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>> Mayor Reed: I'd like to call the meeting to order. This is Rules and Open Government Committee meeting for February 9th. One change to the agenda, item H-3, a discussion regarding the study session on February 22nd. We should take up under item C, review of upcoming study session agendas. Any other changes? Okay, that's fine. First item then would be February 15th council agenda. Any changes to page 1? Page 2 or 3? Page 4 or 5?

>> Yes mayor on a separate sheet you have language, changed language for item 3.2 and so we just placed it on a separate sheet so you can see how it will look on Friday, on the amended agenda.

>> Mayor Reed: All right so 3.2 is labor negotiations update discussion and direction regarding labor negotiations and additional -- and additional reforms.

>> On additional reforms.

>> Mayor Reed: Okay. So.

>> This is just going to be a verbal presentation so.

>> Mayor Reed: I'm just trying to figure out what --

>> Yes, Alex is here in case you have any questions.

>> Mayor Reed: This is just what we started doing Alex or is this a new wrinkle?

>> Alex Gurza: Mayor Reed, Alex Gurza director of employee relations. This would be the second on the updates although there is a change on this one in that we will be asking council for additional specific direction on additional reforms that are already on our list and a few more that we're proposing to add to it.

>> Mayor Reed: Okay well we need to have the ability to go back into closed session to have that if need be. Some of that discussion might be better in closed session.

>> Alex Gurza: Yes I think one of the issues that I think was discussed by the committee last week that I think was going to be discussed today is what time this open session was going to take place. This particular discussion on this item.

>> Mayor Reed: Okay so this is the language, it's not necessarily the time.

>> Right.

>> Mayor Reed: That we do that. We're going to come back to that.

>> City Attorney Doyle: Right and I think we talked this morning with the manager's staff. To the extent whenever you want to have it you'll have the ability to go back into closed session.

>> Mayor Reed: Okay, so we're going to talk about the time when we get to the end of this agenda, we'll come back to that. All right, don't go very far Alex. Anything else on page 4 or 5? Page 6 or 7?

>> Dennis Hawkins: Mr. Mayor, we'll be asking for a sunshine waiver on 3.6. We're finalizing the memo with retirement services on the nomination of a member of the Federated retirement board. And also note that we'll be issuing a supplement on 3.7. We would ask a time-certain for 3.6 and 3.7, something like not before 3:00 or something since we do have a number of people who will be here for interviews.

>> Mayor Reed: How many people are we interviewing?

>> Dennis Hawkins: Potentially three between the two boards.

>> Mayor Reed: And so I think we have two nominees on the Police and Fire plan and only one on the other. So

--

>> Dennis Hawkins: Correct, Mr. Mayor.

>> Mayor Reed: Okay.

>> Councilmember Constant: Mr. Mayor, just a quick question on the Federated appointments. So we've interviewed them and the boards have interviewed them. Are we anticipating just clarification questions at this point or are we anticipating a whole 'nother interview?

>> Dennis Hawkins: I would anticipate more of a clarification. Since the council has already seen the applications, interviewed the candidates and just in case there's anything that came up in the recommendation.

>> Councilmember Constant: I think that's important that we kind of set the stage for that so we don't end up with another 20 minute interview. Because my understanding is we'll have two recommendations from the Federated board based on what transpired at their last meeting and given fact that we'll have the opportunity to have already fully interviewed them. Given the parameters so we don't start all over again I guess.

>> Dennis Hawkins: We wanted to give the council the latitude you needed to do to make though recommendations.

>> Mayor Reed: Both these 3.6 and 3.7 come with recommendations to the council.

>> Dennis Hawkins: Correct.

>> Mayor Reed: It's an up or down vote for these spots. If we don't like the recommendations, they go back for another recommendation.

>> Dennis Hawkins: If I could clarify on 3.7, there are two candidates. However the panel that was convened as required in the procedures did not make a recommendation to the council. So there are two candidates but there is no recommendation.

>> Mayor Reed: But they have been voted on by the members?

>> Dennis Hawkins: Correct.

>> Mayor Reed: Okay, well it doesn't sound like we need 20 minute interviews on these since we've seen all these people before. Depending what the council wants to ask, I think. So not before 3:00?

>> Dennis Hawkins: Something like that if you're comfortable with that.

>> Mayor Reed: Okay, all right. Let's do that. Anything else on page 6 or 7? Item 4.1 is the general plan. Changes that need to be heard in the evening or can we do that in the afternoon?

>> Yes, in the evening.

>> Mayor Reed: Evening. Anything else on 6 or 7?

>> City Manager Figone: Mayor, if I could just backtrack a minute.

>> Mayor Reed: Sure.

>> City Manager Figone: You might want to think about the 3.6 and 3.7 time after you discuss the labor time because labor could be quite long. So you might want to put one or the other maybe at that time end. You might want to revisit that.

>> Mayor Reed: Okay, all right. Anything on page 8 or 9?

>> City Attorney Doyle: Mayor, on 11.3 we need a sunshine waiver for the legal document which is the ordinance.

>> Mayor Reed: That's on a rezoning of the property at Blossom Hill road?

>> City Attorney Doyle: Yes.

>> Mayor Reed: When will that be out?

>> City Attorney Doyle: Post -- it was posted this Monday, so it's out, it just didn't meet the ten-day.

>> Mayor Reed: All right, I have some requests for additions. A commendation to Harker School students for the 2011 Intel science talent search, commendation to Tully center neighborhood action coalition. Both of those asked to be heard in the evening. Then a proclamation declaring February as African American history month. I think those are all the changes to the various pages. Any other changes? Let's go back and talk about 3.2, the labor negotiations update. Alex, why don't you come back up. Given the fact we're negotiating with 11 unions and we have a limited staff to do that, I'd like to know what Alex thinks is the best way, most efficient way for him and his staff to be able to present this to the council, get our discussion, deliberation and action, and whether that's first thing in the morning, can be in open session and then if we need to go in closed session or some other time during the day.

>> Alex Gurza: Thank you, Mayor Reed. As you know, negotiating with 11 unions with a limited amount of people is quite a challenge. So it would be best for us if the open session and closed session were connected in time. Because otherwise, if it is that way we can actually then schedule negotiations in the balance of the day. If it

was split up between morning and afternoon it really takes out the balance of the day to schedule negotiations. So connected would be most efficient at least for us.

>> Mayor Reed: Ed, do you have something to add to that?

>> Ed Shikada: Mr. Mayor, members of the committee, if I could also add, that in our discussion of agenda review this morning there was also recognition among the other department heads that should the closed session labor discussion be in the afternoon and be an the ended discussion then they will need to schedule accordingly as well. That's not to suggest that would be a primary consideration but I wanted to pass that along.

>> Mayor Reed: The best way we could do it is the way we do it now, which is we would do the labor in the morning which would mean we would have to convene in open session in order for you to make the presentation and presumably at some point go into closed session to finish if necessary any closed session discussions and then take up the rest of the closed session agenda. That seems to be the most efficient but I know there's some other issues. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I brought this up last week. My concern, and I understand a little more fully now the logistics because we didn't get into this discussion last week, it just sort of appeared on the agenda. And my concern is that the reason we're doing open session discussions is for the benefit of the public. But the public is not really used to us meeting in the morning. And I doubt we'll have any members of the public in attendance if we do it at 9:30 in the morning because it's such an abnormal time for us to be having discussions. That's the way I raised the concern of is it really achieving our goal of having a public discussion if it's in front of a public that's not present?

>> Mayor Reed: Well, public discussion is one of the elements. The other element is that the unions can listen to the explanation that Alex gives. We all hear the same thing at the same time. And since I don't know if these would be taped, Webcasts, they would be available for people to review. I assume there is probably some extra cost for people to be webcasting in the morning when we don't usually have public session. Tom.

>> Tom Manheim: Tom Manheim (inaudible) yes, there would be some extra cost, but I was just going to reiterate the point you were making. Not only would it be available for people to view in webcasting but we also replay the meetings on Thursday evenings and Saturday mornings. So it does raise the visibility. We would be videotaping them and replaying them.

>> Mayor Reed: Pierluigi.

>> Councilmember Oliverio: Thank you, mayor. I had the same views Councilmember Constant last week, in that the afternoon session was much more visibility. And frankly, whether it's morning or afternoon, should be equivalent to the union representatives. But the afternoon is much more advantageous towards the general public. So I'd see it as a win win, understanding that some staff will be sort of on call, and wondering what things are going on. But sure they all have their blackberries and they can still be on top of things going on. The other item I would bring up is if we have a limited bandwidth of personnel to deal with the 11 labor negotiations that this process should solve much of the issues that we had in the past. Because we spent a lot of time last year going back and forth on the he said, she said. Now that it's all in public and everyone knows is sharing the exact same information I would argue that this will be a much easier process, that the sheer amount of hours, days, weeks would be less than the old process. So I would just contend that I would be much happier with the afternoon session.

>> Alex Gurza: Mayor Reed if it's possible at any point that I could add to that. One of the reasons I mentioned it might be important to go into closed session is you have the open session presentation. I'm sorry, let's say we had the closed session at 9:30 and the open session of negotiations in the afternoon. If that prompted a need to talk to your negotiates in closed session unless you reconvened in closed session you might have to wait until the following Tuesday morning. That's why I mentioned the need to have them whenever you have them to somehow be able to be connected to the ability to go into closed session.

>> Councilmember Oliverio: I believe we have that option at any time to convene in closed session.

>> City Attorney Doyle: We would make sure the agenda read that way, closed session to give you the option to reconvene in closed session.

>> Mayor Reed: Vice Mayor.

>> Councilmember Nguyen: Thank you. Yeah, given the fact that if we have it at 9:30 in the morning have the ability to go into closed session and also giving staff the flexibility to actually schedule negotiations during the rest of the day I think I'm more inclined to support that. Whether we have it at 9:30 in the morning or 1:30 in the morning doesn't really make a difference. If we have it like at 7:00 they can come and listen until 9:00 and they go to work I think that would be more of a discussion to have. But between 9:30 and 1:30 in people are really truly interested they would make time to come down here and we have access you know both on the Internet and on TV. I don't think that should be a problem in terms of visibility. So I would be more supportive of having the open session at 9:30.

>> Mayor Reed: Well I think that's when we should -- just thinking about the disruption in the rest of the meeting schedule if we have two sessions of labor closed session in the morning, open session in the afternoon and then go into closed session. You know we end up maybe having to schedule more things in the open session in the morning in order to get the day done. And so I think I'd like to give this a try with the 9:30 start-time, see how that works and we're experimenting as we go here and try that. In terms of the public's access, as long as it's webcast you probably end up with the same number of people who will access it online. Because the number of people who show up at City Hall to watch this is always very small. Whether it's going to be in the morning or evening is still pretty small number. But the online access I think is probably the key thing to having more people view it. So I'd just like to try it starting with the 9:30 start frame, see how that works and if we need to go to the afternoon we can make that adjustment at any time really.

>> Councilmember Constant: Well, while I still have reluctance I'm willing to try it. I just think that, you know, for years and years and years the public has looked at 1:30 as a start time and it's just abnormal. So I'm willing to try it and see how things go. But I'm not sure I'll be comfortable if we continue this way going forward.

>> Mayor Reed: So the -- if we start at 9:30 it will just annotate the agenda that that item will be taken up in open session starting at 9:30. We adjourn into closed session at any time after that.

>> City Attorney Doyle: Right. I want to make something clear because the way the agenda item reads under B it's direction and it's direction only on additional reforms and I want the council to be aware the committee to be aware that the council will have a more focused ability to give direction in open session and the closed session would be a broader discussion. But I want to make sure that's known up front so that going into the open session we know what the sort of the parameters are.

>> Mayor Reed: So you would still do your closed session agenda like you do it now. We'd have something agendized on the often agenda, not necessarily every Tuesday, only when there's something to be presented.

>> Alex Gurza: Yes, correct Mayor Reed.

>> Mayor Reed: Or do we need to set up a standing agenda item for that, in which case sometimes there's nothing to be presented.

>> City Attorney Doyle: You could do that and then at the time you know you would know the Friday before whether or not you would have the open session. But it would be a standing item.

>> Alex Gurza: Yes, it could be. We want the flexibility to be able to have it. One of the things that severalty of the bargainers have asked me what the schedule will be and I've said it is sort of a work in progress. I committed to notifying them if the committee decides to do it at 9:30 I will make sure they are notified and if you keep it as

the standing item we would as the City Attorney said make the decision on Friday as to whether there's enough to update, on the open session every Tuesday or we might do it every two weeks.

>> Mayor Reed: Pierluigi.

>> Councilmember Oliverio: I like the standing item, even though you don't have anything much to say you should say it. Because we are on a tight schedule of eight and I do not want to have happen what we had last year which is this last minute chaos and I just think it's important that we stay on target and we keep talking. When we're four weeks away, everyone knows it's four weeks away and not I forgot the target.

>> Alex Gurza: We will be doing the weekly updates that we do post on the interest and we will be doing that as well and making sure that everybody has access to the updates. We can keep the weekly item and give some kind of a report on a weekly basis in open session.

>> Mayor Reed: Okay. Anything else on that? Anything else on the agenda?

>> Councilmember Constant: I think just given that the 3:00, not before 3:00 on the appointment items would be appropriate and unless there's any objections I'll make a motion to accept -- to approve the agenda with the additions the sunshine waivers and the time-certains.

>> Councilmember Nguyen: Second.

>> Mayor Reed: All right we have a motion to approve the agenda as discussed. All in favor, opposed, none opposed, that's approved. Next item is the redevelopment agenda for the 15th. Anything on page 1? Or 2?

>> Mr. Mayor, members of the committee, Gary Miskimon from the Redevelopment Agency. As you noticed there are only two consent calendar items on this date for the agency. One is the strategic support committee report and the other is a Rules Committee report. And the agency recommends that these two consent calendar items

be heard in conjunction with the City's consent calendar. That way, there would be no extra things, everything else on the agenda is place holders. There's no other actions contemplated at this time. Although we could add an emergency item if the need were to arise between now and Tuesday. Right now nothing is anticipated and we'd prefer not to take up extra time for the city council next week.

>> Mayor Reed: So we could just take the consent calendars together, we would still I think leave 3.1 report of the executive director, in case there is something to report.

>> Right, at this time he does not plan a report but that could still be done.

>> Mayor Reed: We could just do had a --

>> At the council's convenience.

>> Councilmember Constant: Motion to approve that.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed. That takes us to the study session agenda. We have one to consider, that is the February 22nd study session on disaster policies seminar. And we have a memo from Tom Manheim about requests to waive the sunshine requirement on videotaping and approve audio-recording. Tom you want to speak to that?

>> Tom Manheim: Thank you, Mr. Mayor. Yes, the meeting is being held offsite at the Hayes mansion and because both the offsite location as well as the setup of the meeting which would require additional cameras -- more cameras than we would normally have offsite we estimate our costs for just covering that meeting in the morning would be somewhere between three and \$4,000. We're recommending that we waive the sunshine

requirement to videotape the meetings and instead allow them to be audiotaped and we would then post those after the meeting.

>> Mayor Reed: This is a meeting where we're not having policy discussions, not making decisions we're getting some training basically.

>> Tom Manheim: That's correct.

>> Councilmember Constant: Motion to approve.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve. Mr. Wall you wanted to speak on this item.

>> David Wall: First of all, good afternoon. This meeting from all documents that I have perused is a public meeting. Two, the excuses or reasons why not to have it here at City Hall, as listed in this memorandum by our learned communication director are just not acceptable. I mean, we have -- fosters greater and more candid interaction. That language is repeated. Now it's true that there's some money involved from the group that wants to put this on. I hear talk of \$30,000. Well, I think it would be a good opportunity to use that money, to funnel into the San José police department to do some training around City Hall during that meeting process. Just by being there in vast numbers, for example, just to show security preparation. Also, there's nothing better than having a meeting here, and training like that here at City Hall because it begs the question through the language in this memo that you don't pay attention to what you do here as -- today, which is a fallacy. You're always paying attention. And this is something that should be negated. So I think you should have it here. You can videotape it here, have more public interaction since it is a public meeting and utilize that money where it's needed for training of the police for emergency type situations in a disaster, right here at City Hall. To show the public, hey, we're all involved in disaster preparation, not just a select group of people who don't want to videotape something. Thank you.

>> Mayor Reed: That concludes public testimony. We have a motion to approve, all in favor, opposed, none opposed, the recommendation is approved. The next item is legislative update. I don't think we have anything. Betsy says no. I assume the trip is still on for next week? As scheduled? We'll get a report back after that happens. Meeting schedules, we have nothing to talk about. Public record, anything from the public record that the committee would like to pull for discussion?

>> Councilmember Constant: Well Mr. Mayor, I just think it's important to note, items A and B since we've had so much discussion about the public safety broadband V stop project and all those. The two letters telling us that we are going to take a little bit longer to get our public records. At least it shows that we may have a chance of getting them. But just wanted to make sure we state that, and note and file for remainder.

>> Mayor Reed: All right. Motion?

>> Councilmember Nguyen: Second.

>> Mayor Reed: Note and file, David Wall wants to speak on item F. FTC.

>> David Wall: A comment first to compliment Councilmember Constant with the interoperability network. This is an outstanding way to get these documents to find out who these vendors are and their histories. On item F specifically, I'm noting on neighborhood watch patrols a lot of trailers and motor homes, specifically reference just a few of them, that are there for weeks on the city street. This raises issue of sewer service and use. Also trash accumulation. I can list, if I were so inclined, dozens more. There needs to be either a place for people that live in trailers, or motor homes, to go to where they could, wherever they go and be monitored but not to be living on the street and dumping sewer either directly into the storm drain or just wherever they so choose along with garbage. Now there needs to be the police know fully well, these vehicles, and they move them around, they tell people to move them around. This is not solving a problem. So the learned minds that sit before me are going to have to come up with a way to figure this problem out, and what to do with it. Because these things are showing

up all over the streets and I just reference these particular ones because they've been there for weeks and there's garbage and related issues just in this one locale so this is just for your consideration.

>> Mayor Reed: This includes the public testimony on the public record. We have that one motion.

>> Councilmember Constant: I'll refer that one issue to the code enforcement. Mike's here shaking his head so --

>> Mayor Reed: That's included in the motion. All in favor, opposed, none opposed, that's approved. Next item, would be item H-2, the memorandum from City Manager to the Rules Committee regarding seniority rules for layoffs which is referral to staff pursuant to a memorandum from Councilmember Oliverio.

>> Ed Shikada: Thank you, Mr. Mayor, members of the committee, Ed Shikada, assistant City Manager. I'd like to give a brief recap of our memo as a way to introduce the discussion. First of all, thanks to Councilmember Oliverio on this committee for raising this issue, the topic of bumping, which in laymen's terms perhaps is the staffing reductions and impact that that can have in displacing employees who are not the subject of the direct reduction by virtue of being in the same classification. So that simply adds to the service impacts, which are already inherent when we do need to go through layoffs, as has been the case for the last budget cycle. Back in November the city council did, in preparation for the upcoming budget cycle, discuss budget priorities and staff in our presentation noted the civil service bumping rules as one of the key policy issues that we would want to take a look at. So the specific proposal that Councilmember Oliverio brought forward to incorporate performance into that process, I think, was an important factor for us to consider. The memo that you have before you identifies a number of the issues that -- and considerations that come into play with any change in the bumping process and the layoff process such as the meet-and-confer rules and the role of the civil service commission. So in recognition of the variety of issues, and in order to focus specifically on some actions that might be accomplished within the upcoming budget cycle, our recommendations are that we proceed with bringing forward to the city council a small set of specifically classifications that we would propose for discussion with bargaining units as applicable to be exempt from the bumping process. And we're thinking about a handful of classifications, as the

first step, in a larger discussion of the bumping rules and how we might take that on more comprehensively. So with that, if it be the committee's direction, with this report going forward to the state council on March 1st, we would prepare a supplemental memo and identify those specific classifications that could be pursued. We have additional staff here that could certainly expand on any particular issues the committee would like to discuss.

>> Mayor Reed: Okay, Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed and thank you for the City Manager's office for bringing it out here. Clearly the memo asks for direction from the council and I think we need to give that to you. We don't have bumping as a result of layoff. Layoff as a result of reduced revenues. So it is not a fun situation to be in. But we do know based on the poll done by the city, scientific poll, that 79% of our residents supported performance as a measurement when doing layoffs, 79%. So with that said I'd make a motion to move this memo with the idea of the supplemental that on March 1st the council can give direction on the classifications both the initial, maybe there's a larger set of classifications that need to come, but also council needs to give direction on the question of should seniority be included in or should performance be included in layoffs and then, understanding that, the first priority is to manage the chaos that comes out of the bumping process and to tackle the classifications first but you also need to get direction from the council on the principal issue of at some point, when we get past these 11 negotiations for all the things we're doing then maybe do a meet-and-confer process for the idea that I brought up in the first -- in the original memo.

>> Councilmember Constant: I'll second that with comments.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I think it's important that we do move forward in this and I think most city employees who are out there working hard would agree that the hardest working and the best performing should be the ones to keep their jobs. I think it's a win win for everyone. It's a win for the employees, it's a win for the public. As Pierluigi mentioned there is very strong support in the public for this and in fact outside of government

that's how pretty much everybody operates. And I think it's important. I think that there's one part of the memo that I don't quite agree with. There's -- it's on page 3, which recommended that the modifications to the layoff process be referred to the civil service commission for review and comment after the negotiation process has been completed. I think that's kind of too late. I think that to sit down and meet and confer and talk it over with our unions and then ask for input from the civil service commission is backwards. I think that we should either have the civil service commission review it before or in tandem with the process, so that it can either inform the process or not. And I'd like to just hear back what you think about that particular issue.

>> City Manager Figone: Yes, in terms of the sequencing, I do think we need to present to the civil service commission our recommended scope, so that they can react to it and not just go and kind of undefined. The question would I have for Alex is if we're going to take this on as a kind of phase 2 ideally position us for next year, and the contracts are closed, do we need to have some reopener capability? Because I think it's the which one comes first and I wouldn't want to go to the commission without having some scope defined.

>> Councilmember Constant: But that's actually was the second part of my question was, does this make any sense for us to put this after we go in the negotiation process and we're in negotiations with 11 unions, should we be negotiating it now?

>> Alex Gurza: Alex Gurza director of employee relations. That's an excellent question, as we opponented out in the memo, even if council gave us the direction on March first couple just the timing may not be time enough to affect the current year issue. The next year we don't want to be telling you the same thing, which is we don't have time enough to do that. So I think depending what the city council does on March 1st we would begin at least talking about that and then to the City Manager's point, it depends on how long of contracts we ends up with, if we end up with multiple year contracts, then that would preclude us from raising the issue again next year. So really after we receive the direction, if we receive the direction from the city council, we would then think about how to make sure that we would be able to meet and confer in time for it to potentially be in place next year if we're again in the unfortunate situation needing to eliminate positions.

>> And I'd just like to add a response to the question about the civil service commission. I did meet with the civil service commission at its regular meeting last week and inform them of the request, and the action that the Rules Committee has taken for us to come back with some recommendations about the process. Their question was, what is the appropriate time, where the civil service commission can be of most benefit in providing input to the council. In the course of the discussion they concluded that once there is something for them to look at, before it becomes final, and before it's brought to the city council, they would like the opportunity to give you that input. So they realize it's some time in coming because the contracts are in place through the fiscal year. And so they know this will take place over the next few months.

>> Councilmember Constant: Okay, so it could end up being partially in tandem at some point? In that's correct.

>> Councilmember Constant: And I understand the crunch of time, the eight weeks left, and all that. But as we go forward, if we end up with multi-year contracts, or whatever the case may be, perhaps we can look at limited, very small window reopener just for this one topic as we go forward. We'll leave that up to you for your recommendations as you come back to us.

>> Mayor Reed: I have some people who want to speak on this item. We'll take that now. David Wall and then Nancy Ostrowsky.

>> David Wall: First of all this is a rarity but it does happen. A public apology is in order. I apologize to the City Manager for references concerning this matter that it was not delegated with due diligence and efficiency. I was wrong, I apologize. Now, for the rest of you folks, Councilmember Oliverio is correct about raising this issue. But these performance appraisals are in such a state of disrepair, that it would be wise to look at not going with what Councilmember Oliverio says with the time frame but completely erasing them and starting over. In other words, to reinvent a performance appraisal with all input from all employees, all bargaining units, and have that as your basis for future layoffs. You will do incredible harm to the city, the administration or the attorney's office by what you are trying to do with reference to what the citizens know about city government and city operations. Unparalleled harm will be caused if you rush into this versus saying the performance appraisals as

they exist today are over with, construct a new one within a certain time frame, that can be flexibly addressed to revenue fluctuations. Other than that, you're causing burdensome and oppressive work conditions upon our honorable City Manager and our honorable City Attorney, that is beyond your imaginations. And it will affect the city workforce and cost the city far much more revenue in the future if you don't consider what I have just said. Thank you.

>> Mayor Reed: Nancy Ostrowsky and then Kay Denise McKenzie.

>> Nancy Ostrowsky and I represent represent IFPTE local 21. We strongly oppose what is happening here now. City and County of San Francisco where it was pushed back and the victory was for all, both the jurisdiction, administration and for the employees not to proceed in such actions. Dedicated employees who have spent years working for the city will be laid off before new employees working in the same class and doing the same work. You are heightening employment insecurity. There will be more layoffs of older workers, deemed on what? On performance of what? Who's deciding that? What's the criteria? And how do you really accept, how do you choose, certain classifications to receive special -- special notice and not be exempt from bumping rules? Thank you.

>> Mayor Reed: Kay Denise McKenzie.

>> Good afternoon, honorable mayor and members of the Rules Committee. Kay Denise McKenzie, president of CAMP IFPTE local 21. We're appreciative of the City Manager's memo that outlines the extensive outreach that would be involved including meeting and conferring with all the City's 11 bargaining units on this issue. But regardless of what process moves forward, the suggested change to the layoff bumping process has significant implications on many levels and particularly suggest discriminatory practices that could occur. And as I've indicated at a prior Rules Committee meeting, the current system, if working properly, should result in the most productive employees being those with the most seniority. And if there is an issue with the proper functioning of the current system then that needs to be addressed. Thank you.

>> Mayor Reed: That concludes the public testimony on this. We have a motion made earlier by Councilmember Oliverio, any other comments or questions on the motion? Councilmember Constant.

>> Councilmember Constant: Just you know it continues to baffle me how 90% of the employed people in our country are measured on performance. But when you talk about doing it with public employees it's discriminatory and unfair. And I just -- it baffles me to hear that when you say that just because someone is senior they do a better job. And I really think it does a disservice to the hard-working workforce who I know there's a lot of city employees who work really hard. And if your performance doesn't count, that's not fair. And I think that is something that, like I say, 90% of the work people in this country deal with. And unfortunately it is a fact of life. When you do a job you should do it well. And those who perform best should be recognized for that. So I think that's important. I do agree that the -- that we need to work on the evaluation process and I spoke to that last time we discussed this. And I think that very specifically as we move forward, whether or not this moves forward by the entire council or whether we negotiate it or not, all supervisors should be evaluated on whether they accurately and timely evaluate their employees. Because it's not fair to any employee not to get feedback on their work. Both need to be worked on and both are normal things that happen in the real world.

>> Mayor Reed: Anything else? We have a motion. All in favor? Opposed, none opposed, that's approved. Our next item is to take up a memorandum from Vice Mayor Nguyen and councilmembers Kalra and Rocha regarding supporting the California air resources board leadership in promoting clean and energy efficient motor vehicles and some other things.

>> Councilmember Nguyen: So moved.

>> Mayor Reed: Motion by Councilmember Nguyen. Is there a second? Okay, we have a motion to approve the recommendation. Mr. Wall.

>> David Wall: I'd like to give accolade to councilmember or Vice Mayor Nguyen it all for this legislation. However, there needs to be a rider and a potential fund raiser for the city. All these smog check

places, these businesses that regulate licensure of cars with their emissions are suspect. Because we still see a large number of polluting vehicles on the road. Therefore I recommend that part of the legislation include a rider onto their business license, a fee determined by the administration to cover the cost for a -- call it a sting operation if you will, an inspection operation with code enforcement, also with dedicated revenue streams to the administration, for overhead cost of the program and the attorney's office. These dedicated streams that I'm talking about are not to be interfered with, with usual General Fund allocations but to set up a long term financial instrument to start to move city operations away from dependency on the General Fund. But these is smog check plagues in my opinion have been operating in a very gray area with reference to polluting vehicles. Thank you.

>> Mayor Reed: Any other comments on this? We have a motion to approve the recommendation which is to get this on the council agenda for what date are we looking at council to take up the resolution?

>> Dennis Hawkins: We could do one week turn around or you could do it March 1st.

>> I don't think there's any huge urgency.

>> Mayor Reed: March 1st is probably fine. Just a resolution in support. So March 1st. All in favor, opposed, none opposed, that's approved. Our next item is, take up a memorandum from the City Attorney, memorandum from me regarding nonprofit advocacy. And this is a return of a previous referral to staff following some other referrals from elections commission and the council on looking at registration requirements for lobbying activities for nonprofits. So we have the staff report on some outreach that was done. What's happening in other cities and then I have made a specific recommendation of something to do going forward, so why don't we let City Attorney take that up first.

>> City Attorney Doyle: We have a brief presentation. Lisa Herrick will do it.

>> Lisa Herrick: Good afternoon, mayor, members of the committee. Lisa Herrick city attorney's office. The mayor did a good overview about where we've been and why we're here. Just to remind, there are a couple of

new members on the committee from when we're last here which I think was September and before that, last May. This comes out of the mayor's 2009 biennial ethics review. One of the recommendations among many was dealing with lobbyist registration and disclosures and the proposal that would require the registration of some 501(c)3 corporations, their officers and employees. In December of 2009, the council referred, actually, a handful, four separate recommendations, from that review, including this lobbying ordinance question to both the elections commission and the ethics panel that had been convened to look at some of the questions raised during the mayor's biennial ethics review. Both the elections commission and the elections panel provided some responses, those responses came to Rules last may. And out of that, then, the Rules Committee made a couple of referrals to staff. And specifically that staff return with more information about the reporting requirements and thresholds for other comparable cities in California, as well as conducting some outreach to the 501(c)3 community. So we did some research, and we found out, and what we really looked at, I think, would be the top 8 in terms of population, the top 8 cities in California. And that should be in your packet the chart that is a two-pager. San José's at the front here, just for comparative purposes. But then the other cities go in terms of population, Los Angeles, San Diego, San Francisco, so forth. So what we found is that there really isn't an exemption for 501(c)3 organizations in San Diego, San Francisco, Sacramento or Oakland. Although I will point out that in Sacramento the threshold for any person to register as a lobbyist is quite high, about 100 hours within a three month time frame. We found that in San Diego there were in fact 10 501(c)3 organizations registered and in Oakland there are 3 501(c)3s that are registered. We found some limited exemptions in both Los Angeles and Fresno. Los Angeles's is probably -- well, Los Angeles exempts 501(c)3 organizations that receive government funding and provide direct representation services to indigent persons free of charge. That exemption does not extend to 501(c)3s when they are seeking to influence a decision about funding on that organization's behalf. So it's basically limited to the services they do for their constituents not themselves or their employees per se. But there are three 501(c)3s that are registered despite that exemption and Fresno does exempt employees unless their job is specifically to lobby but there is not a single nonprofit or a 501(c)3 in particular that is registered in Fresno. When we did the outreach to the 501(c)3 organizations in our community, that took place at the end of October, we were specifically directed to explain to the community what exactly is -- what do we mean by lobbying activity in San José, what exemptions exist in our ordinance to lobbying activity and then the potential changes to the lobbying ordinance that have been proposed -- well specifically by the elections commission as I mentioned back in May and then whether there are

a couple of other alternatives that have been proposed or rather that could be considered, one would be that city of Los Angeles exemption that I just mentioned, as well as another that I'll mention in a minute, that comes out of the City of Los Angeles. Actually I'll just tell you what it is now. It would essentially expand the exemption the city provides to any 501(c)3 organizations that provides basic [No audio] my microphone, there it is, okay. So about 30 501(c)3s attended that outreach meeting here in this room [No audio] does what the federal tax laws do but in any event this was a concern that was raised by the nonprofits. The nonprofits themselves had a lot of questions for us as well. And so as a result of those questions, we did some further outreach to the top four cities. So Los Angeles, San Diego, San Francisco and Oakland. And the questions that were asked is how effective are these lobbying ordinances? The -- and it's probably -- the answer is in the eye of the beholder. The cities that we spoke to felt that their lobbying owners were pretty effective. The people that should be registering were registering, the public was getting the information, that it wanted. Was there any impact to services because some nonprofits had to register? The -- none of the cities that we surveyed had any information about that. Similarly, with whether or not there was any impact to foundation funding, the cities didn't have any information about the nonprofits in those cities receiving any less funding. The nonprofits also asked us whether or not there were any court decisions that would give us any guidance about whether it was appropriate to capture nonprofits in lobbying rules at all. And we -- I reviewed a lot of court decisions concerning lobbyists, lobbying ordinances. They usually relate to federal or state lobbying schemes. But there's pretty recent case that does address nonprofit organizations and that case did find that the statute at issue that had particular thresholds, that those nonprofits met the thresholds then it was appropriate for them to lobby and the analysis was that registering of the lobbyist is very minimal restriction on speech and something that is constitutional. So that's really the overview of where we started and where we've been and the input we've received. And with that I just wanted to sort of give you that picture and then we'll figure out what you want to do next.

>> Mayor Reed: Okay, thank you. Let me explain what I've recommended. You know it's real range of things that we could do. We could do what most other cities do, which is lobbyists are lobbyists, and it doesn't matter whether you are a nonprofit or not, if you meet the threshold you register. Which is certainly the most common way to deal with this issue just based on our other jurisdictions. But what I've tried to do is come one an alternate proposal that goes in a slightly different direction, with the important differences that addresses the issues that were raised

that Lisa had on the board at least most of the issues that were raised by the nonprofit organizations. While still preserving the principle of disclosure. Because ultimately our lobbyist registration system is all about disclosure so the public can know what's going on. And even though nonprofits are good people doing good things, nevertheless, we spend \$36 million a year out of our various funds, funds that go to nonprofit organizations. And I think the public has an interest and a right to be able to follow the efforts that may be done by nonprofits to get money from the city. So what I'm proposing is not a lobbyist registration requirement, we won't call them lobbyists and they won't have to follow the lobbyist rules but they will have to do some things. First is disclosure. Filing a report with the city clerk if they're trying to get \$100,000 or more out of the city. Basically what they're asking, who they talked to and when they have the conversations. Very simple report. It's not a record keeping nightmare that some people describe with having to track hours and things that the lobbyist registration system sometimes requires. We just need to have this information in front of the public before the council takes action and a simple report is filed with the City Clerk to be made publicly available I think allows the public and the council to have the information about the activities which I'll call advocacy as opposed to lobbying. Because I know people are sensitive to the words. The other requirement would be on us, to add to the disclosures that we have, the obligation we already have, we would add the nonprofits to the disclosure requirements before we take action on an item. So then there's multiple ways for the public to have the information. I think it is a very minimal administrative burden on somebody who's trying to get \$100,000 out of us to at least let the public know that they're trying to do that or have tried to do that. So that's the proposal. It is not a lobbyist registration, it is not compliance with the lobbyist ordinance. I don't think it affects anybody's status with the federal government, I know that it doesn't but it does at least get a minimal disclosure at a relative low administrative burden. That's my recommendation. We've got some people that want to speak on it and I'd be happy to entertain any questions from the councilmembers before we do that. Vice Mayor.

>> Councilmember Nguyen: Thank you. Mayor Reed, I think that your memo is a great compromise in terms of what the nonprofits have brought forward and their concerns and what you eventually came up with. I just had a couple of clarification questions. If, let's assume that four nonprofits came together and decided to ask for 100 K or more and when they actually were being allocated the amount of money each nonprofit would receive 25% of

that. So in essence they would get \$25,000. Does each individual nonprofit have to register, because they eventually only receive \$25,000, instead of \$100,000?

>> Mayor Reed: I think it depends on how they organize themselves and what they're asking us to do. If they are asking us to allocate \$100,000, then the group would report, although that report could be filed by a single person, just noting that all four of them were working together on something. It is not even a registration requirement, it's just a notice requirement to the clerk. But I don't for sure have an answer to that question. I think there are some implementation issues that we, if the council approves the policy, we work with on implementation of. We're not trying to create an administrative burden. We could certainly consider that as part of the implementation to make sure that's clear.

>> Councilmember Nguyen: Okay. I guess we probably can -- I mean I'm interested to hear from other councilmembers, committee members or when this moves to the full council for full discussion I would like to have a little more clarification in terms of how we're going to implement that. Should we exempt that or should we ask that all four individual organizations register, or at least disclose which member they met with, which councilmember they met with.

>> City Attorney Doyle: And I think we can in any kind of follow-up if it goes to council we can raise those types of questions. Ultimately those are policy calls as to where you want to draw the line. Would I also note that the threshold is \$100,000 and only with communication with councilmembers. You may remember the City Manager has contract authority up to \$250,000. The lobbyist ordinance covers beyond city council communications and I don't know if you would just want to limit it to council communications or something more.

>> Mayor Reed: My intention was just limit to council communications because specifically I don't want to get involved with the Healthy Neighborhood Venture Fund, CDBG, the housing program, we have a program to do that. I'm really, I'm scoping this down as narrowly as possible and it's to get the disclosure communication with councilmembers that I want to make sure the public is aware of.

>> Councilmember Nguyen: Thank you. The other question I had, had to do with and we're seeing this quite a bit, at least I have, is or was, if a nonprofit organization or an advocate group comes in, to see a councilmember, advocate on behalf of another organization and that organization happens to receive some amount of money, the first organization who is just advocating on behalf of the organization who received the money, have to register as well?

>> Mayor Reed: If they're asking us to spend \$100,000 I'd say yes that they would register.

>> Councilmember Nguyen: So even if they didn't receive the money they would have to register if that's the amount they're asking for?

>> Mayor Reed: Yes, not register, disclosure.

>> Councilmember Nguyen: Disclose, just wanted to be clear. And this doesn't really have to do with grants or -- or grants but it could be anything. It could be money for housing issues like for example the housing trust coming in and asking for money?

>> Mayor Reed: Yes. If they're asking for \$100,000 or more whether it's a grant or a General Fund or something else I'm not drawing that distinction.

>> Councilmember Nguyen: All right thank you.

>> Mayor Reed: Pete.

>> Councilmember Constant: Thank you mayor. I think this strikes a good balance between what we were trying to achieve and the concerns of the community. That's what I'm looking for, I'm looking to hearing the comments today. The budget action of over \$100,000, it's very clean very clear and not very burdensome for people to document. So I do think that my interpretation of this is that it should be, if the aggregate action is \$100,000 then

influencing or advocacy should be reported and I think that's a reasonable thing to do. So I don't know if there was a motion yet but I'll make a motion to approve.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Okay, have a motion to approve. I've got some requests of people to speak. Alita Bray and then Carol Lee Hutton.

>> Staff, honorable mayor and Rules Committee, first of all I want to thank the city staff and the mayor for creating this memo which I think very fairly and does a really good job of summarizing the concerns of the nonprofit organizations from the October 2010 meeting. I think it's really reasonable, we think it's really reasonable but there's a few remaining concerns I'm sort of echoing Vice Mayor Nguyen's concerns. Which we just wanted to see like it says an expenditure, and possibly there could be a further definition or examples of that. And then also, on the reporting, which does seem very reasonable but we were wondering if there could be a further definition of the method for reporting and the time for reporting. So if we met with somebody, you know, what's the time frame that we would be required? So maybe just a little bit more clarification on the actual implementation of the requirements. And apart from that, I think that, as I said, it's a very good, very good compromise and we're pretty pleased with it, thank you.

>> Mayor Reed: Carol Lee Hutton and then Patricia Gardner.

>> Good afternoon, Carol Lee Hutton president and CEO of United Way Silicon Valley. Thank you very much to the proposal that would have labeled much of the community benefit organizations in our valley as lobbyists. As you can say we don't really relish that label. What we would like to respectfully request is a little more time to get into the detail because it is very confusing. We do talk with councilmembers about HNMF. We do talk with councilmembers about big blocks of funding that far exceed \$100,000. We do want clarification on the intent. We would like to understand if there's a penalty and if the funds are at risk if the reporting is not accomplished and what would be the immediate time frame, and is committee action covered by the -- any council action is

taken. There are just a lot of questions that we have and as you might imagine particularly now at this point, in our economy, the community benefit system is just struggling to survive. Okay? This is a very, very hard time. And I know that you appreciate that because I know you feel the impact of it and we just really need to understand what this will do, what this means to us, and how we might participate with you. Because as I say we genuinely appreciate moving away from that lobby label. We found that extremely troublesome and somewhat frightening. We believe there is the germ of a real compromise here. We just wanted some time to fully clarify it and explore what it would really mean to us. Thank you.

>> Mayor Reed: Thank you. Patricia Gardner and then David wall.

>> Patricia Gardner, Silicon Valley council of nonprofits. As you know we have been following this issue it seems for years. But we also have some step in a different direction. We've only had a few days to analyze it but what I heard the mayor say and others say they're not the same. The phrase is attempts to influence the city council. We have nonprofit leaders who want to save community centers who care about aquatics programs a lot of different things. Those expenditures are over 100,000. It may not be coming to their agency but as we look at the cuts that are going everywhere, nonprofits are also advocates for their clients. And how does that get interpreted here? So I understand if it's just for your own organization's 100,000, but I'm not for sure that this memo clearly says that at this point in time. So I'm not sure I'm totally clear how that would be interpreted. If it's just for your XYZ's organization, but what if little me, what if I come and talk about that I want to save senior nutrition, I'm an advocate that's going to be over 100,000, would I declare that and would I talk to councilmembers even if I was on the task force, is that going to count? I think that's my bigger question about how this would roll out and that's what I'm unclear about at this point in time. Though I understood what you said that's not the way I read it so I think that's the question.

>> Mayor Reed: David Wall and then Ben Field.

>> David Wall: I'd like to thank the work product of our great attorney and City Clerk. Mr. Mayor, you're very wise in going down this path road of disclosure. However, I think you're creating far too many loopholes under this

business. Every single person that takes money from the city should be required as a lobbyist. The previous speakers have all come to Rules they've come to different committee meetings all lobbying for their specific what they feel is an entitlement. From my perspective a beggar can't be a chooser. Nobody on these nonprofits are entitled to anything from the taxpayers. That's up to the council and the decision makers. The \$100,000 limit too I think Mr. Mayor is far too in excess. I think any amount of taxpayer money should be accountable. And this \$100,000 there's all sorts of loopholes and ways around this reporting that can be done. And I don't like it. Furthermore there should be an administrative fee in which everybody as a lobbyist be required to pay that it compensates for the overhead, for the administration side of our government and as a revenue stream for our attorney's side and the City Clerk. This is a big boondoggle that is being created if you give these Mulligans and not give everybody the designation of lobbyist, because that is exactly what they do. And one parting thing. United way and all these other groups use the City's administrative machinery to collect from employees on giving each year. That's also a Mulligan by the city to these groups that cost the taxpayers. So I think they all should be qualified as lobbyists because that's exactly who they are. They are business entities.

>> Mayor Reed: Ben Field.

>> Mr. Mayor, members of the Rules Committee, my name is Ben Field. I work for the South Bay labor council. First I want to thank staff, particularly Lisa Herrick and also the clerk's office for their diligent work on all of this. This has been going on for quite some time this is the latest in a series of proposals that have been carefully considered and rejected. This latest proposal has generated quite a bit of confusion. I don't want to repeat the issues which have been raised by others which I think are entirely legitimate issues and require some classification but I want to add one more which is that there's a lack of clarity about what the enforcement mechanism would be for this rule. And I'd encourage some discussion about that. It needs to be made clear in order for people to understand -- the people who are being asked to comply to understand what the rule is and to comply effectively. Thank you.

>> Mayor Reed: Thank you, that concludes the public testimony. I have a couple of questions for staff. This is one of several referrals to the election commission that needs to get back to the council. What kind of deadlines if

any on any of those are we facing? I don't think there's a deadline we have to hit. So we could take some time to deal with it.

>> Lisa Herrick: That's correct. There are -- there were those four issues that came out of the review in December of 2009 that we haven't brought back, and we were going to sort of package it all up together and bring it to council but I don't think there's any urgency.

>> Mayor Reed: What I'd like to do is give the staff a chance to think about some of these questions that are raised because ultimately you'll have to figure that out in order to do an ordinance or enforce an ordinance or implement an ordinance and then let's have another session here where we can talk about them. If you have recommendations on them then we can sort of deal with it so that way the public has a better understanding of away we mean by some of the vague language that I have used. And we can narrow down the scope before you get into an ordinance-drafting mode. And I think we can take some time to do that. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I agree. I think Patricia brought up a great point about advocating for city services or city programs that already exist, especially given our budget process and the fact that that will be kind of an ongoing issue at least for a couple more years. So I think that some clarity on that, that if it's expenditures that are part of an existing city program provided by city employees, city budget action, that I don't think would necessarily necessitate disclosure. But if it's city funds, being expended out of the organization, whether it be to a CBO or whatever the case may be, even another governmental agency, something that leaves our checkbook and out of our employees' hands then I think that's where we need to have the disclosure. And I also think that some clarity around task force and committees, when we pull together a group like the senior nutrition task force, that Patricia was referring to we had a lot of CBOs and were talking about that particular city programming and we're advocating back and forth. I don't necessarily think those should be report annual but once that report leaves that task force, and then there's attempts to influence how the council decides to act on it, then that would be an appropriate place if it were expending out of our program.

>> Mayor Reed: A couple of other programs, first I'm not proposing any fees for the nonprofits. That was an item that was asked about. And the other is, we have all kinds of activities that aren't even calculated, that aren't even covered. So standing in front of a committee meeting or sending a letter, a public letter to the city council is not lobbying under our ordinance. So a lot of things that people do wouldn't even trigger the requirement. We're really trying to get the private meetings and the private conversations is what we're trying to get at, and I think we can take some time to clarify that and the intention. So that when we do get to the council to make the decision, we can give them the frequently asked questions to answer some of those questions.

>> Councilmember Constant: Should I be modifying my motion instead of approving it is to bring it back here to Rules Committee for one final look-at before we send to council?

>> Mayor Reed: Yes, I think so.

>> Councilmember Constant: I'll modify my motion that way.

>> Mayor Reed: As soon as staff is prepared to answer the questions we can bring it back, couple of weeks or month or whatever it is. I think all of the questions are reasonable and can be answered and there's probably an answer somewhere. But we have to decide which way we should go on it. City Attorney.

>> City Attorney Doyle: It's just that any time you get into these types of questions we might have to come back with a menu of choices. So it's good that it's coming back to Rules.

>> Mayor Reed: Pierluigi.

>> Councilmember Oliverio: for the City Attorney, one of the speakers was from the South Bay labor council, I can't recall are they registered technically a lobbyist or where is that today?

>> City Attorney Doyle: I don't know, the City Clerk, who --

>> Lisa Herrick: I believe South Bay labor council are registered.

>> City Attorney Doyle: There are representatives from South Bay labor council who are registered. I don't have the list but they are registered.

>> Councilmember Oliverio: And I think they have kind of an umbrella organization, called working partnerships, which is technically a nonprofit. Are those people today, are they considered lobbyists or are they covered in the nonprofit buckets?

>> City Attorney Doyle: This covers 501(c)3s and if they are 501(c)3s they are not covered. There's a whole list of registered lobbyists that the city clerk has, and other than the -- you know, some -- we'd have to get back to you on that. If they're a 501(c)3 they're not, that's a short answer.

>> Councilmember Oliverio: If I understand from this ordinance, the 501(c)3 could continue to lobby the city on things that inherently cost money but are not policies?

>> City Attorney Doyle: Yes, without registering.

>> Mayor Reed: I have a motion to have the staff work on this, bring it back, all in favor, opposed none opposed, that's approved. Thank you all. Next item is changes to the community and economic development committee work plan. We've got a memo from Joe Horwedel, with recommendations on tobacco retail licensing youth decoy program, moving it to the neighborhood service and education work plan and then requesting a deferral of a status report on tobacco retail licensing youth committee decoy program until October of 2011.

>> Councilmember Constant: Motion to approve.

>> Councilmember Nguyen: Second.

>> Mayor Reed: We have a motion and second. Mr. Wall.

>> David Wall: On page 2, first of all our director should be thankful, good old Joe, he's done a good job. On bullet point 2, why hasn't the city received the money? That's one. Also, would be interesting, why isn't an alcohol-related sting included in this? Now that's just on my own ignorance. I don't know if the two can be included. But also, this is another area where you can craft a financial instrument, a certain percentage of this revenue, from these stings and fines and what have you, can be funneled back into the administration for overhead cost and for attorney costs. Each time you have these opportunities to create financial instruments you should not pass them up. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. We have the motion to approve the staff recommendation for the change in the work plans. All in favor? Opposed, none opposed, that's approved. Taking us to open forum. Mr. Wall.

>> David Wall: Two items, one is the standard boilerplate city council agenda. Page 2 it says, "you may speak to the city council about any item that is on the agenda," and that's where I'll leave it is just partial quote. Mr. Mayor yesterday I filled out a card for the meeting to speak on item 1.1 which was a ceremonial matter with reference to downtown business association. And was denied the opportunity to speak. Just an idea. We should change that, or reflect on that. The other thing, it happened at the transportation and environment committee meeting. This Monday, on item D-2 this litter business. This is in reference to the municipal regional storm drain permit. I believe there's two issues here, one, this report shouldn't -- should be monthly, a report on what they're doing, not being allowed to come at the end of the year. Because there's no way to track what's being done all year long. So it should be changed. Furthermore it gives the appearance that Councilmember Liccardo is incompetent when it comes to the knowledge concerning restricted use funds. Also councilmembers, the new ones, Councilmember Campos and Rocha, have no knowledge of these things. And yet, you have three councilmembers that have appearance of no knowledge of these restricted use funds, voting on issues that won't appear before them for an entire year. And I think that that should be reviewed. I think Councilmember Constant should be repeatedly

thanked for his efforts for that budgeted funneled guide, but there needs to be a training program for councilmembers on how to use these restricted use funds, one, and not to shove off these major programs to be reported at the end of the year when you very well know all these programs come due and it's a physical and mental impossibility for you to digest what they've done and make changes. It should be more frequent, a monthly. And thank you.

>> Mayor Reed: Sorry your time is up. Patricia Gardner is our last speaker.

>> Thank you very much. We're coming to a request today that mainly came out of my work on the senior nutrition task force. But as my role at SECN, I'm bringing you that along with pact. We're asking during the budget process to have what we're calling twilight budget sessions. We have had a number of issues about the senior nutrition task force about seniors want to come, but the meetings aren't at a time when they can be there. So we're asking for budget hearings in the late afternoon. The hearings have traditionally been in the late evening. They don't drive at night. Their children don't want them to drive at night. And also for youth, who last year if you recall we had a number of youth come and they had to leave before they were called because it got past their bedtime. And so we're asking you -- and I know you've done your budget calendar but not all the timing so we're here today to ask you to consider whether you can put seniors and youth in an afternoon session where they can come. I met with the Alma community center seniors and they keep reminding me they don't drive at night, and I keep thinking, that's probably a good idea. We are here asking for a twilight budget session so the people in the community can be here, those who may not be working during the day but who may actually need to access meetings during the day. So we hope you will consider this thought. I don't know if Pete Constant wants to talk about it. We had 120 here when we had it at 10:00 in the morning, so they want to come. They just want to come at a time they can be here.

>> Mayor Reed: That includes open forum, that concludes our meeting, we're adjourned.