just as whatever records the public could expect, as pat mentioned even with the city some records not meant for public consumption. And that shouldn't change if we are doing a contract with the private sector. But at the same time what records should be required for a service done by the public employees, when using public money. We shouldn't expect anything less to be accessible to the public if it's a private sector.

>> I am not sure if more or less that's the right standard. And the reason I say that, I can give an example, we are required to disclose salaries whether we like it or not. I don't

expect or want a private contractor to disclose the salary of everyone that works for them. Simply because they do business with the city. If we started requiring that we would have a hard time getting work in the city.

>> But salaries is not disclosed for the contract.

>> Good point, but we are not going to debate.

>> Prior to the hiring of our current public managers, I manage records for the city for 10 years and the larger contracts for the city. Currently the practice is satisfactory and we haven't had a problem, when the contract with the company is involved, any records relating to the vision of services for those contracts are acceptable for the city to look at any time they choose. And that's contractually written in the contracts. It's only the things that we know about and usually do have. And it brings up a point, the difference of managing a contract. And I plan on speaking on this later. And managing employees. It's an entirely skill set that requires different talents and abilities of the staff. And that's something as a bargaining unit person I would like to bring up in a future discussion.

>> Pat.

>> Yes, I think that gay and misty, one the councilmember made this comment; sometimes you have to use common sense. And in order to improve a policy, if that's what we are trying to do, you have to identify what the problem is that we are trying to find a solution. I had hoped looking at this document that we had a request for information. And the other column, what is the historic problem we are trying to solve? We have good people that for decades have been doing this. I think if we could go back and identify what is the problem. And then try to find the solution to that problem. It looks to me that we is lots of things that maybe could or should, but anyway.

>> Gay, we will be seeking your advice heavily.

>> I am here.

>> Patricia.

>> I wanted to comment, and I have to say at the end, I missed two earlier. But when it says, "Issue of great concern to nonprofit". I want to clarify I am not sure of what is great concern to nonprofit except the RFP process. If that's part of the contracting process, for us if that's bidding and some are successful, next time it's a public record, they can take your proposal and enter the next time. With all of it I am going back to Rosa's comment of common sense. And the next question is now what is going to be done with it? I wanted to address that.

>> Are we ready to whistle blow?

>> Absolutely. The water only gets deeper as we go. Unfortunately. To put in a nutshell, the existence of various protections at federal and state level. So from a staff analysis, being a question of how to add to that existing framework of whistle blow and protection. And at the same time do so in a manner that could be effectively enforced. Next, and I am take 2-a and 2-b together, this effectively raised the issue of how to expand the competition policy to apply to other and universally areas where contracts could be let for services. And to put bluntly, this is an area of great concern from a staff perspective. Largely because we talked about the existing policy, 0-29 has a particular context and circumstances for application. It's building on that to have more universal application that raises a concern of the devil in the details and how to address that.

>> And my opening comments to confront directly, this is where you would limit your options as a council. And I encourage that.

>> Next time, fee from contracting monitoring would on its face lead to an increase in cost of service to the extent that those costs related would be passed through by contractors back to the city. As well as the administrative work necessary in order to make that happen. So again, needing to get into the details of what that would entail and how that would be done. And on use of small businesses and nonprofit. As noted there are a number of areas that this is both currently looked at or done in the past. Both with the small business development commission and nonprofit engagement committee and staff level, a series of ongoing note and historic work. Wanted to note that in place.

>> Comments on those issues? Patricia.

>> I am sorry; I need to ask a question on 6.1 and 7. I am sorry. I had a question on that. Ed, on the right hand side, when you said that currently the majority of nonprofit organizations are not monitored by existing boards and commissions. And I brought my binders today that say how we are monitored by the city, which is oversight by city boards and commissions. This is a typical one-agency and these are all the rules we have to follow. All monitored by some committee or board. So I was concerned of why you think they are not monitored?

>> We are ready to respond to that, it's an expansion based on the sunshine task force recommendations.

>> And he's not saying they are not monitored. These are suggestions to add. Okay. Leslie.

>> Leslie, director of housing, we have a group, the nonprofit strategic engagement group that's looking at this commission. And we don't go forward with the kinds of reports on nonprofits that are being discussed. It's not something that we do, I would be interested in the records you have.

>> I brought the [inaudible], but I have one.

>> That's a different issue. We do definitely monitor nonprofits.

>> And those reports are given to those boards and commissions? Correct? For a reason to remove an agency from a stream and if not performing, that would be brought forward to the boards and agencies?

>> For most part not, we may need to discuss off line.

>> The left column was lifted from the memo that got referred to this process. It's not a comment from staff.

>> I wanted to have that clarified. Our agencies will tell you that any problem they have goes to the board and commission of the city. And the responsiveness, that we are regularly monitored by the oversight committee with that has all the information that the staff has. And we are in a different process than other oversight committees and I want that reflected. We seem to meet every month with y'all. There must be a way.

>> And to move forward in the wrap-up, we may need more clarification to achieve quality in the nonprofits.

>> On to the next slide, please. Just the city manager commented on this earlier, I won't dwell on it. This slide was meant to put the current context of relating to the structural budget deficit and note the basis for our ongoing work. I think we are ready to move on. In terms of the next steps, the structure of panel discussion was set up to prompt the

panelists to respond -- next slide, to respond to the discussion question. We had set by timing and within two or three minutes of our target. To be able to take a small break, perhaps reconvene at 10:30 if it be the pleasure of chair. And we started with general discussion and want to focus on 0-29 what it is. And our next step is to broaden that discussion and bring back to the panelists to ask how the city makes the decisions and what route we take.

>> If you would like to begin, this is your chance to say what you want to say. We will start with you. Any concerns about what we have done so far that you weren't able to express?

>> The most general concern would parallel to what I said before, I would like to see analysis shifted from, here's a list of proposed solutions to here's a list of problems. And starting with the contracts we have out today. Where the problems are we need to fix. And then start to craft policy. I think that would be a more productive kind of conversation. And one that would really, where we could really engage businesses directly. And understand in a very clear way where we need to move forward. My concern is, as I look back to council policy, and last night outlining the areas where there seems to be pretty substantial protections. And I understand that there is very justified fears out there and apprehension among our workforce of what will happen with the budget ax. And that's legitimate and a cause for great concern. But between the third-tier review and prevailing wage and the 10% preference and the no-lay off and protection policies. I want to know what is missing and where contracts in the past have allowed our employees to be vulnerable and bad for residents. I think that understanding those problems would a better way to start than the list of solutions where we haven't described the problems.

>> I am sorry, madam chair, for clarification; did you want to take a break?

>> Let's ask the question, how many would like to take a break? Okay. 10 minutes. See you at 10:35.

>> Thank you, I heard good comments. And Ed, we are back to you.

>> Thank you madam chair, we are to the point to provide each panelist the opportunity to make comments in general response to the question, what are your overall concerns and priority of the city decision making. And Sheila tucker from our office of note key concepts raised by the individual panelists. This is not our only record of the comments you will be making. We have a web casting and minutes. And we want to note that we capture key concepts.

>> Ed, in we can remind the audience if you wish to speak we need your yellow cards. Pat.

>> I think you have done an excellent job of laying out not only 0-29, by the way I was there as well. I had brought Mayor Hudknut from Minneapolis to speak and triggered on management of competition. And having said that, it seems that we need to remember that we are here because we are facing a deficit. And we not unlike government or private have to look at doing things differently. And the goal of the budget structure task force was to do that, to look at ways to provide service that expect quality. And that quality would come at a savings. I think that's number one, if that's why we are here, that has to be at the top. And second, what are the problems we are trying to resolve? Sometimes government gets bogged down in speculation of what it might be. But in these economic times, it's important to identify how to make procedures and processes to work

better. And to do that the best way is to identify the problem and address that problem. And the other, from my perspective, we want to encourage the private sector to participate in providing services at high quality and good cost savings. If we want to do that, clearly 0-29 has been a failure. It's only been used twice and that was marginal. Really the private sector didn't participate in 0-29. To add more to a policy that didn't work, I think we may be spending our time; we could be doing something with our time to help with the deficit and provide good quality services and to encourage the private sector to participate. And I look at this in two categories, one is management competition, and if we choose to define management competition, you have to start over. I am speaking from historical means that haven't worked in the past. And I don't know if it's set up. And I think we have to start over with manage competition, and to just say so and not waste time and money that the city doesn't have. It would be more important to look at the two categories in 0-29, how much time city staff would have to spend to get in that process. And it would be interesting to see how much cost for the process and how much was saved in the long run. Not that they didn't do a good job, they did. And if we put 0-29 aside because that's something we can't do or don't want to do. I think we need to look at the RFP process; this is very time-consuming for an RFP. It's a stack of pages like this. It takes way too long to go to the process, and costs way too much money for small businesses to participate. I am looking at this as good positive comments on what the problem we are trying to resolve. And if we are doing this because a deficit, we have put on a different hat.

>> Thank you, Linda.

>> Yeah, I think I see the other side of this. The proposals that came forth of adding more to the budget process. The city hired a consulting firm to give comments. And the comments are actually outlined and attached on the memo from Deb on December 17. And it asks for enhancements to the policy. It says when you use competition, and trying to look at outside contractors, there are mixed results in the united states of whether or not it's successful or not. Our concern as representatives of members that do this work is that once the work goes out, it's out. It's hard to see it come back in. When it's gone, it's gone, and we need to make sure when it went out the door, that the city is getting the best deal. And some comments that the consultants came up with, training procurement staff, and vigilant monitoring and evaluation. These are things that the consultant came up with, and called "keys to success for contracting out". I think when I saw the memo from the council members, oh; great this addresses the whole piece. Once we enter a competition phase, there will be more monitoring and detail. And what was talked about and I wasn't here when the two phases of the competition policy were originally used. But some of the ideas behind that of training staff to do their jobs better. Of giving them tools to be able to cut costs. Are some of the things that are incredibly helpful to staff. Sometimes having an outsider coming in. Certainly the city manager's office has done that with hiring several sets of consultants to say, here are some ideas for cross cutting. I think that's helpful for outside groups to come in and goals and benchmarking, etc. And these are helpful and we would welcome that, spending money is sometimes what you have to do to find how to save. I am not surprised that it does cost money to implement these things. I am favor of these things, and some details that need to be fine tuned. And that's what is called the devil in the details kind of work. I

don't find anything going forward, as having been on hold with one of the ideas of the general warehouse being contracted out or given away. And I think that Walter would say that the process of the staff went through, and over the last year has been extremely helpful. They have updated certain ways they do business and eliminated positions. And it was long grueling but there are more efficient crews. And I think that the street striping crew is still an efficient group and proud of their work, I saw them accept their award. I think those things are helpful for staff. I went through the procurement streamlining process with another set of consultants with senior staff that was very helpful to me to understand the RFP process. And why there are bumps in the road, why it takes so long, and the community says there are too many things they have to get through. I am not saying I profess to understand the RFP process completely. But the staff took on trying to streamlining it. There are places where streamlining is excellent, but there are certain steps you can't eliminate. There are checks and balances that have to be kept in these processes. And I think this is in addition to the policy are checks and balances. It's not stopping the process; it's putting in more checks and balances.

>> Patricia. If Walter wants to say something. Bob, sorry Bob.

>> That's all right. Story of my life. [laughter]

>> No, it's just that I didn't get much sleep last night.

>> I worked on putting this original competition policy together back in the late 1990's. And despite that I think it can be improved on for several reasons. One, I think it can be streamlined. Saying that, I believe that the structural elements of the policy are sound and should be retained. Those ideas that first if you want to see if you can improve services internally before you risk outsourcing. And secondly, you only try to outsource if you can save a significant amount of money. You don't do it for chunk change, it's expensive thing. And third, if you outsource, you give the city a level playing field. And second reason why I think it can be improved and tightened, because we have ample evidence from the private and public sector that outsourcing is a high-risking strategy. In the words of Deloitte Consulting, when you look at agencies that outsource and the contractors with which they do business, those two entities have quote, inherently conflicting objectives, unquote. And because of that, organizations that outsource often find they have quality problems and don't achieve the savings. And if you look at the jurisdictions, you see these problems happen again and again. And one difference I have with councilmember Ricardo, we have only used this twice, and other outfits that have done it more than us, and it would be a shame to say, we have to experience the same awful problem he did, and learn by ignoring from them. Than saying, let's learn from the problems they had. For example, one of the proposals that four council members have put forward, is the idea that we really want to know if we will be doing business with a vendor, whether they screen their employees and skill levels and job turnovers their employees have. Some other jurisdictions don't have that. And one other jurisdiction that doesn't is I. A. County. And this is what happened to I. A. County recently. They discovered it was doing business with a private firm to provide medical services at a big Los Angeles clinic, and through a newspaper story, they found they had replaced a worker at the clinic that had been convicted of raping women twice. And when the county board of supervisors said can someone tell us who of the other 2,000 members have criminal records, the answer was, we don't have a clue. I would think that the San José

City Council would like to Learn from that experience and not have to read newspaper articles of asking if there are those of criminal records working in our neighbors and discover that no one has an answer. We have learned from that experience, even though we haven't that experience ourselves. I would like to talk about the four options that Ed has put together of where we go from here. One of the options is to take additional input, apparently [inaudible], I think that's a poor idea just because life is short. Then there is another idea that is essentially do nothing. But the fact is if we are going to look at outsourcing in a serious way, and the city manager wants to have that option. Then we shouldn't do nothing, we should make the policy as useful and tight as possible. So I don't think we want to do nothing. The third option on the table and this I understand is favored by staff, to create a whole big comprehensive policy that covers not just public/private competition but all forms of internal service delivery models. Frankly, I think this is not a helpful notion. And I look at it from the same as someone who came forward to look at street maintenance and had staff to say let's look at rails and airport, and makes me say, why don't we just start with the pot holes. And it would be a task that needs policies tailored to the unique delivery systems. And the pure policy has its own specific needs. There is no reason if we talk about volunteers to look at third-tier review. It makes no sense to have those requirements apply to them. If a company is donating services to the city, we don't need a cost comparison, there is no cost. But those things are important if we are dealing with real competition and private vendors that expect to be paid for their efforts. What I would suggest is the best option, the fourth option in Ed's list, start with the policy we have now and try to make it a better policy by trying to make it streamlined and efficient and make it tight to avoid problems in other jurisdictions.

>> Thank you Bob, Patricia.

>> I guess my overall question of the policy is how it would be implemented. Though my time is precious as well, I haven't had the time to review this policy as others may have. I wasn't there when you wrote it, and I am just now understanding it. And every time I hear it, I learn more than I thought I knew last week. So I guess that's my biggest concern. How will it will be implemented? And back to the common sense approach, it's clear that some policies make sense and some we have questions about. And so what? It only says this, but I think it means this. And I know that's words missing, but I am there. We have probably the most contracts with the cities than the nonprofits do. So I have interest in this policy. I have questions of anything in this current policy would be retroactive to current policy. I am unclear on that. So I guess I need more information on how they will be implemented. Some I have no problem with -- and some I don't know how you will collect that information and track that information and monitor us in the future. I have questions of how that will be implemented and in a comprehensive approach as councilmember said, and that's my question, from what the words say and the intent is, I am not sure we all have the same understanding of that sentence. But I am going to go with the common sense philosophy, and still say, I need more information on how it will would be implemented and how would be impacted and all of those pieces of information are important to me. And will this impact all contracts? \$10,000 contracts? \$100,000 contracts? I am still not sure if this is for everyone all the time. I say I have questions.

>> Leslie.

>> I feel like this is in some way an exercise from Bob Brownstein. Our involvement when we began in 1995 when Bob was a budget director of the city. And Susan Hammer and Bob launched this organization. And the heritage rose gardens were planted in recession. And they were agreed to manage that by the city, so we currently coordinate 10,000 volunteers' hours a year and that's mostly in the garden. We have had a great relationship with the city, and worked with Ed. And the city was responsive when we said that some reporting was burdensome or in the way of us to accept donations. And we appreciate the opportunity to participate today for input. And like Patricia and Bob, I am concerned with a one-size-fits-all approach. Needing a lot of flexibility. We have stumbled in prior years, it's been hard to donate money or services to the city. And I think we are getting better. But I hope that anything that comes out of the policy doesn't inhibit our ability to accept donations. Certainly a threshold can be determined. But we stumbled over accepting a \$5,000 in-kind donation. And I have concern about paperwork and reporting requirements. We are a lean organization and it's difficult for us to have additional reporting requirements. So I would ask that you look again at the scale of the operations you are doing. And back to Sam's point, what is the intent here? And how does the public best serve. We know that the park's recreation services is the biggest department after public safety. And we know that there are more cuts, and how do we facilitate the role than create barriers.

>> Gay.

>> I think you sat people in the right order, I am building on point. I have three points, one starts with Bob's quote of organizations that have inherently conflicting priority. And the nonprofits may not be conflicting priorities with government but they are different priorities. As are the small businesses and large businesses and the individual organizations that don't fit any of those categories but want to participate. So I also have the concern of a one-size-fits-all. I think we need to tailor our requirements and processes to the organizations by type and size. I think those two things should be guidelines or principles as we look at the process implementation. The second thing I have a concern about is the commitment of staff, and I am talking specifically about the contracting for profit agencies to other businesses. And these are generic, no offense to our great businesses. Because I have great people I work with who are now contracting with the city. But I am concerned that their employees would have the same level of commitment as our city. As we look at contracting out. Some things like the green vision, how committed will mow and blow organization be to that vision as opposed to the employees that are currently city employees. A very important direction the city is going. The other area is specifically employee driven, and a few years ago the employees were not comfortable with how the city was getting press. We are here for a long time, 22 years is the average for the employees at city. And not the four years or eight years of our council members, so we would like the city and people and everyone to know what we are all about. So employees together talked about it and crafted what they call the employee values. And now it's adopted by the management and council. And those values are also very quickly integrity, respect, celebration. And three that I think merit discussion in relation to this policy and our discussions today. Those are things that may not again come from our profit-driven partners. One is innovation, what awards are for them in a contract that exists when it says exactly what performance will be provided. Secondly,

excellence, that encompasses the idea to grow the staff and knowledge and for our current position and future growth as employee-based. And again we don't know, and there are some companies that do that fantastically and we learn from them. But what is the level of commitment based on an agreement or contract. And the third one and most important is collaboration. Because if collaboration is a value as employees, we want to collaborate within the organization and outside the organization, with the appropriate groups of people that will allow us to maximize our service potential to our customers, who are the citizens and visitors and businesses to San Jose. So collaboration is the core value of our employees. And will that core value be expressed and brought out in the employees of our contractees. And finally, my third point, it relates to what I eluded to earlier, that's specifically as a management union or bargaining unit person, and thinking of my managers that supervise staff, if that function is not by city staff or by contractors or anyone else, what is their role? Are they really to take on that role? Because contract management is a different animal than managing staff. And of your direct reports and if you have to check in or the measurements are entirely a different thing. And understanding the financial reports if that's part of your contract management responsibilities, it's really different. You will hear a lot from our union employees and our managers about where we have hired contractors and had to do the work again. And we want to avoid that. So the collaboration piece is big and the skill set to be a good manager. And I will admit it, I have over 400 managers and we have varying skill levels, but contract management is not a class we teach at the city. And we will probably need to go in that direction if we do more of it. I think we should. I will close my comments there and say thank you for the opportunity for giving labor an opportunity. Because we have lost our staff voice and now we are doing it now all in our volunteer roles. We used to have someone part-time support the labor relationship with the city. And now we are, again in cuts, we participate like everyone else. But we are doing our best to keep our members thoughts and voices in front of you, and to take your comment and concerns to them.

>> Speaking a good person that we outsource.

>> Thank you, and for having me here today. As a relatively new vendor to the city, it's a privilege to participate in the process. I would like to freeze my comments and not concerns, and to Pat's point, before the last few weeks I would say I was not familiar with 0-29, nor real aware of how it impacted the processes as we moved through it, as a potential vendor in response to an RFP issued by the city. To start with, I would like to say that we work with dozens and dozens of government agencies. And I have been doing this quite some time. And I recall making comments to colleagues, what a refreshing change that we felt dealing with the professionals here at San Jose. We felt like working with a large private business than a government agency. I wanted to say that up front. To go from our perspective, from a vendor's perspective, when you look at an RFP, what we look for and what is important and should be considered foremost before some things, and I heard getting bogged down in details. What are you trying accomplish? What is the service and goal and benefit to the citizens or whoever you are trying to do? That should be first and foremost. And as you develop the proposal or RFP, what the best way to achieve those goals? And are we looking at this as a way we have always done, or from the development look at opportunities to have someone come and say, this is what we

want to do and how would you suggest we do this? As part of accomplishing that goal Rather than saying this is what we want to do. That's a general comment, and to keep in mind when you look at outsourcing and looking at how much things cost. That's what we are looking at. And how much it costs starts with how you do it before the end result of the RFP. Because that's based on numbers of what you asked for. If you didn't start with the best way in the first place, you won't end in the best result. That's important to keep in mind. It's important to set specific functions in the proposal. And if developed from expertise of the area you are talking about. If you are talking about landscaping, for instance, who was the person or how was the details of the expectation outlined, and who was the expert who helped with that. If you are talking about pool maintenance, and I am keeping my comments general, if you are security industry, who set the guidelines that your potential vendors are responding to. And what are expectations. And just one note, I saw because it was here, and use it as a detail, but one question, what are the turnover of personnel? Well, that's really an open-ended question. First you would want to start with what is the expertise of the person evaluating the response of that statement? As in any business that has multi-levels, if you say what your turnover of the personnel, that's driven by multiple factors. They are driven by wage, work environment and a multitude of factors. So if you are going to say, and use that as an example, if you say what is the turnover of the personnel? Really the question should be what the turnover of the class of personnel we are talking about specifically of the so a better -- so the best question is to keep in mind, what would you anticipate the turnover personnel to be in this position with us? That's a good question and could be fairly responded to. And I use that as an example. You can apply to a number of things. Going down the evaluations of the proposal, I see often a lot of good questions in the proposal in different RFP's. But when you come in to answer it, does the person listening to your answer understand what you are saying. When they are listening to what you said in response as opposed to your competitors, and said in response to that question. What did it mean to them? To me if you asked me something industry specific, I may have strong feelings and tell you why it's important and why the answers to the other questions are not good one. But if you don't have that understanding of what you hear, how you make that evaluation and what is best for the city and the folks you are working with. I like the comments of getting bogged down with things, and that's not specific to you, it happens in the private sector and my own office. I am in staff meetings and you get the what-if all the time. If you move forward, you can't get bogged down with what if; you have to use good judgment. You could what-if all day long. Let's use common sense and say what is in the best interest and move forward. That's my two cents on that. At some point you have to draw the line, this has nothing to do with swimming pools and we lose track of our goal. Keeping in mind what we are trying to accomplish. As far as the process, I have again worked with many, many RFP's, and I would say in my experience with San Jose, yours is not overly cumbersome. And if you are someone that practices and are accustomed to responding to these, you should be familiar with the process. And my input is that yours was straightforward and I didn't feel it was a problem for us to respond and deal with. And I would preface that with I am used to seeing these and working with them. That wasn't a hindrance from my perspective. Again there are lots of things I would say and have input but don't want to take the comments here. But I appreciate participating in the process

and would welcome any specific questions.

>> Thank you cal. Bill.

>> Thank you. Thank you for setting this discussion and having me be involved. On behalf of the members that are represented by operating engineers local 3, we are glad to provide our thoughts. And this is a conversation that should be happening. We should have this. How can we improve our services that we provide? And how to save money too. Are there things we can be doing better? City workers are wanting to do the best job possible, not an okay job. And they do this everyday. If we can do a better job with a different strategy or different tools or materials, we would like to hear about it. And we are also in support of innovation and new ideas. But we want the ideas that work, and also for the public. Not for the company that's trying to sell them. I can give you example was contracting out services. That didn't particularly work well. If we are going to pretend in this time that these contracting outsourcing will be wildly successful, then I think we just need step back from that. But the example I will give you, in the late 90's, the water pollution control plant did contract out landscaping services. And it was probably, my memory is fuzzy at times. And I know that I can find the information out, probably just need to go out in the audience, but they brought in a company to do a basic mow and blow, and it ended up that the city had to bring their own workers to fix the irrigation system. And we spent the money on blowing and spent that money on doing that. My members care about what they do, I have guys that can tell you every inch of pipe, where the junctions are. Where the headers should be, and how many different systems there are. They know it in their head. So you know, I think we really need to have strong policies in place to prevent things like that. We need to make sure that our contracts say at the front-end what we expect, which is what cal was saying. We need to say this is what we expect, and we have to be able to know the job that we want to do. And to be able to articulate it. My guys know their jobs. And they are there, the road way guys, I represent those guys. And it's a treat -- not a treat, it's an accomplishment for the members to get into that team. Because it's a good thing for them. And they are still keeping it up. I understand that these original proposals to improve the policy are first draft. And they may need to be modified a bit. But they are good, solid recommendations and I urge the committee to move forward with implementing them.

>> Thank you bill. Jim, we haven't heard from you yet.

>> Have been waiting patiently. What I want to speak to of having been with the city 20 years. I have overseen contractors and our department and transportation has many contractors. We have a large amount of city employees, and having experience with both of those. And there is probably a place for both. And cal and I talked about how our city supervisor oversees the city activities. And cal's staff has a good partnership there. And some comments I have heard earlier, what is the problem we are trying to solve? The city manager appointed myself as co-chair of the team of budget cut, and we have reached out to 50 city employees to provide better ideas to procure services in the city. And it is burdensome at this point in time. We have a number of proposals that we are still working through. And my experience of working with city employees over the years, it is challenging at some times to get our jobs done. And streamlining has to be a part of doing business. I think that's an area where we want to focus. Certainly upgrading the policy can be a part of that as well. Linda, you referred to some activities that the competitive

sourcing had in the partner's report. Many of those things we do in the department of transportation. Many went through the process and competition; it wasn't their fault that a proposal didn't come in. And they made a proposal of the activity and worked in the manner of the tools they learned and the training process. And transferred that knowledge to our street maintenance crews and now working with the sewer maintenance crews to be as competitive as possible. The process had our staff stand up and take notice that we have to compete. And that brought an awareness and attention to do our jobs more efficiently in the process. But it was a long process. I was on a team and went through the training and engaged in putting the proposal together. And it was extensive and time-consuming. As we look at a competition policy, we ought to take the views to find a streamline and tight way. But to ensure good accountability and protections. I assure you as a manager of this city, to have our contractors to be fully accountable is an important thing to look at. And the vast majority of our contractors take that approach. But to say that we will never have problems in our contracting areas is unrealistic. Just as to never have a problem with an employee. We have remedies in our contracts if they are not performing and civil service and employee relation process. The vast majority of stuff works well. There will be instances where we will have problems. We need to be careful not to have so many protections that we can't work our way through the system. I think that the point of common sense that council members have made, we need heavy doses of that. And the budget processing team is not trying to strip protections but to find the most value added business in tight times.

>> Thank you, Walter, I skipped you.

>> I really appreciate the feedback and the valid discussion here. Indeed one of our goals is to streamline. And it's great work with Jim and together to make this happen. And to try to figure out how to do things differently. At the same time what we are facing, like what Linda talked about, the warehouse and the staff is great and to step up and realize we can do the work differently and to with less people. I think we're in the right direction, and how to figure out as an organization across the board, we manage to be as competitive as we can to save the dollars.

>> Ed.

>> In terms of the next phase of discussion, I am not going to speak as a panelist. This is the point where we turn back to the committee for your discussion. I think I would speak for myself, want to know the excellent comments we have heard. I believe there is certainly much for us to work with here. And to reiterate the staff's recommendation, we think there is opportunity to worked for and flesh-out with the committee.

>> I have a few comments before I turn it over to you madam chair. I appreciate all the comments and thoughts. I think it demonstrates this is not an easy topic. And I think it's important that we identify the problems. And we heard that in commentary. But those problems are embedded in a variety of interests. I would like the opportunity after hearing the committee's direction, to sort through and bring it back with thoughts. However, Linda and gay and other team members who I work with a lot. You raised points and as your city manager, that you are clear on my philosophy going through this issue. The work of the managing partners and strategies did surface questions of how we might rethink how we do business. That can be a threatening question but it's a critical one as we move forward. Many ideas are concepts at this point in time. And maybe I should have been

clearer, but they are concepts. And many are talking through with the staff involved with our labor management committee. What I don't want to is prematurely put in policies that shut that down. We don't need a competition policy to do the kind of things that I feel are important that are good management practices. Such as assessing our competitiveness and giving ourselves own data. You don't need a policy for those; they are good management and will continue whether or not we have a policy. And also investing, and training, in ways that aren't driven by artificial policy threats are critical to our effectiveness as an organization. And to gay's point, the culture that we create for how many employees are left is critical. We are stewards of the public good. It does mean that work will change. And we need to be ahead of that curve, and if our employees are moving from direct service providers to overseers of contracts, contracts have the appropriate training to do that job well. At the same time we're here to deliver services to the citizens. And with that in mind with the right stewardness. Thank you for hearing me out on that.

>> We have council's thoughts. I promised you a rebuttal.

>> I want to thank the staff for facilitating this discussion. I have gotten a lot of great feedback from the panelists with a wealth of experience. Earlier today Bernie Madoff pled guilty and taken into custody, for really a horrific act that took advantage of retirees and investors and a year or two years ago I am sure there were a lot of people in the sec when whistle blowers came to them, what is the problem. And now we know the problem. To answer the question of what problem we are trying to fix, it's that we are stewards of the public's money and services, and we are the guarantor. And in initial comment of discussing these issues. And pat raised good issues of 0-29 policy has not been used. And it's to figure out a way to figure out a policy that can be used. And to face the deficit, we need to create a policy that stands the fiscal times. We want to create a policy that makes sense not just for now but 10 years from now, when the economy hopefully is doing well and to find areas to partner with the private sector. One of the main issues or main themes that keeps popping up and going through the flow chart it was apparent, and I talked with Walter, it's streamlining. And I happy of the work with the concept, and what we can do to make our employees more efficient. And that includes in the RFP concept, and they can accept a higher degree of efficiency and at the end the day, that's a win-win for everyone. To improve the RFP process and to help make our staff the best of doing the job at hand and not be bogged down with other tasks that don't go with the service they are trying to provide. Now the bulk, in the original memo that I co-signed that has brought us here today. Much the bulk of those measures already exist. And in looking at the presentation, much the bulk in making sure that we are competitive internally and that is equality of standards, and they exist and some are just good management processes. And so a lot is just codifying what exists and putting it in one place and to clarify the process for employees. And clarifies the process for the folks in the private sector that want to try to contract a normal RFP process. Not just talking to outsourcing as well. And the last I want to talk about the issue of sunshine. When referred of evidence of a problem or look at them if there have been problems we have fix. The mayor has put forward a very aggressive sunshine reform task force. He's done a lot of good things and important. And a lot of the reforms are to things to the past. I have no problem of signing on to the reforms and moving forward because of the stakes, and the

fact that we're dealing with the public's money and services. I have no problem with doing those personally, with my office and the city. In making sure that sunshine task force recommendations and those measures put in place are complied with. And because there hasn't been a problem in the past, doesn't mean that we shouldn't ask all public employees to sign into these. And nonprofits have had sunshine for a long time in terms of the contracts they have when they ask for public money. To say that, oh, well, this could lead to salaries put out there. The reason why all city employees salaries are put out there, because we are employed by the city 100% of the sometime. And contracts is a detail that will have to be looked by the city attorney. And the question of providing services, there is no reason why that sunshine shouldn't apply to the services provided by a private sector and contractor. Or by nonprofit sector contractor. So it's a matter of consistency, and a matter of being consistency when we use public money. It's a matter of being consistent when everyone is providing services under the veil of San Jose. And this goes to the whistle blower aspect, and making sure that we are consistent with what he we are trying to accomplish with sunshine reform as well.

>> Thank you madam chair. I want to acknowledge and note the historic nature of this gathering. And how proud I am to be sitting here with chairman Pyle, my colleagues and city manager and representatives from labor and city and employee groups, nonprofit sector, all of us coming together to discuss this. I signed on to this memo, because I think it's an important issue to be discussed. And rather than being reactive and only looking through the rear-view mirror and of problems from the past, we need to be proactive. We need to look at the future. And if we are going to do more outsourcing, it doesn't look like that's on the table others but not to look how this goes forward. I wasn't here when the original competition policy was put together, but I heard from all sides that it was broken. Many of the things that we talked about in the memo that was co-signed. Most can agree there are few sticking points. But I am encouraged by the discussion here today, all the thoughtful comments made, I have learned a lot. And hopefully a lot of cross pollination, that's encouraging. And we have to be thoughtful about making outsourcing decisions. And there are some services that shouldn't be outsourced. And I came from the private sector, and it's a serious things and we are outsource. And there are certain things that have been outsourced. And I think that it's useful to review that and create a proactive approach. And use common sense, that's been the theme throughout this. Especially in this current economic situation, when our staff is called to do a lot of things, and to do a lot of things with less. We have to be mindful of the task we will ask them to do, and as part of this. We all need to work together in that framework. It sounds to me what we do with 0-29 it needs to be streamlined. I echo with the city manager, the principles should go on with working with business, whether we use that policy or not. And it was brought up the RFP process, that was talked about. And it was great to hear from you Mr. Harden, that it worked for you. I have heard from some businesses that did not work as well. And we need to look at improvement, and that should be a guiding principle. And we need to look at the great public partnerships we have, and to recognize the good businesses out there. That have done a great job like Mr. Horton, that have been able to create a successful partnership. And perhaps create an approved vendor list, for businesses that have done a great job and met the requirements. I know when I was in private business, there was approved vendor lists and could streamline some of

that. I look forward to hearing the rest of the discussion, and hopefully looking to some solutions that work to move us forward.

>> You will notice that we have one attorney on this end and one attorney on this end. And who gets the last word. I want to say how proud I am of all of you. This is often an articulate, thoughtful, and well-versed group. And to give a special thanks to Deborah and Walter and Sheila. And with that Sam, you are on.

>> Thank you madam chair. I want to thank the folks who took the time out of their busy day to be here. I think the most useful place for us to resume the conversation is where bill stopped. You mentioned several horror stories of how contracting hasn't worked in this city. And I think that's where we need to start, and when you talked about landscape maintenance, and that was taken in because of this policy, is that correct?

>> It was after, they came back and it was contracted in after that, the landscaping company.

>> Right, and because of this policy we improved the situation to take them in-house. It raises the question, what is wrong with the policy? And what is wrong with the RFP process? And let's start there. And Bob made good points where he couldn't identify problems that resulted from this policy in the city of San Jose. That's instructive. But if we look at other cities, we have to ask first to identify the problems, and secondly, to what extent does our policy address them. And in I. A. County and what they did with health care workers in putting people not screened and no background checks into situations with vulnerable patients served. And cal and I discussed, and your employees have background checks and rap sheets run, and that's a requirement. And the question is, not are there horrors out there, but are we vulnerable to those. And let's identify the issues and start there. I believe that as bright a group of people this is, and as much experience we have in this room, I will differ from my colleagues, I don't believe this conversation has been that productive. It's been a discussion about generalities. And we have Bob and pat agreeing on the fact that we need more streamlining. And only thing I have seen is a memo that reflects that we want regulation restriction on a policy. That everyone agrees that we want streamlined. I think we need to move away from the generalities and start with the problems. And I know every member coming from a bargaining group, and Linda and I talked about an issue, and let's talk about those problems and make policy addressing those problems. We have enough problems in the city that we are not dealing with, that we shouldn't be spending time thinking about imaginary problems that we don't yet have. I would urge us as we move forward to start with that premise. I think there is a real progress we could make. But at this level of generality, we are not going to address it.

>> Okay, thank you, I will let you think about how to move forward. But I think we owe it to the people here to speak, to do that now. David wall, you are first submitter, we have nine people. And stick to the two minute rule.

>> As an old retired person, member of the community.

>> Madam chair, would you like to establish any guidances?

>> Two minutes.

>> Does my time reset? Very good. I am retired, a member of the community and out tending my vines and I came to this meeting instead. There is no public member outside of special interest groups which is here or there, on your committee. And since that's what

you are trying to support, that's an obvious flaw. There is no criminal background check for the Sunshine Task Force or Drunken Task Force, so that's a dead issue. You have to reinvent the entire process. These times are completely changed. We have to reinvent everything we do in our nation. We can't rely on old business models as any type of a starting point to be successful. And then we get into the nature of civil service and what is the big problem. It's a problem insofar as that the entire city structure, not corrupted as criminally but by slight nuances that have been accumulative over the years, and made civil service ineffective. But never designed to be efficient in economic models, it was designed to prevent corruption from politically and management and incoming and outgoing administrations. And corruptions from outside influences. And I want to say this without being mean spirited. But influences such as the south bay labor group, that has profound corrupt influences, not internally per se, but corrupt influences.

>> Peter Saigo.

>> Good morning, I am a resident of San Jose', I am not a stakeholder, just a citizen. I congratulate the four council members of the city's existing competition policy. Noteworthy is the fact that proposal is based on that from other jurisdictions; there is no reason to reinvent the wheel. As you know there are a number of instances of alleged impropriety, some suggest that the current policy be replaced by new guidelines and comprehensive. This strikes me as a dangerous approach. The staff background memorandum lists six different areas of background work for the city. However these different approaches have different characteristics. For example volunteer work requires a different approach than volunteer work. A policy that covers anything will cover nothing. I encourage you to look at the competition policy for the city.

>> Thank you peter, and Trish glassy. While she's getting ready, I invite Michel Militoni to come forward. And then Eric Larson.

>> Good morning, yes, it's still morning. I am Trish Glasy, president of the Confidence Employees Organization, and I am here to support you as you establish a barrier to this tsunami in front of us. Your task is difficult when no one knows the absolute best way to move forward. In a moment like this, it's hopeful to revert to core principles of sound money management. Things neglected in the broader economy, ensuring that the investments you make are wise ones. The previously recommended improvements to the competition policy are to re-center that policy, a critical tool in this moment and how to focus on return of investment. We are in a moment to ask you to move forward with purpose, and we know why you want to make sure you are headed in the right direction. We have read the changes and there is nothing there to be sure that the city establishes return on investment. The best way to feel confident stepping forward and to feel confident with purposeful urgency. I urge you to move forward with option two of the changes policy.

>> Thank you, Michel.

>> Good morning, I am Michel, and I an independent freelance consultant, and I would love the opportunity to demonstrate to the city that I am worthy of doing contract work. And as a resident, I expect my city to hold vendors to a high standard that maximizes value. And I am a little suspicious of businesses that want to stand in the way of the improvement of existing policy. I have looked them over carefully, and I would ask the businesses who oppose the changes if they have read it carefully. And if they have

seen their vendor agreements and why these requirements are not written into the agreements they are using. Bottom line I don't want my city to give dollars to bottom feeders, when it comes to tax dollars, we shouldn't give contracts to middle feeders. I ask my city to hold itself to a higher standard. And in tough economic times it's smart to be extra vigilant that we're getting good value than a cheap knock off. That's why I ask you to move forward with option 2, the proposed common sense changes to the policy. Thank you.

>> Thank you, Eric.

>> Good afternoon, members of the committee, I am Eric Larson and representing MEF chapter of 101. The existing policy covers the right people; it doesn't cover all the bases to ensure return on investment. The city has a master system for contract oversight, the existing policy. Trying to reinvent the wheel to cover a broader range of groups really misses the point. And the point really is this, the system has loopholes, and these are addressed in the improvements that are proposed. You know that several people today have mentioned Indianapolis, but what they didn't say that at great cost to the city of Indianapolis, the once privatized services were brought back in-house after problems developed after the sewerage treatment in other cases. So to hold up Indianapolis, we really need to look at what happened after services were contracted out and why they were brought back in. City staff constantly goes above and beyond because they are invested in city of the we believe that city employees do a better job than contractors 99% of time. But we understand that city wants to contract work to a vendor, but the city must ensure a playing field that must hold the core standards like a proven track record, with return on investment and multiple respondents. The policy we have can work with improvements such as have been previously recommended. Stopping the improvements to cast a wider net is --

>> Sorry your time is up.

>> -- I ask you to move forward with option 2.

>> Thank you, Dan Fenton. And after him is Judy Pifkin.

>> Thank you, and I want to thank the committee and thank you for the discussion that I have had a chance to hear. And I think this is a great opportunity to talk about this. And one reason I am here, we were a product five years ago of the competition policy. If you think back, a lot of us at the table were involved in this process, I am not here to talk about outcome, I thought it was good. But when you look back at what happened, it's a good case study. The council was clear, but they wanted to be sure that the department itself had all the opportunities to create a fair and comprehensive bid. The panel that ultimately made the selection was made up of industry representatives and those of the city. And a comprehensive approach to figure out what was the best solution for the convention center and theaters. It was an example of where the policy worked well and a lot of opportunities there. And I have one more comment on oversight; good vendors want to deliver good analysis. They want to deliver good reporting and to be sure they are transparent, the work we do every month with the city management is extensive. And we are proud of that and feel it's a right way to run a business. We don't feel it's onerous. And that's how you run a business, and this openness should be common business practice. We want to urge you to move forward and thanks for the conversation.

>> Thank you, and Judy.

>> Good morning, members the committee. I came last time basically said, if we have a chance to ensure a better return on investment, why wouldn't we? I still haven't heard an answer to the question, and to remove conflicts of interest, and consider what happens if the contractor bails. These changes make sense. I will say it again, may make a lot of sense. Move this forward and get these protections in place. And then move forward on tackling the budget. The moment is now, and within added emphasis on looking at contracting at work. We should tighten up the policy today to be sure we have stricter controls on investments. I want to say one more thing; circumstances today are not dramatically different than they were in the 90's. Policies implemented in the 90's, the city was facing budget pressures and considering eliminating services. Thank you.

>> Thank you, Reginald.

>> Good morning. I am Reginald and a member of the black chamber in town. I think this is a good process and good addition. The small businessmen and women at my church, we have been looking for a way to get involved in this process. I think these proposals are sounds. There is no need to put, to have a contractor come in that's not willing to be open, that's not willing to provide good services. So these proposals are saying things we should have already been doing. I think this is a good proposal and I think you should move forward with this. And I think if we can keep this process open and simple, you can get more minority contractors invited in and making it more comfortable for us to come in. But the further we move away from open, honest good business practices, the further we get from being invited in. I propose to move it forward.

>> Thank you. I would like to get an advisory vote from there group. It does not mean it's the end of the line. This can be forwarded to council. But let me go over the four choices. And they are 1, to seek -- perhaps put that on the screen. To seek further input to identify concerns with the policies and practices. It's slide no. 14. To revise a public/private competition policy as previously proposed. And to expand its application to other service delivery options. Wow, this is different. To develop comprehensive options to guide service delivery operations. Or make no changes. I will ask someone to count as well as myself. I would like to get a sense of where everyone is. With option 1, to seek further input to identify concerns with current policies.

>> Can I ask a question before I cast this vote? I think that, first of all, it's been a real learning experience. And I have picked up additional information about the policy and the concepts about this policy used only two time. It seems that it might be helpful to have businesses in the community to participate in a process before or not. Because as someone mentioned there are a lot of special interest people around the table, I consider myself one of those. Someone who has a contract with the city is as well as employees and nonprofits. I think it would be helpful to have those provide more.

>> To seek further input, the first one. Others who are willing to do that? That's three, but no reason why we can't.

>> I am concerned; I won't know the next step. I had a lot of questions, none of them answered today. And I think a lot of other people had questions and none of them answered today. So my question is what is the next step. Is this it? We ask questions and it goes to council. I don't know of those choices. Something in the middle, I don't understand my vote. If that meant that all of my questions got answered today, and go do city council, no. I am concerned.

>> I understand that. As I mentioned a few minutes ago, this is strictly to get the temperature of the water.

>> I don't understand the process. I don't understand what a vote --

>> Trying to get a sense.

>> From the council, I would like to know the process from the council sees going forward?

>> I can take a shot, in terms of categorizing the options. So for example, it were to seek further input, that's probably the one most open/ended. But to say that we would look at particular opportunities to get additional stakeholder input. And second, on revising the competition policy, to move forward with the proposals on the table. And that would take it to council the most quickly. And again based on what is identified. The third would be it's articulated in the memo to come back to committee. And the fourth just for the stake of when you do an environmental analysis, you have to have the no project alternative. That's the last one.

>> And to build on that, we might be at a stage, and this may be what you are doing madam chair, to get the sense of the room. And staff based on what we heard; there are still quite a few comments that fall in bullet 1, whether they are questions to be answered or chatting with the employees of things gone wrong in the past. And those in the process who may have concerns about the RFP process. Or could come back to you in the April meeting and bring to you a path-forward. Based on what I heard, and I am not you, but to identify where we might still need further input. And maybe not even wait.

>> Let me ask one overriding question, how many are uncomfortable with voting on any of these? Three people. Let's go a quick thing; there were two people that we missed with the cards. Just loopy goopy, we are not writing a term paper, we the to get a sense of where you are. To seek further input? How many?

>> Because there are questions that haven't been answered, there is other information to get.

>> Exactly. Bob.

>> I think one thing that would be helpful is to get a little more clarification between 1 and 2. I am looking at 1 as essentially saying, we have almost no sense of where we want to go, and just want to continue to explore. I look at no. 2, we have a sense of where we want to go, but it's not in concrete. There are still questions that need to be answered, still more thinking that needs to be done. But there is a direction that some feel they are confident to go into. If I am correct in that interpretation, that 1 is very, very broad, and 2 is not a total, let's just do it exactly the way it was drafted in the memo that came down. That may be helpful.

>> Okay, and 3 is pretty darn easy, make no changes.

>> No, that was 4.

>> Okay, that's correct. I was instrumental in that change.

>> Thank you, madam chair.

>> I am trying to get people out of here on time.

>> Yes, I would like to have further input to match problems with each solution listed today. And I think we will come out in a combination of 2 and 4. Some areas if we know that OSHA and existing policy covers it, then we aren't going to make changes. But it seems that our next step is matching options with solutions. And I think that option 1 does

that , and not that 2 and 4 are off table, but those are the options.

>> That may be next step.

>> Exactly, it's not the last step. Okay, I got people that will be late for the next thing. Can it wait? I have two more speakers. And I think, do we have enough of a sense for this, that we don't have to tie everyone down to a vote?

>> Certainly, the panel doesn't need to vote, but there is a question of how this gets reported back to the council. We are currently on the draft agenda for the 24th of march for a verbal update. We are given time frame from then, and not have a written report.

>> Okay, in terms of a vote, anything you want to e-mail would be great. It's not a vote that everyone is comfortable with and prepared to do. I will go back to the two people that didn't get to speak, Dennis Kine and Brian O'Neill.

>> Good afternoon, maybe you remember my grandfather, he retired and I have a lot of mileage in the city, the outsourcing process, while I respect labor and sought their endorsement during my campaign, I look out for the little guys, the small business owners are getting squeezed out. And you out source to the county and a point to that is the overgrowth and give it to Greg van Wonsoh; businesses shouldn't have to compete with the city. We are competing with Greg van Wonsoh, and I heard the mow and grow, and we are greener than anything in the city. And we are coming in. And my neighbor is right, where the citizen in this group for having input for longer than two minutes. And a recent RFP referring to mow and grow, it was exclusionary, and it doesn't cover pesticides and the RFP process is exclusionary, and like me coming up after the process, is exclusionary. And the process is exclusionary, just the RFP itself, its wording is exclusionary, and we have had discussions with the city. And government in and of itself shouldn't be competitive, and shouldn't be running a business. Businesses are built to fail and that's why this crisis. It should be run with the best interest of the people. The people need a quality a life that basically allows them a way to make a living. And people leave this valley because they can't compete with Greg van Wonsoh.

>> Brian.

>> I am Brian, and a representative for sh-1, and we would be happy to do the work you suggested. And I am a resident of Aleman Valley, and the union I am a member of represent a number of the nonprofits that are discussed of this policy consideration. A nonprofit or volunteer doesn't have the same motivation that a business does, mainly profit. Not being judgmental about profit unless outrageous. While it's important that the nonprofits meet the goals, we should not get caught up comparing apples and oranges. We have accountability and standards of the city's policy, outlined in the January 9, 2009 memo by council members. We must tighten up the city's contracting system and do it now. What does not make sense is to craft a one-size-fits-all policy. I urge the committee to move forward with the original January 9, 2009 memo; I believe that's option 2. Thank you.

>> Thank you. Well, the speakers gave us sufficient time where we are ready to come up with a motion.

>> Yeah. And I would like, and think brought up no. 2, that we need to consider the consequences and ramifications of no. 2. I would like than going in lightening speed, that we should come back to the committee. My suggested motion is to return back to the April committee meeting, we have some staff responses of measures and the revised

public competition policy. Now I have heard a lot of the concerns. And now we need to hear staff's responses to the concerns. We may made some and come back in April to bring, to continue moving forward the suggested revision with response of staff, not only to the questions of the competition policy, but how we can have a path forward of issues raised today. A lot of issues raised beyond the competition policy. That's more narrow than no. 1, but further input. And not so broad as no. 2.

>> Second.

>> We have a second. All in favor of that?

>> Can I ask a question? Ed, can you clarify for us the brown act issue. I know that three folks have been on the memo of the issue. No one is hiding the ball, but this committee is discussing this, and I don't know who I can talk to.

>> You are talking, and the issue is if there an issue of the brown act because of an additional member. The brown act requires that additional discussion is open session so that the public is aware of the additional discussion. So you noticed this and you have met the Brown Act, that any further discussion be in the memo.

>> Who can I talk to after this meeting?

>> You can talk to them in any matter here, you will be the fifth member, and that is still not majority, you are the fifth member.

>> Why don't we just not vote?

>> I would ask to make a vote forward.

>> You can go ahead and vote.

>> You can vote. [Inaudible] just to clarify, my motion is to move forward no. 2, to April. So the suggested motion, and in addition to allow the city manager and city staff an opportunity to respond further to the policy suggested, in addition to how we can move forward to other questions raised today. As to issues regarding labor management issues and other competitive outsourcing. I want to be sure that the concerns are answered. And rather than go to council and for them to make a decision, but to have it come back to city and to have staff.

>> This is advisory.

>> yeah.

>> I would like to add in the mowing, to include issues pertaining to small business to flesh out the other concerns brought up by business.

>> Yeah, and I think that's incorporated, that's included in the concerns.

>> Not that this will change anything, but for the record, I want to say I don't think we are ready to move ahead with no. 2. I think it would be more thoughtful to go with no. 1, and to address the issues of table and public and with staff reporting back in April.

>> We can report -- let's not talk this to death. At this point we have a vote, and we all in favor in proceeding with the proposal made?

>> It doesn't matter then.

>> Okay, that's fine. Good grief. Well, thank you all very much for coming. I am sorry that you are getting out on the late side.

>> Do we need a forum for the items not on agenda?

>> Are there any members of the audience regarding open forum items not on agenda? Seeing none, we are adjourned. Thank you very much.