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City of San José Community and Economic Development Committee.

>> Councilmember Pyle: Thank you all for coming this afternoon. We're happy to begin our Community and Economic Development committee. And we are going to begin with a review of the work plan by Paul Krutko. Paul.

>> Paul Krutko: Thank you, Madam Chair. Paul Krutko, chief development officer. For today, we do have one suggestion. No changes in today's agenda. However, at the request of the agency, we have -- there was a deferral at the top of today's agenda, of the small business incubator status report. That was requested in the agenda we prepared to October 26th. They are requesting that that be moved out to the December meeting. So that's the only request we have, Madam Chair.

>> Councilmember Pyle: Okay, so we will strike B-1.

>> Paul Krutko: So you need to do that -- make sure -- we have to do that in the form of a motion.

>> Councilmember Pyle: Yes, may I have a motion to approve the plan with the exception of B-1. All those in favor? Done. We are now ready for the consent calendar.

>> Paul Krutko: We have no items on the consent calendar.

>> Councilmember Pyle: There are no items, so we will move to the reports to committee, and we will begin with the verbal report.

>> Paul Krutko: Yes.

>> Councilmember Pyle: I love these reports, Paul.

>> Paul Krutko: I know you do.

>> Councilmember Pyle: And they're making the rounds.

>> Paul Krutko: I know you do. Just to step back, just to highlight for the committee. I think we've caught up on the agenda. We had some deferrals in August and September. We have this one request to move that you just approved out to December. In October, the agenda has you hearing about the catalyst fund, the status report on major league baseball, review of our legislative guiding principles. Two items on downtown, downtown retail update and the downtown office recruitment update. An update on the medical center project.

>> Councilmember Pyle: We can't hear you very well.

>> Paul Krutko: Oh, I'm sorry. I will be louder. So I was just going through the committee agenda for the next month, just to give a little bit of a heads-up. So we're going to be talking about major league baseball, getting an update on where we stand on that, report on the catalyst fund, downtown retail development, downtown office recruitment, an update on the San José Medical Center project. And I think we'll hear from Connie Martinez about the 1stAct Small Wonders work plan, and we'll be coming back to talk about the Mexican Heritage Plaza that was something that this committee has had oversight, so we just like to keep coming back and letting you know how that's coming along. Wanted to highlight what's coming up. In terms of this committee's verbal report on progress. We do follow up, just public be aware, we do follow up with an e-mail to the council offices and post this report on our Website. So the material that we're sharing with you is available to the public. Just couple of things I wanted to highlight in the area of attraction, this was sort of a -- I did get an admonition by Councilmember Oliverio, to be careful relative to things that are prospects versus things that are known in the public. So the ones I'll be sharing with you today, we have six active prospects the staff's working on in the terms of attraction. Four are manufacturing, which we find to be quite interesting, and they are in a variety of manufacturing types. One is a retail opportunity which I can name, which is a company called New Home, that is a green home and construction supply brand, and they're looking to bring two stores to San José. And then one is a consultant firm in the solar space, in solar permitting. I also wanted to highlight that the council which we very much appreciate you taking the time out of the regular agenda, over the last five council meetings, we've acknowledged five of our leading businesses. And that is very well received by the companies that come before council, for the start of the regular agenda. I just wanted to acknowledge that that is something we always go away from that, they are just very pleased with that opportunity. You acknowledged Altera, Jensen, Beshoff Motors, Stevens Creek Toyota, and Solezon. We had, in terms of the Green Vision plan, some of you participated -- on September 16th we announced the PG&E home area network program with Cisco. Cisco, IBM, PG&E, Stanford and the City are partners, so we're hoping to pursue that and get funding in the fall which would be a significant using technology to really enhance people's ability to manage their energy consumption. And we did receive from the governor support for a number of our applications under the stimulus plan. We participated in the Bay Area council's regional plan, that's enabled us to be levered into when we asked the governor for a support letter we get it almost back in a day. So that was a really good effort for us to be in. One of the applications that we're

working on is with the California energy commission. That's to get a grant, there's 80 to \$90 million available to turn all of our fleet over to alternative fuels. And the council did authorize and we did receive a support letter from the governor for our \$4 million application to the EDA for the clean technology demonstration center at Las Plumas. We had a meeting with 11 companies who are in a variety of technologies and alternative fuels. We met with them as a group here at City Hall and we're helping develop applications to the California energy commission, that has \$25 million to support that kind of technology. Lastly, two last things I wanted to share with you is just about downtown, because you know, we handle a myriad of topics. And the downtown coordinator working with the -- Lee Wilcox with the police department, we've got to provide ABC server training for downtown entertainment venues. And the first training took place and we trained over 100 employees of the local downtown night clubs on the appropriate rules in regards to serving alcohol. We think that's an important type of service, and something to facilitate, to help prevent problems before they happen, rather than just dealing with them after the fact. Also, working with the police department and the state, we are looking at providing security guard training specifically as well, so working directly with the employees in those two areas. And lastly just coming up, it's going to be here before we know it, the public art program with ZeroOne is launching a national competition for the design of highly visible artworks on San Fernando from Diridon to first Street. These will be installed next year through October and it will be tied in with next year's ZeroOne festival, be our third ZeroOne festival that's in September, we're working with ZeroOne to help them find funding and an example of that is the climate clock is moving along and working with San Jose State, we got grants from David and Lucille Packard as well as the Bank of America for \$107,000 towards that initiative. So we're gearing up next year, next summer's going to be a very significant opportunity for us on the international stage, third time at ZeroOne and at the same time, the international City Manager's association is going to be here so we'll have public officials from all over the world in our city, while the ZeroOne festival is going on with all the artists and technology. So Madam Chair, that's the end of my report.

>> Councilmember Pyle: Great. And the fact that it is on our Website will enable any of us or all of us to put this in our newsletter, as well.

>> Paul Krutko: Yes.

>> Councilmember Pyle: Thank you very much. And right now, we'll move on to the report of affordable housing outreach. Deferred from August. There she is, Leslye Krutko. I have one speaker who would like to speak on this. Anyone else please turn in your card, welcome.

>> Leslye Krutko: Leslye Krutko, director of housing. You may recall back in June of 2008, we came to council with a development that's called cornerstone at Japantown, which is a project that had originally been planned as a market rate project and was converted to a rental project. The development design was the same. The difference was the tenure and occupancy of the project. And the council approved the financing of the project at that time. And I'm happy to report that it's one of the few projects that is now about to break ground. And we're very -- we're very happy, getting a little bit off here and then I'll come back to the subject, that we have six projects, affordable projects that will start construction in the next few months. And that really will help the city, because we had, in July, two units of building permit activity, and in August, four units of building permit activity. So this -- there will be about 600 units under construction. Which we believe will create about a thousand construction jobs and also bring revenue into the city and into the building department. And this is one of those projects. At the time when this project converted, there was concern because it was being converted to an affordable project. So there was some outreach that was done by the developer to the community, and in conjunction with the district 3, which attended at least a couple of meetings with the neighborhood, over the project, there was at the time it was approved the council asked us to come back and look at whether or not it was appropriate to have an outreach policy, when a project converted from market rate to affordable or from ownership to rental. And what we have before you is the recommendation that the affordability housing projects don't adhere to council policy 630 which is the public outreach policy, that is largely done through the zoning process. And what the difference that we're suggesting is that we will attend at least one of those meetings if, in the event that a developer has identified this as a potential affordable deal, that we would attend that meeting to announce that at that point. But otherwise, that we would not hold a specific meeting just to indicate a tenure change. So that's our recommendation.

>> Councilmember Pyle: And Leslye, if I may ask, this is primarily a change of financing as well? In other words, if you change the financing you don't have to change -- go back to the public and start all over from scratch? The project itself has been approved?

>> Leslye Krutko: This particular project was approved 18 months ago, yes, and it's ready to start construction now.

>> Councilmember Pyle: Right, okay, thanks. Question? Sam?

>> Councilmember Liccardo: Leslye, thank you. I know Rick and I have been trading voice mail so we haven't completely connected with this. We have had conversations with the city attorney's office. It is the legal constraints that are really on everyone's minds here. I want to understand a little clearly. I remember seeing the memo. It sounds like there will be some housing department outreach to a neighborhood meeting, if there is a change in --

>> Leslye Krutko: What we're saying is that during the zoning process that if we -- if it's been identified or if we've received word from the developer that there's a thought that this would be an affordable project, that we would attend. But otherwise, you know, as I think the other memo that came from the attorney's office explains, there is a fair housing concern.

>> Councilmember Liccardo: Sure. And I'm certainly mindful of that concern. Let me back up a little bit and try to provide some context about how we got here. Because I know you're aware but others may not be. I attended a neighborhood meeting which after the zoning had already gone through, there were many, many angry residents who were saying, why didn't you guys tell us this before the zoning went through, we would have at least been engaged in some way, we feel as though the City's misled us. And we want to be supportive of affordable housing, and we want affordable housing to succeed, and this is clearly isn't the model for making that work. And we know we've just endured a recent vote where community opposition essentially killed the deal, and many of us support it. And so that -- we want to make affordable housing working communities, we want to make sure there's trust out there. And there's certainly a contagion effect when communities feel as though, somehow or another, we weren't told, we weren't aware. What I'm concerned about is, and I know we -- I don't want to just vet all the legal issues out here, because I know this really isn't the forum. But I feel the analysis was a bit restrictive in just saying we don't want to make the developer do any additional outreach. I get that. I don't see how fair housing is a constraint on the City being able to reach out in some way. Alternatively, you could as easily have a mechanism where the project goes from market rate to affordable or affordable to market rate, could you have the same requirement. The point is, isn't there different tenants in the project but in fact there's a whole lot of different financing going on. There's now taxpayer money involved, which I think is a relevant consideration. There may or may not be impacts on everything from trips analysis, if there's, you know, certainly we know in that certain projects we expect different kinds of transportation impacts. At the very least, just to let a community know, not to hold up a project, and so that's my concern. I felt as though the analysis, legal analysis was so focused on we don't want to create a burden on the developer, it wasn't focused on how can we at least let a community know without putting a burden on the developer.

>> Let me see if I can explain, to know just a bit, and let me also clarify what happened at the last meeting with regard to the rezoning. The rezoning that had a component that had a proposed project was simply a rezoning. It was not a decision on the project, it was a decision on the zoning. And again, and this is what Leslye is talking about.

>> Councilmember Liccardo: But in reality, that is, it killed the project.

>> Well, Sam, please, let me explain one last thing, okay?

>> Councilmember Liccardo: Okay.

>> Also, it's important that we understand that we're dealing that the city needs to be very sensitive to. There is a state law as indicated in our memo that prohibits the city from imposing any additional requirements that would be focused primarily on affordable housing projects. Our memo basically says that to the extent that this particular procedure applies only to an affordable housing project, whether it's one way or another, an affordable housing project or a project going affordable then the city has to be very careful because the statute prohibits affordable housing projects being treated differently. Our memo basically says you need to treat them in the same way as you would treat any other project. What Leslye is proposing is that all projects go through a public hearing with regard to a land use issue. In that particular forum, Leslye has indicated that her office would go in to let the public know that there is a request and that they are considering possibly funding the project which may in fact make it an affordable housing project. The fact is that the public -- the statement that the public isn't aware that this project is going to have an affordable component is not correct. Because whenever Leslye is going to be making a loan to a project it has a public hearing, it goes to the city council and the council can listen to other members of the public, making comments with regard to the affordable housing project, with regard to the

funding that the city is going to make. So I'm not quite sure I understand when you say that our memo is too narrow, in its scope. It's simply what the state law requires and we indicated that there may be some also fair housing implications.

>> Councilmember Liccardo: Let me clarify that. First you said any time there's a housing loan or involvements in the housing department, there's somehow outreach, because we have a meeting in front of council. I don't think anybody in the council believes that's outreach because we have a meeting somewhere at City Hall. That's not going to someone's community and saying, "Here's the project." And actually talking to people at a neighborhood meeting. I mean, that's just not outreach. So it doesn't -- people are busy, they don't have time necessarily to come to council. That's why we do outreaches, to try to go to them. The second concern I have is, you described the prohibition of the fair housing act as it prohibits, initially you said, prohibits the city from imposing additional requirements on affordable housing. I think that's fair. But then later, you stated it prohibits affordable housing from being dealt with differently. That's different than what you said the first time. I think that's a very critical distinction. I know this isn't the place for us to parse words, but I think it's critical that we understand how we can do this, that is, notify a community without actually imposing additional burdens on a developer who wants to build affordable housing. And I think there's plenty of room there to do that. But if we get so hung up on the notion that somehow or another affordable housing cannot be dealt with differently, in any way, which we know isn't the case, we see there are lots of ways in which we deal with affordable housing. For instance, we know that for instance, that there may be impacts, for instance, on the number of residents per unit. There may be impacts on trip generation. There can be all kinds of impacts, depending on what the target income strata may be and we may need to adjust accordingly. So it seems to me that we ought to be able to find some middle ground here. And I'm concerned about an approach that says no, we're not going to, whatsoever. The other concern I have is my understanding is the intended outreach that was contemplated would be simply attending a neighborhood meeting before a zoning decision. Well, the whole issue arose because the zoning decision had already been made, and the community felt as though the rug had been pulled out from under them. The zoning decision had been made, we were told one thing, now we're being told something else. So I'm hoping we can move forward with this with some kind of approach in which we're able to tell people what's really happening without putting a burden --

>> Beyond the standard city public hearing, is what you're asking.

>> Councilmember Liccardo: Without putting additional burdens on a developer who is building the affordable housing.

>> Right, but what I'm saying is you want additional noticing beyond the public hearing with regard to the loans that Leslye is making that go to city council?

>> Councilmember Liccardo: Whatever it takes to ensure that the community is at least aware so that they can have a voice.

>> We can look at that, and I know that you've been trying to have a discussion with our office about some of those issues and we can look at that and come back with some more responses to that.

>> Councilmember Liccardo: Thank you.

>> Councilmember Kalra: I appreciate this dialogue, and thanks Sam for the background and Leslye, the policy suggestions that are in line with what the law requires. And I understand -- I understand some of Sam's thoughts on this. You know, when there are issues in the community, you know, at least from our perspective, for example, there is a discussion going on right now, on an affordable housing project in my district and the housing department has been fantastic, as well as the developer. The developer actually is one that's putting on all these public forums and hearings and the housing department has been at all of them. I think that's really helpful. Now, that's the situation with the developers on their own deciding to have that extra outreach which I think really speaks well of the developer and ultimately allows for a better project and they have amended their project a couple of times because of community input. I understand the legal constraints of requiring that, however what about -- and I guess this will be something that can be further analyzed as you take a look at it. But if the council office wanted to do further outreach for the housing department just because it is a neighborhood concern, would that rise to, and again, not a requirement, not a policy dictating that the City will do A, B or C, and certainly not the developer has to do anything extra or have any extra burdens, but something that would allow us, because we hear from the ground level some of the concerns that people might have and we just -- what we want to do, I believe we would all agree with this, is just make sure the correct facts are out there and get all the correct facts in so we can address them, make sure all the concerns are addressed and sometimes that requires more than one legal formal public hearing or however many are required through the planning process.

>> Leslye Krutko: I think if I may want to respond and then Ed may want to respond. This is a very unique situation that the cornerstone project was in that's really based in the economy. We had several projects that slipped from market rate to rental. The Barry Swenson project at Tamien did, the globe did, several projects did. However, those were market rate to market rate. They did not have to do any specific outreach to do that. So this proposal would be to have the affordable project have to do that but not the market rate projects. I think the chance and opportunity that this will -- the same situation will happen again is probably fairly narrow, because it was for projects that were already on the drawing board that flipped after they were zoned. The situation for example at Ford and Monterey councilmember in your district, that's a different time where we do know that it's proposed to be affordable, in fact it is city-owned property so we know for sure it will be. And so there is a lot of outreach and I think the concern that Councilmember Liccardo has is that that kind of outreach doesn't happen when a project flips. And so that -- and that's -- we did explore this issue in looking at this, and it's why it's taken us a little bit of time because we were looking at what we might be able to do to accommodate the concerns. We just kept coming up against the fair housing and the anti-NIMBY law that makes it -- so we can't tell core that they must do this particular outreach, but not Barry Swenson.

>> Councilmember Kalra: I understand the legal constraints and they make sense. If we want to be affordable -- if we want to be supportive in general with affordable housing where the opportunity makes sense, we also have to be -- we also certainly the council, as individual councilmembers are in our districts, have to be cognizant of the reality that we're going to get more concern from the community and the neighborhood rightfully or not. So I think wherever we can find that space that allows us to address those concerns and take in the feedback from our constituents, without that -- without causing the extra burdens, that would in some way treat it differently, and so I can definitely see with the legal department, I can see Leslye you're yourself where you get caught in between there but we have to deal with the reality that there are going to be folks that, just because it's affordable are going to come out and have concerns that they otherwise wouldn't if it was market rate. And so whatever we can do to allay fears but also get the correct facts out there and take in that information, the extra concern that may arise that will require extra outreach as well.

>> Councilmember Pyle: Rose.

>> Councilmember Herrera: Thank you. I guess I want clarification. If the process were required, the outreach were required going either direction are you saying that will violate the fair housing?

>> What we're saying is that if you have an affordable -- if you have a component of affordability, whether it goes from market to affordable or from affordable to market, you're targeting a particular one. As Leslye indicated, there are situations where it's simply a market rate, from market rate for sale to market rate rental, market rate rental to market rate, if you had it apply to any situation which was neutral with regard to affordability, then it would probably pass muster. But when you're just focusing on affordable, affordable housing component, then you run into some concern.

>> Councilmember Herrera: I don't want to suggest that we do it for everything without understanding the implications and the cost implications, but it is certainly something we should consider, it is certainly something we should discuss. Because I think we need to err on the side of informing our public no matter what we do up here. Especially in times where we're seeing people losing jobs and people concerned with how we spend money and how we make decisions and we see changes happening, I think we need to over-inform and make sure that we have public outreach, I totally agree with what Sam said. And it's sad that we -- and I wasn't there the other night so I wasn't part of that vote on that project. But clearly there was a feeling major the communities members that they had not had enough notice and impact and who knows how that would have turned out?

>> We will look at Councilmember Liccardo's concerns, we'll meet with Councilmember Liccardo, and we'll get back to the commission about the proposals and whether or not we can move in that direction.

>> Councilmember Herrera: I would like an answer on what if we applied it to -- in a uniform basis. I don't know if -- I just request staff, or if I need to make a motion or anything but --

>> Sure, you can tell me direct, and we will come back with some scenarios and whether or not they would --

>> Councilmember Herrera: Yes, I would like to direct staff --

>> Paul Krutko: I think the key there is, the dialogue has been a lot about sort of the legal issues. If part of the approach we would take is, we would expand the level of outreach to a broad array of projects, then I think we would need to include a workload analysis you know, given the constraints that we have, I guess here's the point I'm trying to make. This is a distinct class of projects that spurred this. You broaden

that, then you would potentially create significant outreach that would be necessary. I don't disagree, as much outreach as we can, we should do. But I'm just trying to maybe temper a little bit how, council, the committee is viewing this in terms of the resource capacity that we do have. We have been looking at alternative techniques, we've had some positive results with the Wiki planning approach that we put up the web 2.0 system, on the general plan that we've got 3500 people participating through that. The goal was 10,000, but I've been encouraging Planning to think that 3500 is pretty good using a new technology that way. So I think as we do this report it sounds like it's a little broader than just sort of legal policy issues that you were having a dialogue on.

>> Councilmember Herrera: I had a final comment. I support also what Councilmember Kalra said as far as involving council offices. We need to be creative. I certainly don't want to add a huge cost burden but if we can find ways to do this and involve our community, involve community organizations, involve the council offices I'd like to see us take a look at that.

>> Leslye Krutko: I was going to say? We'd be happy to come back here first, we would postpone going to council first. The other thing we are exploring as a city organization is outreach on the variety of subjects. How we do that, especially as Paul said the new tools and techniques that are available to us, because we find that we hold meetings, and often have two people come, we just had a series of meetings on inclusionary housing where we had one that we had zero members of the public come. That does take time and cost to publicize those. So something we're doing is not right. And maybe that's not the best way for us to engage the public. We need to start having those sort of conversations about what works.

>> Councilmember Pyle: Leslye, I'd like to take a little bit of umbrage with you if I might as a chair. If we bring this back here we're going to delay getting those thousand jobs going.

>> Leslye Krutko: No, no.

>> Councilmember Pyle: We're not?

>> Leslye Krutko: That's a separate issue.

>> Councilmember Pyle: Sam, you were going to --

>> Paul Krutko: Just clarify, too, what Ed and I were talking about is in the course of your deliberations, if a motion could be passed that would have this come -- directing this to come back and continuing this item would be the way to get -- without having to go through Rules and put it on the agenda.

>> Councilmember Liccardo: What we might do, Rose made a good suggestion which I'd like to incorporate into a motion, take a first cut, there are significant issues we need to back offer, but first cut about what additional notice or notification we can provide to the public, any time there is a significant change in tenure. I'm not sure how else to describe it on a project after it is already gone through the approval process. And determine what our range of options might be. And I think Leslye makes a really good point. Look, we live in a world of e-mail and Internet access and it seems to me that often we knew that 30 people came to the first meeting, we should hopefully have 30 e-mail addresses or at least people who can contact those people to at least let them know what is happening.

>> Councilmember Pyle: Are there any other comments?

>> Councilmember Herrera: I guess the other point I'd ask, and this is just a question, because we are seeing these are unusual times, and that this might not present itself in the same way, maybe there's certain factors, economic factors that could trigger more outreach. Or I don't know if that would be a factor or not. Looking at the scenario we find ourselves in, I tend to think that if it's happened once, I mean, we should be prepared for it to happen again. It's probably not a one-off situation. But if there any factors that sort of would drive that?

>> Councilmember Kalra: Just one last comment in regards to something Rose said. Which I agree with that we should certainly err on outreach, letting the community know. But again, with the caveat that we would still be within the law. And there's a reason why those laws exist, that because if those laws didn't exist then it would make I.T. that much harder for affordable housing to be built. But again I'll just reiterate that we still have the reality of having to respond to our constituents and having them fully informed, especially as Sam was saying when changes are made kind of mid stream or towards the end of the process.

>> Leslye Krutko: Madam Chair, if I could have one last comment. On this particular project there was additional outreach that was done. On the 10th and Hedding project, there were neighborhood meetings about this particular issue.

>> Councilmember Pyle: Okay, we have one person that wishes to speak from the audience, David Wall.

>> David Wall: Good afternoon. This project has every earmark of a classic bait and switch. The people in Japantown, one of our most revered neighborhoods throughout the city, are very upset with this switch to affordable housing, and to our learned attorney, let us look at affordable housing. Who can really afford it? You have market share, where people have employment to where they can have a reduced rate. Some artificially subsidized rates to buy and have ownership of a property. Or you can have an unfunded entitlement program, with these extremely low, very low, and low income people coming into a neighborhood. In other words, you can put manure in a silk purse or you can put manure in a paper bag. The issue is the impact in land use to the surrounding neighborhoods. And the notice of the people who live around there, who have a vested interest in their property values, the state of their neighborhoods, having one of these projects come in to them, I say you had better err on the side of notice and renounce and making sure that everybody knows, at some point they are going to have a viable slum. Because the money will run out. And the goal to switch from home ownership of these projects is people, these developers latching on to all this FHA federal borrowed money that will run out. What happens when that money runs out? The election psych's past.

>> Councilmember Pyle: Mr. Wall, your time has run out. Thank you. We are ready at this point to do the following, motion to accept the staff report on the progress made to create an outreach policy for affordable housing development. Do we need to change this a bit? How about we change it to this, to return to the economic development committee with further information regarding outreach? How about --

>> Leslye Krutko: I would love to say for the next meeting but I'd like to consult with our attorneys and see what our time lines are. We'll try to come back at the next meeting.

>> Councilmember Liccardo: That's fine.

>> Paul Krutko: I could add to that motion.

>> Councilmember Liccardo: That's fine. I'm happy to incorporate everything the chair mentioned as part of that motion.

>> Councilmember Pyle: Make it as soon as possible.

>> Leslye Krutko: I think as soon as possible.

>> Councilmember Liccardo: That's fine.

>> Leslye Krutko: And we'll try to do it as quickly as we can.

>> Councilmember Pyle: All in favor? Is there a second? All those in favor? Now we're ready to move on to I believe the competition policy review, evaluating a new service delivery model. And while we're getting people in place I would like to extend huge note of thanks to all of the people who worked so diligently on this project. And we're going to be hearing from some of those folks in just a few minutes. You all did a great job. I'm very happy that this has all come about. Thank you very much. We have a handout here and Ed is ready to go.

>> Ed Shikada: You bet. Thank you Madam Chair, members of the mediate, Ed Shikada, deputy City Manager. Actually, we're pulling some staff up to the table so there is some other room for people here. Just letting the chair know about the method to our madness. We appreciate your indulgence. The work that we're presenting is clearly the leadership from the committee and giving us some specific focus on the conversations. And also in particular the stakeholders. In fact this peoples a little bit like the stakeholders meeting since most of the people here have been at our stakeholders meetings over the last custom of months. Really do a quick lead in and let Sheila Tucker who has been the leading force in getting the progress to report to you this afternoon, Sheila's our senior executive analysts in the City Manager's office. Let me turn it over to her for her report.

>> Sheila Tucker: Before the committee today is really a three-part recommendation, to address the committee's referral to staff to evaluate proposed revisions to our current policy. These recommendations before you are a result of six stakeholder meetings that really involved a truly exceptional representation from labor, business, and our nonprofit community members. The three-part strategy is composed of a new policy that would be used to guide service delivery evaluations, including decisions on when our managed competition policy would apply. It also advances very specific revisions to our competition policy, as well as recommendations for streamlining and simplifying our current request for proposal process. I also want to note that there is a staff supplemental before you today, responding to working partnership's August 21st letter which was the committee's direction at our last meeting as well as the supplemental from the attorney's office further assessing the pay-to-play regulations referral from the original recommendation. From the new service delivery model really advances away we think is a strategic approach to evaluating a variety of service delivery models. And that may be services provided

by city employees currently, services provided by the nonprofit sector, the business community, or even other governmental agencies. And really, the primary goal of this new policy is to use an efficient and transparent process for evaluating service delivery models that reliance on very clear decision making criteria that does involve stakeholders in the process in making those decision, and really results in cost effective services that are leveraging the unique strength of our partners in the community to deliver our services. Also, before you today are very specific revisions to the competition policy. As noted, the three-part recommendation, we've tried to address the original recommendations through one of these various strategies. But what you'll find specific to the competition policy revisions are revisions to the provisions for providing a level playing field, to ensure the process does not favor anyone in the process along the way, we also -- and the result of that is unfortunately, it has expanded contractor requirements, when competing against a city-delivered services. And that is, you know, an already complex policy in and of itself. And then lastly the changes you'll see there is we tried to align the two policies so that they worked well together. The new service delivery policy as well as the competition policy. So what you'll find is we've moved the decision as to whether managed competition applies to the service delivery policy as well as the decision making criteria. So currently the competition policy would provide guidelines on how managed competition would occur should that decision be made. So just to summarize, the recommendations before you today we're asking the committee to please accept this report as well as to refer to the council for consideration the adoption of this new policy, as well as the revisions to the competition policy. Last but not least, we really want to take the time to acknowledge all the stakeholders that really spent countless hours in our meetings and really engaging in staff to help us develop these recommendations. We've listed 16 up here, but we've had numerous others that came in and was a part of these discussions along the way, and we really want to thank you all. So with that, staff is available to answer any questions.

>> Councilmember Pyle: Well, you have made amazing progress. And this is an historical precedent because this is the configuration time in my recollection at least where labor and the chamber and nonprofits and all of the groups that are represented up here were able to get together, and establish a policy that doesn't have to be changed every time we go to outsource. We have a process in place, and Ed Shikada's halo has been shining brilliantly. He's been leading the group through all of this. We are very, very grateful for that. I would like to open this to some comments here and then we will go to some comments from the audience. So who would like to begin or do you want to hear the comments first?

>> Councilmember Kalra: I'd like to make a comment.

>> Councilmember Pyle: All right, go for it.

>> Councilmember Kalra: I'd first like to start by thanking Ed and Sheila. I know there was a lot of work done on this, outreach and stakeholder meetings and I really appreciate all the participants in these meetings. I know that this is really created a lot of feedback, and I think that the process is certainly created a better outcome because of that feedback, from what I submitted months and months ago to what we had now I think is certainly much more fine-tuned and comprehensive and take into account a lot of different factors from a lot of different interests. And even -- and I had a memo that I had drafted and some of the items in the memo are pretty minute issues, some are pretty broad issues. But I would like to at least prior to public comment, have the opportunity to move my memorandum, and hope for a second just at least for purpose of discussion, particularly as we hear from the public on this policy. And after we hear from the public, or we can obviously have the discussion now, if the chair or the other committee members so choose. But certainly after the public has the chance to talk we can speak more specifically as to some of the specific items on the memo. So at this point I'd like to have a motion to have my memo accepted.

>> Councilmember Pyle: I'll move for the sake of conversation but I would like to be first commenter.

>> Councilmember Kalra: Yeah.

>> Councilmember Pyle: Every item that's listed on the memo has been voted upon. There are eight items that have been brought forth. All of those have been hammered out with the exception of some language in area number 1. But in that particular one which has to do with service delivery policy implementation, there is, as I understand, Ed, if I can call upon you, a specific reason why the dollar amount and the number of people involved is a bit problematic. Would you speak to that, please?

>> Ed Shikada: Certainly, Madam Chair, Councilmember Kalra and members of the meeting. Probably the best way I would characterize the staff's perspective on that number 1 is that the threshold of the five full time equivalent to employees was based on our understanding as various policies took shape that one, it would be a significant undertaking to go through the service delivery evaluation, and so wanting to

establish a threshold that would be consistent in terms of, one, where any change would likely be as substantial as the process itself, and two, where the number five again being largely subjective, was driven by a desire to focus on the number of employees that would comprise a typical work unit and really the low end of a work unit. So I think basically those are a couple of the issues that came into play, in coming up with the recommendation for the five FTEs, we do note that it is ultimately a policy decision. At the same time, for the city council. At the same time, we would like to acknowledge that as the threshold gets lower, there would be an incremental analysis required basically on a volume of proposals as they come forward, whether it be through the budget process or otherwise.

>> Councilmember Kalra: Madam Chair?

>> Councilmember Pyle: Yes.

>> Councilmember Kalra: Thank you. Just a follow-up. To speak to, I think you've discussed previously about the five and the unit size. But I thought, by putting in the dollar amount, that it speaks more to the kind of the use of funds aspect. Because you know, but whether there's five employees or three, because I know working partners indicated three might be more appropriate, I know the position has been five. Five employees could be, you know, or three or five employees don't speak to the amount of money. It could be a couple hundred thousand, it could be half a million, it just doesn't speak to that. I thought that that -- that's one of the reasons why I made an effort to try address it in terms of the dollar amount. Could you speak to that, the -- whether that would be functional and what challenges may exist with that?

>> Ed Shikada: I think certainly from a definition, whether it be employees or dollars, that we would find a way to make either of them work. The focus on the employees, and in fact we include a reclassification of the employees as one of the examples on how it would be triggered as well, to reflect the fact that simply a shift in the way work is performed, and services are delivered, could also generate the kind of issues and concerns that would cause us to want to go through the service delivery evaluation. So that was the rationale for going through employees in terms of dollars. In terms of dollars it is in round numbers a lower dollar value than a 5 FTE would typically equate to. So again, I think that that's where the point of call it a tighter net, would come into play. But again, I'm not suggesting that it trips the feasible, in feasible trigger, again.

>> Councilmember Kalra: And if part of the discussion is as you mentioned sometimes it may not be necessarily just dollars in play, but it may be a shift of employees, and resource and so on, why wouldn't 3 be valid in that case? Why wouldn't 3 be a shift of resources but pieces?

>> Ed Shikada: Really simply trying to focus on the kind of shift that had a certain critical mass to it and a magnitude that would reflect a substantial change in service delivery method, system, or who performance the service as the case may be. And focused on what was a typical minimum size of a cohesive unit be. So that's again, 3 versus 5, very, very subjective. 45 a management staff perspective, understanding that's what I'm trying to communicate, would really reflect the lower end of the kinds of teams that we would expect to be involved with this type of analysis.

>> Councilmember Kalra: Thank you. On that point, I don't think he's going to comment on any of the other items.

>> Councilmember Pyle: Are you finished?

>> Councilmember Kalra: From that point, yes.

>> Councilmember Pyle: Sam.

>> Councilmember Liccardo: Thank you. Thank you for the memo, and I had an opportunity to review it, and I had also a chance to talk to Bob Brownstein at working partnerships a little bit. What I hope is that there will be some openness specifically on the language of paragraph 2 and paragraph 6. Let me explain my concerns very briefly. I had a chance to talk a little bit with Bob and perhaps Bob can speak to this, as well, if he has some time. First, on paragraph 6, the concern I have is, I think we all want to avoid sort of the gotcha trap for businesses that aren't going to know or they're going to have to guess whether or not there is something that meets the standard of documented evidence of breach of contract. I think businesses routinely engage in contracts that are 90 pages long with many, many terms, and someone could find a shipping contract that shows that the shipment arrived two days later than the contract required and that's documented evidence. But none of us would consider that to be something that every business should have to know in advance to be able to disclose if no one raised that in litigation or made a formal complaint know to any agency, nothing to demonstrate this had been brought to the attention of the business. So I'd like to see first just make a friendly amendment on paragraph 6 to see if there's some openness to adjusting some language which perhaps would specify the kind of, either the kind of

documentary evidence or some other language that would show that clearly the business must have had unquestionable notice about the fact that there was a contractual dispute and an allegation of breach and rose to the attention of the people that it needed to rise to.

>> Councilmember Kalra: If I may respond to that? Again, I'm not trying to create that kind of scenario, the kind of gotcha scenario. And I think something general like that is appropriate or staff can decide what the appropriate language is rather than craft it up here. Yeah, I'm with you. I don't think we should have folks that are considering contracting to be concerned about that type of language where they may be X amount of months down the road and then they get caught in the middle or something like that. But yeah, I'm certainly agreeable to that as an amendment.

>> Councilmember Liccardo: Okay, thank you. And I'll ask the seconder if she is?

>> Yes.

>> Councilmember Liccardo: The language of the specific exemption as is worded in this paragraph, I'm hopeful that there's some room and flexibility in the language and fashioning of that exemption. If you read that literally, it could undermine the purpose that I think we want to get, which is an exemption to protect trade secrets, ensure that legitimate proprietary information is protected so that they're not subjected to having competitors know everything about the business that could impair their ability to compete. I know we engage in balancing standards and other things but I'm hopeful that what we see here in the language is not exactly what we'll see in the policy. So the friendly amendment would be that there would be some flexibility in fashioning that language to create a better protection in the exemption for legitimate proprietary information.

>> Councilmember Kalra: Sure, I would accept that and give a comment to that that I think you know, the idea behind it is to be as restrictive as possible in what a private entity would have to release, but still allowing for the same type of information that one would expect from a public entity specific to whatever the duty is of the service being delivered. But I do understand your point that that exemption can be construed broadly enough, to essentially render item number 2 moot, in mosts. So again I will accept that amendment and hopefully, staff understands the thought that I'm trying to get across as well as the concern Sam has to create that -- a narrow enough window that still has meaning to allowing -- meaning to the sunshine. So I don't know --

>> Councilmember Liccardo: Thank you, I see a buzzed look --

>> Councilmember Kalra: I think Ed understood until I started talking.

>> Councilmember Liccardo: Maybe I can say this very quickly, what exactly I'm most concerned about. The language that says that it has to -- both that the exemption would apply, only if the information A, could advance the competitors, and serve no public purpose. I think anyone could probably make an argument that any sort of information could serve some public punch. And so I'm worried about that really making that exemption nonexistent.

>> Councilmember Pyle: Rose.

>> Ed Shikada: My quizzical look was not so much to your comments, as to trying to think through how this would work in the implementation side. The frame of reference that comes to mind is when we receive proposals as an example, proposals from various companies, and there are requests from competitors, to see each other's proposals. Now, in that scenario, and I'll defer to the city attorney's office, our position as an organization is typically that we will turn over any and all information until and unless the company whose records are in play goes to court and makes the case to a judge, that we should withhold those records. So if that's the standard that would apply here, I could see some logistical challenges on how that might work.

>> Actually, Councilmember Liccardo, are you talking about trying to incorporate the exemptions that are already in the public records act or are you talking about some of those or others or --

>> Councilmember Liccardo: I'm not asking for any new additional protections for businesses than already exist. So let me say that. What I'm concerned about is, that we actually have a real, viable exemption where someone's got a trade secret, a legitimate trade secret or technology that they shouldn't have to share with their competitors. And we don't have an exemption that enables them to be able to keep that information.

>> Right. And the public records act does recognize those type of exemptions when it does allow a person who actually owns that information to argue that it is a trade secret or that it's confidential for other reasons or there's an attorney-client privilege. So that's why I was asking whether or not you're looking to bring in the type of exemptions that the public record already gives to certain types of documents.

>> Councilmember Liccardo: No, that's fine. I mean I just want to make sure we're not eroding that standard in any way.

>> Councilmember Kalra: And the example you gave Ed was, you know, in kind of the precontract where bids are in and so on and so on's bid, I think this is more relevant after a contract's been awarded to allow -- to have folks more focused on the contract. When we're bidding a contract, we don't want everyone exchanging notes. I understand the reasoning behind that but it's more relevant after a contract's been awarded.

>> Ed Shikada: And knowing that, the city attorney's office could confirm if this is correct, the way that it would work, even as opposed to contracts, the documents related to the performance of the service, the same standard would apply. That we'll turn it over to anyone who's requesting it or even that the private company would be required to turn it over based on a public records act request, unless they can generate a court-based conclusion that it's protected.

>> This is Brian Doyle with the city attorney's office. I think the scenario is a little bit different than the proposal scenario. And I think it's important for the committee to understand, that this is a fundamental change in the way we would do business. Because right now, if someone from a member of the public asked for a public records act request, we only give them the documents that we, the City, have. Under no circumstances are we obligated, nor is there a scenario where we are required to go get documents from somebody elsewhere we don't have those in our possession. So in this instance, you would be crossing that line. And how that would work I would assume if we were to make that choice, some member of the public would say, I want X company's records. Then the City not having the records themselves would have to go to the company and say okay, give us the records. In that instance the company itself would probably oppose anything that involved the trade secret, or anything like that, and we could handle that scenario. But the difference would be in terms of the normal public records act request to the extent we have time lines and things like that we may be putting ourselves in a situation where we can't get the same records on the same kind of time lines or the same effort that we could if we had the records ourselves.

>> Councilmember Pyle: I'd just like to make one recommendation: This has been fully vetted by a whole lot of folks out there. This is coming to us, obviously there's going to be discussion, but I don't want to turn this into a full fledged debate. That will happen at council. But go ahead and make your remarks -- Rose was next. You can go ahead and go back to that in a minute. Rose.

>> Councilmember Herrera: Okay, thank you, thank you Nancy. Thank you Councilmember Kalra for your thoughtful memo, I appreciate that and I appreciate the discussion that's already taken place. I guess I want to understand from staff, what the financial ramifications to the city in undertaking this, moving a motion forward in terms of item 1 and item 2? And is that going to impact our -- how will that impact our structural deficit issue task force, those working conditions?

>> Ed Shikada: If I could take the first cut at it and other staff may want to amplify as appropriate. In terms of the financial implications in number 1, I think it's accurate to say that by capturing more services or more concepts under the analysis that would be required, there would be additional administrative costs associated with that. The kind of work that's involved with doing the business case analysis, looking alternatives, cost implications of those alternatives, quite often involve bringing on consultants or other companies that are involved in that type of work as well as the outreach process. So there would be a -- at this point I would say unquantifiable dollar value associated with the incremental volume, as well as the staff time involved with that. But we don't at this point have a figure that I could give you. On the sunshine elements, I think the financial elements there are probably broader in some ways, while recognizing the value that the public record act brings to the availability of information to the public on decision making and city operation, that as Bill opponented out, the fundamental expansion and shift of the burden here would mean that, as an example, the significant resources that the city currently puts into responding to public records act requests would now become somewhat a gust with what private companies who do business with the city would now be required to do. And again, what dollar value that is, don't have a figure for you this afternoon. I think it would be fair to say it would be substantial, and I think it would also be fair to say that it would significantly reduce the attractiveness of doing business with the city. Speaking entirely objectively, I believe that is a entirely factual statement.

>> Councilmember Herrera: So I have -- and I'm speaking about this, and I'm sort of looking to Ash and the others who are present, and I'm not trying to create policy here, but I'm wondering on number 1 is there any opening here, and I don't know if -- this may already go without saying, or maybe we could add this, that would clarify that council could have the authority, when it's between 300,000 and 500,000, to

approve the process if the project seems very obviously not suited to going through the full vetting, if we could somehow bypass that for projects that wouldn't necessarily need to go through that whole process, and that would then expedite those projects, it would get to the project that really need to be evaluated to go through the process, and it possibly could save some money.

>> Councilmember Kalra: I think that that's not a bad suggestion. I think that a way that that could be considered is simply to have, whether it be the City Manager's office, so on the cases that happen to be in that range, where they feel that it should not have to go through the policy, then have it come to council for -- in other words I don't want it to go through the whole process then come to council to say it should go through the process, or not, to give some discretion to the City Manager's office to say hey, this is one we don't feel would necessarily go through the process, or to go to the council to not have to go through the process.

>> Councilmember Herrera: Would you willing to accept a friendly amended to your motion?

>> Councilmember Kalra: And you're suggesting between 300 and 500 --

>> Councilmember Herrera: Yes, because we're trying to --

>> Councilmember Pyle: I don't think this is the place. I think this is the report that should go to the council, and the council as a whole.

>> Councilmember Herrera: We had a place for another friendly amendment.

>> Councilmember Liccardo: I got to object. I think this is the place. If we can't talk about this at the committee level, we can't do this on the dais.

>> Councilmember Pyle: All right. I would like to ask something. We have several speakers here. If we could hear from the speakers and then come back to the debate. Let's do that, is that all right?

>> Councilmember Herrera: I'd like to finish my point some just like everybody else had the opportunity.

>> Councilmember Pyle: Sure.

>> Councilmember Herrera: Would you accept that as a friendly amendment?

>> Councilmember Kalra: Let me consider that until after the public debate, because I also want to consider the thoughts from Ed in terms of whether it should be employees versus dollar amount. In fact, that could still be the 3 to 5 full time employees as opposed to 300 to \$500,000. Let's entertain it after, if you don't mind after the public comments, I can also take into account Ed's comments about whether it should be employees versus dollar amounts.

>> Councilmember Herrera: Okay, and in terms of number 2, I guess I have some of the same. I'm concerned about unintended consequences. So if I understand this right, the idea of what we're requiring in number 2 is only in terms of the process of going through competition, or going through this process of reevaluation, those companies that are going through, we are not talking about a complete change in the sunshine requirements for everybody doing business for the city, or are we? An example, let me give an example.

>> I've never understood that to be what we're doing.

>> Councilmember Herrera: An example, a consultant, would this impact consultants of construction companies?

>> That was not our understanding of what the direction was. It was only understood that this would be the direct from contracts that resulted in this process.

>> Councilmember Kalra: And if I can follow up, that's what my comment would be as to the burden, we're only talking about the limited number of contracts that would go through this process that would require that. And even then, I imagine some of the concerns of having to go, you know, a public comes in for records and then go into the private entity, that can be part of the process, but if it's understood that you're going through this process that for the limited scope of the services that you're providing and so there could be a process -- simple process where that information is provided to the city as part of that contract. So I think that those issues can be dealt with in a way that is less cumbersome than waiting for someone to ask for records, then going to the private sector, saying, well, give me, going to that private contractor, asking, give me those records, and then having to go to court, and so on, all of that could be dealt up front going through the process. Again, limiting it to these types of contracts.

>> Yes, it could be written in such a way that it would only apply to this particular policy.

>> Councilmember Herrera: Does the motion state that? Again after we have the public discussion I'd like to make sure that that's part of the motion.

>> Councilmember Pyle: Okay, agreed. All right, we're going begin with Bill Pope. And I'm going to mention some other names. Gaye Gail, Bob Brownstein. Don't forget to have those people ready to go. Bill.

>> Good afternoon, my name is Bill Pope, and I'm with the Operating Engineers, Local 3. Our members work as city maintenance personnel, heavy machine operators. We understand that in tough times government must strive for maximum efficiency and cost savings but we want to remind everyone here how important it is that the outsourcing be done right. When outsourcing is done poorly, the safeguards are not in place to ensure accountability and standards. And the city could end up spending more money for less quality work. I've heard anecdotal stories in my street crews having to go back and redo the work that the contractor did in paving because they didn't follow the standards so that you're paying double for that. So that's why it needs to be done right. Thank you.

>> Councilmember Pyle: Thank you, Bill. Gaye. After Bob Brownstein would be Yolanda Cruz.

>> Gaye Gail, president of the city association of management personnel and a participant in the process. I want to thank everyone who worked hard on this process to come together. Also, a concern, however, about the quality of the outsourced work. And that needs to be clarified in two ways. One, during the procurement process, in ensuring that the information provided about the training and the skills that's of the alternative personnel is accurate, so that when you're reviewing the proposal, that you can ensure that those workers who are being suggested to take on the service have the training and the skills needed. And secondly, during the contracting administration process, because that will primarily fall to my members, who then need to supervise an outside agency and make sure that the contract meets the City's needs, so it's very important then that the information provided is timely, complete and allows the contract manager to do their job in ensuring the accountability that Bill is just talking about. So thank you to the group, and to councilmembers, for making sure that those factors are considered in the policy changes.

>> Councilmember Pyle: Thank you, Gaye. Bob Brownstein followed by Yolanda Cruz, followed by Reverend Dr. BootSiger.

>> Bob Brownstein: Members of the committee, I would like to speak to the points that were raised by some of the committee members just a few minutes ago. First, on the importance of having a relatively low threshold level for moving forward. The reason why it should be something like \$300,000 rather than a higher number is because if it's below that threshold, it doesn't get a process. If it's something like 400 or \$500,000 and it enters into the process, and the council says this looks like a slam dunk, there's no objections, it's not controversial, you will always have the ability to say, let's expedite something. So you are not losing easy ones if you have a lower threshold. On the subject of should this apply to other contracts, other than outsourcing, that is the sunshine requirements, all of the discussions at the stakeholder meetings were focused exclusively on the application of sunshine to outsourced projects, not under other parts of city contracting. So it would not be fair at all to the people in the stakeholder process to suddenly add that, as far as I can recall, nobody's making that proposal. We're talking about the application of sunshine to new outsourcing, period. In terms of Mr. Shikada's point that he believes albeit subjectively, that apply applying sunshine would reduce the attractiveness of the city as a business partner, there is no evidence from the other jurisdictions that apply sunshine that that actually happens. Including some of the very aggressive jurisdictions like Florida which are pro-out-sourcing. In terms of the view of the time line that were raised earlier, we can be more flexible in terms of time lines than the public records act. This will require more steps. This is not a state law, this is a city policy. We can be much more flexible than the state legislature in its wisdom has proclaimed for everybody. And finally, in terms of the costs, I think we need to keep the costs of this program in relationship to how much outsourcing we do. If we do a very small amount of outsourcing, it's not going to be expensive because it's only a few case. If we do a lot of outsourcing and a big part of the city budget is outsourced then we should be spending money to make sure it's done right because by definition it involves a substantial amount of the services the public's going to receive. So either way, I think the costs will make sense, in terms of the scale of the program. Thank you.

>> Councilmember Pyle: Thank you. Are you speaking for Yolanda?

>> I'm not Yolanda but I would like to request permission to read her statement. She wrote her statement up and then left ill.

>> Councilmember Pyle: Sorry about that.

>> Is that okay Madam Chair?

>> Councilmember Pyle: Oh, absolutely.

>> Good afternoon. My name is Yolanda Cruz, president of AFSCME MEF. I would like to thank the committee for putting together a framework for ensuring transparency and accountability to our managed competition policy. I'd also like to thank city staff and the other city stakeholders for their commitment and

time on this issue. Through this process we have made progress in crafting a proposal that provides transparency, accountability and standards. However, there are few outstanding issues. One of the most critical issues is the threshold for requiring a business case analysis. The citizens and employers have time and again demanded a framework to ensure transparency and accountability on all major investments. That's why the council's existing procurement policy maintains the threshold of \$250,000 for personal services. When there is such a large amount of money at stake tax payers deserve to know that their money is being well spent. A business case analysis ensures that making a change to a service delivery is actually more efficient and delivers the same quality of service, meets the city values, therefore we want to recommend that the threshold for the business-case analysis for the competition policy be \$250,000, consistent with the city's policy for other procurements and would be the most agreeable and fair way to proceed in terms of all interested parties. Thank you.

>> Councilmember Pyle: Thank you, Gaye and now for reverend Dr. Boetziger. I certainly hope I didn't mangle your name, Doctor.

>> You did well. I'm Bob Boetziger, pastor of the first Presbyterian church just around the corner. One of the things we're excited about is having this policy in San José. I noticed the pay to play provision that had been exempted by the committee, might be reinserted now that the legal definition of what happened in San Francisco and in Oakland has been examined and proven to be quite valid. Certainly we would want to insert that in this process. Particularly since we're in place right now where people have a lot of distrust about transparency, or the appearance of lack of transparency. And fair play in competition. So I would request that it be reinserted.

>> Councilmember Pyle: Thank you, doctor. And we're ready now for Michelle Bertuloni followed by Schuyler Porrás and David Juan. Is Michelle here? I'll move on then to Schuyler.

>> Thank you, members of the council. Schuyler Porrás, resident District 7, and a resident who has a particular intimate understanding of the importance of transparency in building trust between the community and the city government. The challenge with privatization is that public funds are being used, but public control over those funds might actually be decreased. Under the California public records act San José residents have the right to demand information about how their government is spending their tax dollars, as long as the government is providing services itself. Unfortunately the PRA doesn't cover private businesses that contract with the government. That means that outsourcing reduces the public's right to know. For example the public would like the right to documentation that indicates whether a business is actually delivering the services it is being paid to produce. There is however a remedy to this problem. San José can enact policies that require contractors to provide the city with the same level of information that citizens could request if the government directly provided the service. These policies would not wildly expand the public's right to information, in impact they wouldn't expand access at all. They would simply prevent taxpayers from losing access they currently enjoy. A failure to include such provisions in the City's outsourcing policies would be a deliberate retreat from the city's commitment to open government. Thank you.

>> Councilmember Pyle: Thank you Schuyler and we're really now for David Wan. Oh, Wall. My eyes are crossing over, David.

>> David Wall: That's okay. First of all, what I'm going to say doesn't apply to any of Your Honors that sit before me today. This deals with campaign contributions by contractors. You folks are too smart to fall in to what they might do but other councils we may not be so lucky to have the caliber that we have today. [Laughter]

>> David Wall: And so I would like to see some form of remedy to where contributions by contractors can only occur at some substantial point from the conclusion of their work, with the city, and also, in addition to no concurring service contracts that are linked to the original contract. This will give the appearance that, shoot, our government can't be bought on any circumstances. But even more so, there's another hidden agenda here, is that it attacks the very essence of the civil service system. Thank you.

>> Councilmember Pyle: Thank you, David. Jeremy Berugi, I'm not sure if it's a S or a G and Pat Saucedo.

>> Chairwoman Pyle and the rest of the committee, my name is Jeremy Bruce and I've lived in San José for 26 years. I'm a proud resident of District 8, by leadership of our councilmember and by coming together as a community we've formed institutions to come together to build trust to one another. A key element to that is access to information and transparency. While the staff report indicates that this is not the intention of the city administration to either eliminate or expand access of information, through competition policy, the policy, as recommended, does just that. Currently, I or anyone else can complete

a California public records request, and receive important information about how our tax dollars are being spent. I find it frightening that if services are outsourced I will no longer have the right to the information about how my money's being spent. Transparency is the key to a healthy community, and those who have nothing to hide do not fear it. Those who do fear it should not be paid with tax dollars. Please follow the models set in other states to protect our citizens rights to information on how their dollars are being spent. Thank you.

>> Councilmember Pyle: Thank you Jeremy. And Pat, I believe you're the last speaker unless Michelle has popped back into the room. Welcome.

>> Good afternoon. Pat Saucedo, San José Silicon Valley chamber of commerce. First, I would like to thank everybody that was part of the committee, the staff, all the various city personnel representatives and business representatives that participated in this process. I'll keep my comments brief. There's been a lot of things brought up today that are -- there's been some discussion but now with a memo out it's taken a heightened level of interest outside of the task group's discussion. The alternative services delivery policy as recommended by staff is supported by the chamber. The ability for the city to take services that encumber up to five full time employees as we have had described to us by the staff, several times in the committee process, seems to be a reasonable level of commitment that there would be a justification to go through that services delivery analysis. Additionally, five full time employees is very clear, very concise, all stakeholders would understand exactly what that means. To start putting a dollar figure, are we talking employee salaries, benefit packages, the source of the delivery of service, the cost to those services, as you can see, it's unclear. And I tend to think as difficult an issue as this is, there would be much debate as to what that dollar figure would include. The competition policy, the competition policy as recommended by staff is not a wholesale revision to policy 0.29. It is still fraught with red tape, time demanding steps and decision points that will discourage many private companies from wanting to enter into the competition process. But that being said, the chamber believes that with the coupling with the alternative services delivery policy, there is an opportunity to reach out to embrace the private sector, and to have more public-private opportunity that helps the private sector but also helps the public sector to begin to manage and control your costs for services that are being provided. I would like to emphasize and I've said this several times on the public records access and I'll be very candid. It's very difficult to get our head or my head around this. Anything that could be part of a public records act should be what's already part of the public package that has been executed during the competition process, with the city staff. The issue of allowing people to go in, file a public records act, disclosure, after a contract's awarded at their whim for this information and even selective information, you will not see the private sector want to participate. It needs to be part of the contract deliberation, part of the competition, so everybody is clear and the staff already has that information as part of their public record. And I think that really needs to be understood by everybody. Also want to make the comment that on a couple of items on the memo recently, the public feedback, more steps, more process, more, more, more. Cost to taxpayers from low-wage work, again, fuzzy, unclear, more steps, more criteria, more paperwork, more cost to implement. Whistle blower provision. Now we want to add in the words termination. What would describe the termination? How would that be led to? What steps come first? More steps, more process, more unclear, more deliberation, more negotiation, I would have to say it's a little disturbing. I mean, we continue to want to add steps and steps and steps and steps. I thought the idea was to try and reach out, have a collaboration, and actually show that the city wants to engage the private sector. We have to be realistic of what the private sector can do as well. Finally, let me state that whatever gets adopted, we really recommend that within a one-year time frame, there be a report that comes back that has three very simple things. One, how many proposals were referred for RFP or competition. Two, how much money has been saved or will be saved by what's been proposed for RFP or competition, and how long for the process to be executed. With that, again, I appreciate everybody's efforts today.

>> Councilmember Pyle: And thank you for yours, as well. You're absolutely very -- very much needed. So with that, we can go back to the discussion. My main concern is we don't rediscuss all the issues that this task force was assigned to discuss. That's my main concern.

>> Councilmember Kalra: If I could, the memo, some of the items in it were very kind of, I don't know about minor issues but they're very kind of detailed wording here or there. And some are issues regarding policies that were suggested when I proposed this, that were not being addressed by the task force, but I may have a different policy opinion on, and one of them is the FTEs. I know that that's something that Ed and other staff members have indicated that five is what they subjectively feel is appropriate, but I continue to reiterate that it's a policy decision that we have to decide and that goes to everything else in

here. As to sunshine, I -- you know, the bottom line premise underlying the reason why that's in there is, that the public shouldn't expect any less information because something that we're doing it this time, and then contract it out. They shouldn't expect more and they certainly don't want to and I certainly don't want to see giving access to records that are not appropriate or that would somehow jeopardize private contractor's ability to remain competitive in the private sector. But that's something that they will know going into the contract. That is something they'll know is expected of them. That is the conversation that Sam and I had earlier, that the staff would need to determine the best way to go about that. But I hope my intention is fairly clear on that. And so you know, that's why this was put forward. It's not to start a new conversation but to key on specific points where I felt that ultimately need to be drafted, and need to be done in a way that I think really meets what I feel our obligation is when we consider this type of process. And so as I indicated by staff, I know Councilmember Herrera had a concern about it. You know, sunshine issues, issues of public records only apply going through this policy and not to all city, clearly not to all city records and as I addressed earlier, that's something that can be discussed during the contract process and the bidding process as to what that would mean and how those records would be supplied and again, only consistent to the service that's suggested to be provided. As to the policy implementation as to number 1 what Councilmember Herrera had asked about the range, I think what would be more appropriate, and because I think that -- I think Bob Brownstein mentioned I think he's right that there's a situation where there's a sense that it needs to be excited, that's something we always have the authority to do anyway but to remain consistent with the thoughts of the City Manager's office in terms of using the employee rather than dollar amount. The only suggestion I would make on this point is rather than \$300,000 is to have the three full time employees and we still would not -- we still would have the ability as a council if the City Manager's office felt was appropriate to look at a specific case, and say you know what, in this case we can go ahead and approve it because it's not controversial and so on. But that's the one change that I'll make, is rather than \$300,000, make it three full time employees so that it remains consistent with what the conversation has been throughout the process. I understand the concern of Pat Saucedo, that now you're throwing dollars in there, and it's a totally different way of looking at it, and that wasn't discussed during the process. So to be consistent with some of those comments, that will be the change I'll recommend, and other than that I don't think most of these recommendations are so different than what the outcome has created. And so with that, I'll close my comments and just -- one last comment, there is one item that was raised was the pay to play regulation of the city attorney's office recently had a comment on that and my suggestion on that and that can be a separate motion, separate suggestion, that specific item come back because that was something that we did, we needed the city attorney's office look at, that was embedded to the task force process, we can discuss separately, now that the city attorney's office has had a chance to comment on it, not having that same vetting process, not having the same thoughtfulness given to it now that we have the city attorney's comments. So I don't know if that's something we cannot even address right now and have it brought back or something that we need to formally, we can address that specifically. The very, very last point, for example the happy hollow contract is being out for rebid, as an example, not as an example to look to the private sector to see if there's an opportunity for them to be involved but that's an example of a case where we could be as creative as possible, not just have a hotdog stand, but what we can do to create -- that's a beautiful venue. What we can do to create -- use it for private events and so on, and those are opportunities to think, whether it's done by the city or done by an outside entity, where we really have to be creative with the resources that we do have as a city, and think of it and use the business mentality of how we can create revenue and create money for some of the opportunities some of the properties and some of the things we already have. And so I just bring that up because I think that's one example that was brought up early on in the process and I think going forward we can -- we should use our creative minds to really generate revenue from opportunities like that.

>> Councilmember Herrera: First I want to say that I think it's good policy to be able to evaluate these projects that might be outsourced or might go through alternative business process review ahead of time. I think that causes less surprises. So I think the concept of this is good. I'm concerned about, I guess what I'm suggesting is concerned about cost, making sure that we do this in a cost effective way and make sure that we don't have unintended consequences. So I'm not an attorney like some other folks up here are. But I just want to make sure in terms of sunshine that we don't impact, that it doesn't get broader than we're trying to stay with here. And so I really -- if we think it's specified in here enough, fine. But couldn't we just tighten it up a little bit to say that it applies to this process? If you wouldn't mind putting that in there it would make me feel a lot more comfortable.

>> Councilmember Kalra: That's fine and going forward just as we're asking staff to tailor it to comments that Councilmember Liccardo and I made earlier, that's one addition that they can make it clear so that it's tailored to this policy.

>> Councilmember Herrera: And I guess the only thing I was asking for, I can understand if you're saying no often it, I was asking to state the obvious, I think Bob Brownstein said it, if there was a project that could be expedited, I was wanting to say that, it goes without -- we already have that power but I wanted to say that, it's sort of the spirit of the thing that we can move things forward, it's not taking away any power what you're trying to do that. I would feel better if we were able do that but I can understand if you don't want that. Oh, and one comment on the contributions. I personally feel that should end up going to -- I don't know which committee, maybe Rules, where it's discussed in the broader context of election kind of things, not tacked on to competition. I appreciate that you're not taking it on without vetting but I'm even thinking, it may not really belong being added on to that but should might want to go somewhere else.

>> Councilmember Kalra: It could always go here and be forwarded to Rules. It can go to more than one committee.

>> Councilmember Pyle: Sam.

>> Councilmember Liccardo: Thank you. You know, I'm sympathetic to the view that Pat Saucedo expressed about, you know, if it's good enough for the public it should be good enough for the city, that is, if there is public information, we think that's important to be elicited from bidders who are competing for contracts, probably makes sense for us to require all the information we think that's relevant to the public up front. And what I'm really interested in exploring, between now and the time this gets to council, is knowing really what else would be necessary or needed from a company, after the fact, in terms of information. And because I'm particularly concerned about the scenario that Brian Doyle described which is where the city is playing as mediator, trying to cull information out of a company about whatever the company may believe to be rightfully or wrongfully proprietary and really being in the middle, while we're dealing with whatever deadlines may exist. And we don't want to be there for lots of reasons. Not to mention the faculty that I mean, above all, probably, the fact that it takes an enormous amount of staff time to be sort of brokering information from the company and the public. I'm concerned about that issue and I think Pat was right to raise it. It's something I hadn't really considered seriously before. And I hope we do address it explicitly in front of council. That should be elicited. Paragraph 5 regarding to secondary issues, as Bob Brownstein refers to it. There is a concern here about generating a lot more heat than light. If we get into really sophisticated economic modeling about what the costs are to taxpayers, and so forth, I'm really hopeful that there's going to be some really simple statistical proxies we can use for, you know, if a company doesn't have health insurance, then we use a number, and we agree that the number is representative of a range, and then we just go forward. If we try to get really precise on this stuff we're just not going to move anything forward.

>> Councilmember Pyle: Thank you. That alleviates a lot of my concerns. Any last comments? Okay. One thing we need to do is, to to accept the report. The memo, we can begin with and we can attach parts of it to the report. You want to do it that way? However you want to do this just guide me.

>> Councilmember Kalra: My suggestion would be to accept the staff report with recommendations from the memo as one motion.

>> Councilmember Pyle: Well, recommendation number 1 is what it boiled down to.

>> Councilmember Kalra: Well, no, it's all of it but the comments that Councilmember Liccardo and Herrera made and my comments, in item 1, rather than 300,000, that it be 3 SVUs.

>> Councilmember Pyle: Here is my dilemma. This is a memo that came into being after all of this has been hashed out by the committee. It was my understanding that the committee agreed, the major players in the committee agreed to everything except number 1. Is that an accurate assessment, Ed where we are?

>> Ed Shikada: I think it would be fair to say that we did not have consensus on the report. We certainly shared it in advance, and had multiple discussions on our draft report. At the same time, you stated it accurately that there was not agreement on that number 1, there was also quite frankly staff agreement on proceeding with number 2 so it did not find its way into our report.

>> Councilmember Pyle: I had misinformation. Okay, do you see a problem with all of this being incorporated, as an attachment to the report?

>> Ed Shikada: Primary issue that comes to mind is how to show it on an agenda. I think there clearly needs to be some interpretation of how best to move forward.

>> Madam Chair, if you look at the staff report they actually have asked two things and number 2 has two subtitles to it. The first one is to clearly accept the report and the second is to agendize for the council consideration approving new council policy establishing a decision-making framework, which is new. And so they would like you to look at that. And then the second one is basically approving the revised policy. The question is, Councilmember Kalra has indicated that he'd like to amake some changes to the staff recommendation, and so the question is with regard to the proposed policy revisions that staff has asked you to approve, will you be recommending that all of Councilmember Kalra's additions be part of the recommendation, or some of them, or none of them? That's the question, is how are you modifying the staff's recommendation with regard to the policy?

>> Councilmember Pyle: Here's what I think would be the cleanest way to do it. I think it would be good to approve what the group has done, to get that recommendation forward. And Ash, if you could bring your memo to the council, when this comes forward, I think it would be a cleaner process. So that everybody on the council will --

>> Councilmember Kalra: I'd much rather bring it now so that not only bring it to the council but the staff has time between now and going to the council to go through some of these recommendations and appropriately you know insert them at the appropriate places and make the appropriate evaluations. And I think that -- I can understand the concern you have, but the reality -- you know the work of the task force, the work of the task force, they've done a terrific job, Ed's done a terrific job and now we have to make a policy decision and this memo is a reflection of the ultimate policy decisions that I'm more comfortable making in addition to what's already --

>> Councilmember Pyle: That's where we disagree. We're not making a policy decision. We're deciding whether this should go forward to council or not.

>> Correct. You can add a C to the staff report which basically talks about approving the council decision making, approving the revised policy and C the council consider amending the policy to include Councilmember Kalra's recommendation.

>> Councilmember Pyle: I like that. Is that okay with you? Great. Rose, that's it?

>> Councilmember Herrera: Yes.

>> Councilmember Pyle: All right, I think we got it. Council recommendation.

>> Ed Shikada: Sorry, but with the one amendment related to 3 FTEs rather than 300,000.

>> Councilmember Pyle: Yes.

>> Councilmember Kalra: And the other comments made.

>> Councilmember Liccardo: I believe there were two other requests.

>> Councilmember Pyle: Yes, there were.

>> Councilmember Kalra: The comments related to item number 2 and number 6 that Councilmember Liccardo --

>> Councilmember Herrera: Yes, I had some, too.

>> Councilmember Pyle: Yes, any one of us would. All right, so we all had that, we're going accept the report, we're going to agendize it for city council consideration, and we're going to add the council recommendation plus approving the policy 029.

>> Councilmember Herrera: And I don't know if this is on as a recommendation, but I really would like to evaluate the comments that were made by Pat Saucedo in terms of how we proceed with the information that we need in terms of number 2. And I think it partly said that in the memo, but if we could get a little more clarification on that so we're looking at the information we need. Because I don't think anybody is trying to set up the situation where businesses are being asked to --

>> I think the chair is asking that that be discussed at the council and that be clarified by the full council as to what the direction is when you approve that particular part of the recommendation?

>> Councilmember Herrera: I'm saying put it in as C, is what I'm asking in terms of --

>> All of Councilmember Kalra's recommendations will be part of C, as modified by the committee. And any more details with regard to any of those recommendations can be narrowed or expanded by the full council when they consider the matter.

>> Councilmember Pyle: Exactly. I'm sure Pat will come back again, will you Pat? Okay, may I have a motion please?

>> Councilmember Liccardo: It's already been --

>> Councilmember Pyle: Made, seconded.

>> Ed Shikada: I'm sorry, Madam Chair, if you could indulge me for a second, I'm not sure we picked up all the changes tot memo. Would it be worth a very quick run-through on what those are?

>> Councilmember Kalra: In number 1, from 5 to 3 FTEs, rather than the \$300,000. In regards to sunshine requirements, there is concern as to the broad language, and I think Councilmember Liccardo specifically referred to a couple of lines including, we give advantage to competitors and serve no public purpose, that that would essentially exempt that -- exemption, that would render that exemption moot because there can almost -- there can be -- it is very broad to decide what a public purpose is. So essentially, to find that, as I mentioned when we discussed it to find the most restrictive way of interpreting what would be available, consistent, what public would have access to, and if the government were doing that same function. And Councilmember Liccardo and Herrera both discussed both brought reference to some of the comments that Pat Saucedo made that were -- what -- what information would be needed up front and whether the -- and any public, any records that would be considered to be public should be requested for up front, and what if any information would be necessary after that point, there should be a discussion of that as well. I think that --

>> Councilmember Herrera: And that only applies to --

>> Councilmember Kalra: And that only applies to this policy, not to every single city contract done, yes. As to item 6, the preach of contract and third tier review, there was a concern from Councilmember Liccardo and I accepted the friendly amendment, which would be more specific in terms of what documented evidence may exist in terms of preaches of contract, that he would rather -- that he would want more specificity as to what that includes and that especially important is that there be -- that items that are noted as of record were items that were of notice to the parties, so therefore, that there was some kind of more -- I think you wanted more of not just necessarily legal but more procedural breaches of contracts that are considered, rather than just general comment.

>> Councilmember Liccardo: Yeah, I think you had it right, more specific, there is specification as to what documented evidence is. It's not any document it is --

>> Councilmember Kalra: What does documented evidence mean, there is more specificity to that. I think that covers it.

>> Councilmember Pyle: Going, going, gone. All those in favor? [ayes]

>> Councilmember Pyle: That is approved unanimously. Thank you thank you all again and again and again. You've done a marvelous job and we appreciate it tremendously. We're ready to move on now to our coordinated marketing effort and we have Michelle McGirk with us to take that on. Welcome. We're so glad to you have here today.

>> Yes, thank you, Madam Chair and members of the committee. This is the first update from the communications working group. We've had one official meeting since the working group started following your direction in the budget message. The communications working group was created out of the concerns for accountability. That started with the Global Fluency contract for national and international marketing. Since those concerns were raised by the mayor and members of the council, a few years back, our office, and the members of the Community and Economic Development Committee, worked with economic development staff to put strong metrics in place around that contract, and those results were so solid and measurable, that the mayor decided in the budget message to extend that effort to other marketing efforts. Our goals with the committee are all focused on accountability, to ensure that when we promote San José, we do it effectively, that we use those limited marketing dollars wisely, and that we can look for places where groups, both our internal city departments, the redevelopment agency, and our partners who have contracts with the city could leverage their strength by working together, and that we really avoid duplication. Just to give you a sense of who's at the table, we actually have an official structure for the committee that has -- we have voting members in place from the airport to the redevelopment agency, the City Manager's office, convention and visitors bureau, downtown association, and chamber of commerce. However, we really, at our first meeting, didn't need to use the voting structure. It was more of a collaborative effort. And we -- I want to be clear, that what this is, is an effort through peer review and improvement, to use our dollars wisely. What it isn't, and I think this is what a lot of our partners and our internal city departments initially were a little concerned about, was that we would be the design police or a new bureaucracy. And the working group doesn't need to see every press release that one of our partners is going to put out, or every event flier or poster for music in the park or something like that that an organization produces. Although there are staff that manage these contracts, agency staff that manage these contracts, who play that oversight role with our city dollars or agency dollars, this is a not the role of our committee, because it would take too long. What we are looking at is

the overall marketing strategies that each of these groups are employing and special campaigns. And how are we promoting San José and promoting it effectively? The other thing that we're not going to do, and this is something that everyone was afraid we would start to do, and that is, we're not going to develop a new logo or a new tag line for San José. That's something that's expensive to do right. And it's something that we don't really have the time to do in these tough economic times. So we are working instead to approve our existing efforts, and to focus on the strengths that we have. Just to give you a little background, in the the language from the 2008 budget message. And after the council passed the budget direction in 2008 that asked us to evaluate the costs and the expenditures that were underway, we went and looked at all of those. And as a result, and the report that we did to the mayor, in 2009, the direction was to create some sort of peer effort to bring everyone to the table and coordinate our effort. Before we had our first meeting, we had individual meetings with -- of the partners and the city and agency staff members. And we really asked them some very basic marketing questions. And these are the same things that go to our evaluation of their marketing plans. We want to know who they're targeting, what actions they want them to take, and how they're actually getting the action to have them, what strategies are they employing. And how they're working together, you know, if you're the downtown association, how are you working with Team San José, and how are you then working with economic development or the redevelopment agency. And just the process of bringing everyone to the table has already started to increase that collaboration. So I'm very pleased about that. The first two contracts, since the budget was enacted, the Global Fluency contract and the downtown association contract, all require participation with the communications working group. And we have gone through our first peer review with the downtown association at our August 21st meeting. And I want to give you a little bit of background on how that went. And Scott is here, and I want to acknowledge the downtown association's willingness to be the first group to go through this. It's always hard to be the Guinea pig. So we did a very high level review at the communications working group meetings, and gave a lot of feedback to both their marketing plan and to the downtown living campaign. And so specific feedback we gave them was to better define their target audiences, and to continue to start with each of those audiences and determine even more effectively how to reach them and to improve their metrics and how they're measuring. The downtown association's contract already had very strong deliverables around their event production, how many fliers they need to produce for a certain piece of the contract, how many -- what the attendance expectation was for a certain event, but we want to take it a step further and look at effectiveness. How was it improving the bottom line in terms of economic development. One of the things we found in our conversations with all of our partners, and so the downtown association heard a lot of this feedback, both through the committee meeting and one-on-one, and many of our other partners will hear similar feedback, is that they start too broadly with their audiences. They might say, we want to target residents of San José or we want to target tourists, rather than looking at each audience and determining how to reach them, what interest they have and what motivates them. From the downtown living campaign we have a great example of that. The high rises may be targeting people who are empty nesters, living in Almaden, for example, a 30-something engineer working at Adobe, or a dual-career couple. There may be overlapping messages to reach each of those audiences. But how they get information and how they learn about events or decide to make those decisions may happen differently. So we've really pushed the envelope a little bit and said, don't just say we got five articles in the Mercury News. Tell us how you reach the individuals who might buy the condos. We've also pushed with electronic communications to have communications that are measurable, as another specific example, use the tools that are out there with web 2.0, to actually measure how much traffic you're getting and whether people are acting on those things. So just a quick word about our work plan. Our next meeting is this Thursday afternoon. We'll be doing some baseline work on messaging at that meeting and then, in November and December, we hope to have all of the -- our contract partners, the chamber, Convention and Visitors Bureau, and Global Fluency, completely the review of their marketing plans. And then January through March we'll work with our internal departments, the agency, economic development and the airport, to have their plans reviewed. We also have a request from our groups to learn more about social media, and we have on our committee an expert from Global Fluency, who has offered to give some free training in that area. We really are excited that this committee has tasked us with this new effort, and we want it to be successful. So our goal is to really focus our efforts, this first year, and hopefully, get some valuable information that can help inform the budget process and help us make good strategic decisions with our marketing dollars. So any questions?

>> Councilmember Pyle: Well, I just think that's wonderful. What a great thing. That's a tough job, though, because first, people say uh, I don't want to show what you I've got. That would be up for

scrutiny. So congratulations, it must be your charm that made it all work. We definitely see that. Comments, Sam? You want to go first?

>> Councilmember Liccardo: Okay, what the heck. So first of all, thank you, Michelle. I think Nancy hit the nail on the head. You've got a lot of very smart people around that table who I know have strong opinions so I think it's fantastic that everybody is working in the same direction. I want to give some kudos to the downtown association. Scott is here. Why just got the opening numbers, they are fantastic. Most of these forecast repeats, but if it's somewhere from 428 and 500 people came downtown potentially to look for a place to buy that would be higher than we've ever seen in the history of the city. That means we're moving in the right direction so thanks for the good work.

>> Councilmember Kalra: Thank you. Yes, I want to reiterate the comments made by my colleagues here. And I had a chance to meet with Paul and other staff regarding Global Fluency the other day and I think it was very valuable for me because when that item came up for a vote I don't have as much information as I do now and in part and how it works in line with all these other agencies all these other organizations, I think it's really valuable and I want to thank the downtown association being the first up, and Sam mentioned those repeat visits, those are valuable, sometimes when people are looking for residence, second third fourth times, prices might have dropped a bit, Safeway is there, there are other places, I think it's very important that we're on the same page for messaging. One question I did have, I agree to do more target message is as opposed to coming downtown, downtown is great, or be one to appeal to San José residents? Whatever that means but focusing especially on an ethnically diverse communities and how that's being incorporated into these meetings and not just with the individual groups but as a consistent message because that's something that's being discussed and if so, how.

>> Yes, and we've actually talked to our groups about looking at ethnic media, as an area, and also, looking at which -- across the board, which media is used by which age groups, you know, you have younger folks who are getting a lot of information online. Looking into some specific social media that may be reaching diverse communities, and so that's a very important piece of what we're going to be looking at. And again, it's all tied -- it's an art to how they market. And where -- which piece, and I think it's going to be an interesting piece as we go through the different groups that we're working with.

>> Councilmember Kalra: I appreciate those comments and just a suggestion going forward, that is something that you're probably hopefully already doing or going to do but sometimes when I see marketing to particular ethnicities, they probably obviously didn't run it by somebody in that group. And also reaching out to young people, it might be a term that's used or sounds goofy, you certainly can't have a group with every cross section of our society, obviously that's not going to happen. But hopefully focus groups before you implement the policies so the message gets across that you intend. But hopefully I appreciate those things you did.

>> Councilmember Pyle: Scott.

>> Madam Chair, Scott Knies, executive director of the San José Downtown Association. We were delighted to be engaged with the communications working group. We have a very detailed marketing plan already, but it can always improve. And everybody has an opinion about marketing and design. It can always be targeted in a different way. And our initial reservation out of coming in, and perhaps getting down too far into the weeds, that isn't what happened. The CWG is mostly beneficial in this first experience with the cross pollination of ideas from all the participants. We checked each other off on where we might be duplicating and where we might be more efficient. Really we got the message delivered. The first thing on scrutiny in these very difficult times is marketing dollars and we know that everything has to be leveraged to the max. We have to provide you excellent accountability with every dollar being spent and be more efficient than ever and that message has been delivered loud and clear so it's really good to have the communications working group for us to test that theory and to work with each other to make that. We debated what to bring you this morning as kind of a met for of the program whether it was dine downtown or starlight cinemas, but we thought that since the open house happened this past weekend we would bring this in to you as an example of what we do a leveraged program. You've got private money from the four high-rise developers in it, you've got assessment district money from the Downtown Association, but more importantly we don't market in any one media. Nobody does that anymore. This was done through paper, clip advertising, the adVertorial, we had some Chinese publications, make sure they were tested first. Just an example of given the scrutiny with this group and everything we just have to make sure that all the marketing is hitting cross-platform this way. And that's another thing that I found that was helpful about communications working group is, was to kind of okay, you got that, that covered, but what about social media? Are you reaching down in this level of public

relations? Is your Website really backing all of this up? And it just makes us raise everybody's game a little bit higher. So thanks again with your help with marketing. It is an essential service.

>> Councilmember Pyle: Thank you. So -- Sam did you have some comments?

>> Councilmember Liccardo: Nothing, I just -- well, point out, I think as Ash pointed out, some of these alternatives in social marketing, I think Ash now has 500,000 people following him on twitter. Clearly, it's some great opportunities here and I appreciate the fact that we are looking at so many different media. I'm sorry.

>> Councilmember Pyle: Oh, don't be sorry about that. I was wondering when that was going to come out. So as I understand it you're ensuring a coordinating marketing plan, there's more accountability from all of our partners, and we're going to have production of a real measurable result. How can you ask for more than that?

>> That's our goal. We had one meeting so far. So we hope we can meet all of these goals.

>> Councilmember Pyle: So this was a report. This does not require anything but information.

>> Paul Krutko: Madam Chair, I would suggest, not to put Michelle on the spot here but I think there's a lot of council interest in this. We may want to cross-reference this, since it did come out of, you know, the council unanimously adopted the mayor's message that contained this, and we ought to have a little bit of a report at the council meeting when this comes up if you're amenable to that.

>> Councilmember Pyle: Sure.

>> Paul Krutko: The only thing would I add to that and would want the team to present is we've talked a lot about sort of coordinating the outcomes. But I think the key element for me, and we shared this with Councilmember Constant and I know we've shared it with the two of you in other settings is this notion of a message architect that is really defined what we want to say about San José. Yes, as Scott reaches particular groups or airport goes after particular groups. We're trying to get a segment. But we're also trying to make sure that we're coordinating the overall message of San José, I think the criticism that we received before was that each of the individual entities really didn't have an overarching message architecture. And we've spent a lot of time on it to this team's credit. They've actually boiled it down to you know an eight and a half by 11 landscape that is got the points on it. And I think we want to make sure that we're arming you with that because you're another set of messengers that can be really really important. What's important in today's world as we have learned from our involvement in CEOs for cities, it's not like being like everybody else but differentiating yourself. To the degree that our message of San José speaks to our diversity is our key attribute that this is distinctiveness from any other city, I think, in the United States which it should drive a whole array of things that we're doing. So anyway, I didn't want to belabor that but I think it's important, and we've all shared with you. This is what Scott talked about being mindful of the resources but we should also reflect that compared to our competitors, we are a very modest probably single digit percentage of what some of our competitors doing in this space. I think the Global Fluency presentation I shared with you the Austin ads and you know that's one of our main competitors. But they're doing a great job given our resource constraints. They're doing a great job and they deserve it.

>> Councilmember Pyle: We'll include that in the report-out.

>> And actually at our October 6th meeting, October 1st meeting, we will be -- we actually will be going through an exercise with all of our departments and our partners with the message architecture and how it applies to the various audiences that they're working with, and looking at some new ways to look at the message architecture so it's going to be a very timely piece that Paul mentioned.

>> Councilmember Pyle: Thank you. How were we? This is your first time before this group. We're we that awful?

>> Very easy.

>> Councilmember Pyle: Good, we're glad to hear that.

>> I wouldn't say that.

>> Councilmember Liccardo: We don't need metrics or anything.

>> Councilmember Pyle: No melt tricks here. Thank you very much, Michelle. We're are ready now for the report on key legislative items. And there were few, weren't there, Betsy?

>> Betsy Shotwell: Madam Chair, Betsy Shotwell, director of Intergovernmental Relations. I will be very, very brief. This memo was done before the end of session on the 11th, so you'll in your year-end report see what actually moved forward and the governor actually signed or vetoed. Although, as I've told the other three committees, most of the bills are two-year bills didn't get out of house of origin, because of the budget situation in Sacramento. I did learn last week that the legislature will be back in session probably

around October 13th. I don't really have the specifics but water, education and I'm sure there will be other items that will be up for discussion. So to be continued. That's a year-round session now. As far as I'm concerned.

>> Councilmember Pyle: I don't know if this is appropriate or not but I was doing a some little researcy just because I do that a lot. And I found out that California is second in the United States in reference to ARRA funds. Tell me again what it stands for.

>> Betsy Shotwell: The American recovery --

>> Councilmember Pyle: And restoration funds. Because of our drought conditions. I was amazed, apparently, the state government has to apply for that and they were able do that much so I was happy about that. I wonder who is first. I'm going to find out. So thank you, Betsy.

>> Betsy Shotwell: Thank you.

>> Councilmember Pyle: Are there any other questions for Betsy? Sam?

>> Councilmember Kalra: Make a motion.

>> Councilmember Pyle: May I have a motion? All those in favor, aye, that's unanimous.

>> Betsy Shotwell: Thank you.

>> Councilmember Pyle: Now we're ready for the last of the Mohicans, I guess, is that what we've got here, Keith? The neighborhood business districts retail update.

>> I'll be brief, but not that brief. I'm Richard Keith. I'm director of neighborhood and business development for the redevelopment agency, and Renda James is the senior development officer with the agency, and she was responsible for most of the studies you'll see at the end of the presentation. So I also, in the interest of being green, since about 95% of the presentation's picture, I don't have handouts, on one of the tables you already received, as an information item in August. The number 1 job for improving our neighborhood business districts and our retail recruitment program is improving economic vitality of the NBDs. And we want to capture locals first, obviously those people that work and live in the area. And then of course any destination seekers that we may have especially appropriate for Japantown and west San Los street even though it's reduced with their antiques and used car program, we do have people that come all over from the region to purchase goods there. In marketing, I'm afraid to say anything right now. We do take great pride actually in our -- given our budget and workforce and the agency in events and materials that we do produce, and you will see some of that as you go through there. We just finished the spirit of Japantown that we were associated on a very limited basis, the salsa festival on Alum Rock was a big hit. Some of you at the rose white and blue parade, estimated a thousand people came from West San Carlos and the Alameda and the Shasta Hanchett Rose Garden area. Business association report, we fund and we staff still all of the business associations, in the neighbor business districts that are in the redevelopment areas. Our facade and signage program, speaks for itself, we have a very active program. And I'll get into that a little bit more as we go through the slides. New development support, we still provide though with limited funding we have preentitlement assistance and mainly zoning and general plan, especially as the small ambassador program has wound down, I'm not even sure there's any staff available for that purpose right now. But we're here to help certainly all the small businesses are future small businesses, in our neighborhood business district. And our neighborhood business clusters, too, as well. We've had over the years, obviously, very active public improvement program with streetscapes and sidewalks, and community centers, and libraries which I think the fact that we have a library in Alum Rock, and even if we didn't put any funds into this country William in Carnegie, neighborhood business districts is an important aspect both for the library and the business district and it is a synergy there. We do have a small business loan program I'll talk about and business reports. Let's get into the slide show. It is probably from a councilmember point of view one of the most important slides, it shows that we have \$5.6 million in sales revenue activity. Willow Glen of course is not in the redevelopment area, but if you count that one, we're about at 6.2 million dollars in sales tax to the City of San José. Oso if anyone asks, roughly 6.2 million is generated to the city for the neighborhood business districts. Of course Winchester, although the councilman would like to count Santana Row and valley fair, that number is not counted there. The employment numbers with Willow Glen in there is about 9,000 employees and about 1900 businesses. This of course is the last three quarters in 2008. And the first quarter 2009 we got from our office of economic development statisticians over there. The peak year was about 06-07, where it was about 6.8 million. So we're about down 600,000 which is relatively good, given the economic situation we have. Japantown and the Alameda were even over, if you go year to year, we're about even. Willow Street was slightly up, and all other areas were down. And the biggest downturn was actually on West San Carlos Street, because of making the

assumption, I don't have data on it, but because antiques is an item that people do not buy, and cars, low-cost models were down. Even with that our recovery has been fairly robust. We have had 25 openings over the last -- just from January to the present time, and in all areas, I won't read these off to you, but food is still a major item. You can say subway has done very well. Obviously, a competitor, Quiznos has closed everywhere, on West San Los and the Alameda, I don't know what their model is but it's not working. Banks seem to be doing well and even specialty coffee companies are doing well. So with that I'll keep going. Coming soon in that category, is -- the Sushi Infinity actually already opened in The Alameda from the time we put this report together last week or so. Whole Foods, which we who live near or in D 10 are very excited about, should break ground in the beginning of the year and be open by the end of 2010. Equally important, the wholefoods we're getting word on the Alameda that they begin to redo their construction documents next year and open in 2011, that still remains to be seen. But they are paying rent, I know the property owner very well and he's getting his monthly check which leads me to believe that they need to proceed with that store. 99 cent store is a fairly good sized operation and hopefully will bring in revenue in terms of sales tax to the city. As for our marketing, the bottom row of material you can see is some big brochures that we try to entice brokers with, or new entrepreneurs or stores with. But the top row, we have for each of our NBDs we have a wrack board that we bring out small single, go to the next page please. Color-coordinated with their San José marketing campaign that we decided in absence of a big picture campaign for the city, that we could do with our neighborhood business districts. And we have one for each area, we don't have one for willow we're going to do that shortly. If you go to the airport and wherever they have open space on their lighted panels they put these in for free, they're worth \$1500 a month. So it keeps them filled and it keeps our explore San José campaign active. So you can see, even in the new part of the airport, we have West San Carlos street up there right now that's exciting and in the past, but also, in the lower right-hand corner that's up right now, the Alum Rock one just came down, and unfortunately the Japantown, west San Carlos, coming down gray, when people got their badge, advertising west San Carlos, but they are up in all terminals. The business association, in west San Carlos, we staff every monthly meeting from the Alameda to willow street to West San Carlos Street in Japantown and help them with their events. Quickly go to the facade program. Some of our slides are old and new. This one's a relatively recent one. We still enjoy doing historic buildings. This was the old Packard building, and now Vic's Cardosa. We put in a facade there. We currently have 23 active projects. This is what just a little bit of paint awnings, new transom windows and mullions can do to a -- this was the Speedy Glass building on top, and now a Stegner development on the Alameda, and they hope to lease the space. Here is a dramatic shot, this has been around a little while. We hope to do the remainder of building as it goes down the side street, you can see what looks like a fort, we opened up and put some color into and we looked for opportunities, not only to better signage, color, but also in these cases, what it looked like before, fairly desolate. What a shopping center can do. Also I took found this newspaper, found this newspaper article, king super on story and king, where we totally transformed the corner, all three corners now have new viable beautiful buildings, me pueblo has taken the place of that and what Hody has done on the corner with a bank moving in and another cell phone place, that's the other activity that seems to be highly important on the market, on the retail market. This one's the Edenvale Shopping Center in district 2 and while we didn't improve the facades although some of the owners did some work on their own, what repaving some new lighting and landscaping can do to a parking lot can totally transform a center. This is back to plaza de San José just be remiss if we didn't quickly show that, new development, of course John and myself, many folks worked many years on that project. And while this is our current project, Don Imwalle junior, is running the project, with 10,000 new square feet, that Hispanic community now has banks on three corners with a Bank of America, a chase and a Wells Fargo. So I feel very good about that opportunity. And in the other locations, the yogurt shop is opening up, seem to be springing up everywhere as well, and a cell phone company, one remaining vacancy, hasn't even opened yet, think this project will be done in November and December, and we're trying our best to get a restaurant use in there. Quickly onto streetscapes, the bottom picture is west San Carlos, the palm trees and the right-hand picture is a design element on west San Carlos and the other picture is of Winchester boulevard where I think we also transformed both of those streets, when we completed undergrounding and some streetscape landscaping work. Into a little bit more of the marketing, and our interesting banner program. You will see the banner policy come before you. The agency and the City Manager's office are working hard to bring a policy for you. Technically the NBDs aren't allowed to have banners, but as amazing as that sounds, that hasn't stopped us in the last 15 years, because we weren't even aware of it. So we wanted to make that legal as well as

downtown. Our campuses. Sorry for the attorney. I know I'm being broadcast, but I'll take responsibility because it's a great program. Japantown, shop the rock, the Alum Rock village area, new banners and west San Carlos, and I think they add not only are they a way finding element they add vitality to the district. One of the other programs we're very proud of is our parking lot program in the neighborhood business districts. The two middle slides with the James Lick high school, in Alum Rock and the Alameda, downtown prep, of course we worked with the school that was the Hester elementary school. But that was an innovative program where we did the improvements and expanded the parking, helped light the area, landscape it and at no additional cost, no annual payments, we have use of these for many years. In Japantown, we are leasing the private property, on the Alameda, Hanchett we actually own the property at ray street where it was just a dismal at the corner of race it was a dismal site location. We paved it and put in new fencing and striping and we have a wonderful lot. So we look at all different types of opportunities. Whether it's run by the city, or the agency, to provide parking in the NBDs. Since January, our small business loan program, it's small but we were able to provide these four entities with \$50,000 loans to assist with their businesses. Three of the four are eating establishments, and class irk rock is a jewelry store in Japantown. We are going to modify this policy as well, to simplify the policy, working with that and hope to have something for council review by the end of the year early first quarter next year. We've been fairly busy with studies over the last four years and these are the ones the most recent. On the Alameda we are just getting underway, we are able to get a 250,000 CalTrans grant and 50,000 grant, BMA out of San Francisco to plan for the beautiful way it's called. Looking at for the Alameda all the way from Diridon station, to 880. And so much is happening in that area, with the possibility of the ballpark, the Diridon station improvements, the heavy rail, that's supposed to come in and BART, that we're looking at that entity of the Alameda County, and how to make it even a more viable business district and to increase fed activity. The Winchester Enhancement strategy we just completed the work and what was most exciting about that, it will be coming to the board, shortly. We had six workshops in Winchester working with council district 6 and 1 but it was the first time at least that I experienced where we really put the whole document out on the Internet and received feedback that way. We only were after one hard copy. Of course we offered it knowing that everyone isn't on the Internet and we only got one request through all our e-mails and of course and mail-outs. And Livemeeting interaction. On Alum Rock form based zoning we have worked with that for some time now and the code, the actual code and I think this will be the first one in the city, is being written now by the Planning Department and likely to come forward. I would think in the beginning of the year, January or February. But I'm speaking for the Planning Department. That was particularly difficult, process because we're trying to work with BRT and VTA on the BRT line and how that impacts the community. As well as really creating a good urban feel for the street and what can be done in the future and what's -- what could transpire over the next 20 years. The West San Carlos Street is -- the Willow Glen recently passed the BPID or CPID and we're working hard with West San Carlos to bring that forward, and hopefully that would be the first NBD of its type, the real long strip commercial NBD to incorporate a business district. And we hope the property owners support it. We think we have the percentage to do that, but time will tell. It's going to be very close on that. And then on the following page -- please go ahead, Brenda, we have -- this was in -- on August I think 13th but definitely in August you were all distributed a packet from the executive director that had each of the neighborhood business districts, a detailed study and a map showing the vacancy rates. This we did completely in-house, without a consultant, and found that the overall vacancy rate of the neighborhood business district, including Winchester and the part of Monterey Corridor that we don't consider industrial, more neighborhood serving just south of downtown, was only 7% which we think of over 3.8 million square feet of commercial area is pretty good. The mayor pointed out recently that in Palo Alto, the article came out, it must have been around that same time, that they were at 17% vacancy. So I think it's due both to the efforts of the city and the agency over the years to keep these corridors vital. Certainly helps that there are strong neighborhood supports through both the SNI program and as well as just interested residents that we have a fairly low vacancy rate. And as you could see, when we did the report, even when there is vacancy, there's pretty good turnover and retenanting. And that's the presentation, so thank you for staying with us, and any questions, I'm available.

>> Councilmember Pyle: Well, thank you for all the fine work that your agency is doing. I'm really happy to see that, and sorry to hear about all those folks you lost, very talented, wonderful people, and we're going to get through this somehow.

>> Thank you.

>> Councilmember Pyle: Thank you for your perseverance. So with that, that is informational, as I understand it, and so we're ready to move on. Are there any other announcements?

>> Councilmember Liccardo: To go on Nancy's point, this is a very painfully difficult time for the agency, we have lost a lot of very good people. I think it's really helpful for all of us to take a pause. I guess pause is really a euphemistic way of putting it, since we know that RDA activity is going to be sharply curtailed, but to really look back and see the extraordinary work that's been done, it's really been amazing and transformational. I look at just Willow Street alone where we've got a very small business community that they're predominantly Spanish-speaking but clearly now they're very energized to do really great things, and have made some incredible inroads on some just basic challenges that they having around there, around issues of crime and moving together as a community. And I'm just grateful for all the hard work.

>> John Weis: Thank you. The great thing about what we've been able to accomplish is that it does -- and the instruction for us is how much time it takes. When we first started the NBD program we had them as redevelopment areas for five years. Well, it's really taken 15 years in most cases, and in Story Road's case where we made major investments, it's even taken a little longer. So these are major investments that we make, and it takes a lot of time, because you can't move that quickly, and you have to bring the community along with you. But these have been really worthwhile, and the fact that we only had the 7% vacancy rate in the NBD is just just terrific, and that's due to Richard's work and the other staff's, but also the SNIs which in almost all cases were directly adjacent to them. So it's kind of a direct relationship between investment that we continue to make in the SNI and the investment we make in the business district.

>> Councilmember Kalra: Thank you for that report.

>> You're welcome.

>> Councilmember Pyle: Is there somewhere we can get this displayed somewhere in the city? You know, it bothers me that everybody does so much work and they do so much for the city and then we don't promote it. And I don't mean that as a criticism, just as an observation.

>> No, it's a great observation. And interestingly enough, we have these Explore San José that we put in the airport. We've been talking to -- and I'm not quite sure, I guess because it's travel oriented, but I guess D.O.T. is overseeing those display panels that will go into City Hall. And we'd love to see those and certainly maybe we can put a little more of the programming activity in there as well both in redevelopment areas and that's taken place in other parts of the city. But we have talked about the explore San José campaign there.

>> Councilmember Pyle: Well thank you very, very much. We're ready to move on to the end, that would be the public forum, and I believe we have someone who wants to speak. Wonder who that is? He's so patient. You're very patient.

>> David Wall: I'm always -- well, that's not true. [Laughter]

>> Councilmember Kalra: Honest man.

>> David Wall: All right. Extra, extra, read all about it: Food is a major issue. How many times have I come here, and told you, you have tremendous acreage that's going fallow. This month's water pollution control, you go out there, you see dirt. Starting in the year, was dirt. By the end of the year, if you don't consider sustainable agriculture, Whole Foods will buy locally grown produce. We don't suffer like the central valley for water, out of water pollution control, because we actually have to put pressure upon our wells to keep them from becoming geysers. So we have to ask ourself the pivotal question. You want to sell -- you want restaurants in the downtown and you have RDA money going in -- at least you did, for consultants to make restaurants more profitable, correct?

>> Councilmember Pyle: Uh-huh.

>> David Wall: Nothing like almost free produce. Where you get your money on the back end from sales taxes. You have tremendous amount of unemployed people, from agricultural-type backgrounds, that would do well. And good old Mayor Reed, wherever he's at, treats, Jonagold apples just came on two weeks ago, Granny Smiths will come on in another few weeks. You can have orchards out there. Wouldn't be be nice to go back to the valley of the heart's delight? Think about growing stuff, nothing like produce, little dietary fiber.

>> Councilmember Pyle: Thank you, David. I have one question. The development committee work plan, I put it in the back of the binder instead of, do we have to prove this? I didn't think so. With that, we are adjourned.